Fifteen Years of European Union Citizenship

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Abstract: Fifteen years after the formal introduction of European Union citizenship is an appropriate time to reconsider its political impact. At first dismissed by many, EU citizenship is now generally recognized as fundamentally transforming state sovereignty. Within the EU, a system of directly effective rights for individuals has developed which not only provides Europeans with choices about where to live and work but also forces EU member states to respect those choices. At the same time, the goal of creating a supranational political community through common rights and citizenship remains incomplete and unfulfilled. Over the course of the past fifteen years, the Union has grown from twelve to twenty-seven member states and has become much more diverse on a range of indicators, complicating the task of constructing a common political identity. This paper is a retrospective analysis of the first fifteen years of EU citizenship and also explores its future prospects.

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Introduction

European Union (EU) citizenship was formally introduced with the Treaty on European Union, which was negotiated at Maastricht in December 1991, signed in February 1992, and entered into force in November 1993. This year thus marks fifteen years of EU citizenship and is an appropriate time to reconsider its political impact. At first dismissed by many, EU citizenship is now generally recognized as fundamentally transforming state sovereignty. Within the EU, a system of directly effective rights for individuals has developed which not only provides Europeans with choices about where to live and work but also forces EU member states to respect those choices. At the same time, the goal of creating a supranational political community through common rights and citizenship remains incomplete and unfulfilled. Over the course of the past fifteen years, the Union has grown from twelve to twenty-seven member states and has become much more diverse on a range of indicators, complicating the task of constructing a common political identity. This paper is a retrospective analysis of the first fifteen years of EU citizenship and also explores its future prospects.

Citizenship and European Political Development

The idea of European unity is very old, but the push for common European rights accelerated during the Second World War, promptly resulting in concrete proposals: in the European Coal and Steel Community Treaty (1951), the governments of France, Germany, Italy, the Netherlands, Belgium, and Luxembourg resolved to "substitute for age old rivalries the merging of their essential interests; to create, by establishing an economic community, the basis for a broader and deeper community among peoples long divided by bloody conflicts; and to lay the foundations for institutions which [would] give direction to a destiny henceforward shared."[1] The foundations for this broader and deeper community were the free movement provisions for European workers, agreed at the insistence of the Italian delegation with the support or acquiescence of the other member states.[2] Soon, migrant workers were encouraged to feel their "European citizenship to be a source of strength and pride," with liberalization of the labor market expected to foster "European solidarity and the progress of the idea of unity."[3] Despite such optimistic assessments, the subsequent development of supranational rights was laborious. After four decades of progressive economic and political integration, during which time the Community's membership doubled from six states to twelve—the original member states being joined by the UK, Ireland, Denmark, Greece, Spain, and Portugal—EU citizenship was finally introduced in the Maastricht Treaty, which consolidated and transformed the existing rights into a new legal category bestowed upon the citizens of the member states.[4]

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[1]   Maas (2007: 11-13).

[2]   Maas (2005b).

[3]   Commissioner Lionello Levi Sandri, writing in 1961, cited in Maas (2007: 11).

[4]   Maas (2007: chapter 3).

A survey conducted in 2002, ten years after EU citizenship's introduction, concluded that respondents were well aware of their rights as European citizens—the right to live and work (without needing a work permit) everywhere within the Union, the right to vote and run for office in local and European elections wherever one resides within the Union, the right to common diplomatic and consular protection abroad, and the right to petition the European Parliament and appeal to the European Ombudsman—but that they generally failed to connect the concept of "citizen of the Union" with these rights.[5] In other words, the rights of EU citizenship were significantly better known and liked than the concept itself.

Consistent with their actions and approach during earlier years, European institutions such as the European Commission have over the past fifteen years continually worked to increase intra-EU mobility.[6] The designation of 2006 as the "European Year of Workers' Mobility" is only the most recent example of such endeavors.[7] These efforts are not accidental: "identification with Europe and support for EU institutions in the mobile population of Western Europe are strikingly higher than among the general population."[8] While there may be some self-selection as those who identify with Europe and support EU institutions may be independently more prone to move, there appears to be much more causal feedback as the movers' identification with and support for the European idea increases as a result of their mobility.

The efforts to encourage intra-EU mobility bore fruit. From the mid-1980s to the present, prosperity rose constantly in the fifteen pre-2004 enlargement EU member states (France, Germany, Italy, Netherlands, Belgium, Luxembourg, UK, Ireland, Denmark, Greece, Spain, Portugal, Sweden, Finland, and Austria) while the income differentials between these states declined. In such conditions, standard economic theory predicts that migration among the EU15 should have declined. But the opposite happened: it increased by about 17%—with the number of EU15 non-national residents growing from about 5.3 million to about 6.2 million.[9] In fact, these estimates undercount the actual mobility because they do not include the movement of dual citizens (who by definition are not counted as EU15 foreigners) or the much larger group of those who fail to register their move.

The abolishment of passport checks at internal borders has been very significant in terms of political symbolism. The ultimate aim of the Shengen system (named after the Luxembourg town in which the agreement was signed) was intended, in the words of the Belgian representative, "to abolish completely the physical borders between our countries."[10] And the development of Shengen has indeed been quite successful in

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[5]   European Commission (2002).

[6]   Maas (2007).

[7]   European Commission (2006).

[8]   Recchi (2006: 1).

[9]   Recchi (2006: 3).

[10]   Cited in Maas (2005a).

accomplishing this goal: travel among fifteen states (the EU15 countries plus Norway and Iceland, minus the UK and Ireland, who maintain their own Common Travel Area) is now passport-free with further expansion of the Schengen zone likely (Switzerland, followed by the ten member states which joined in 2004 and the two which joined in 2007).

The Challenge of Enlargement

In its most significant enlargement, the EU admitted ten new member states in 2004: Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovakia, and Slovenia. Another two—Romania and Bulgaria—joined in 2007, and further enlargements appear likely, particularly to the Balkan states still remaining outside the Union. Over the course of the dozen years between 1995 (when Sweden, Finland, and Austria joined) and 2007, then, the Union's membership more than doubled. This poses problems not only in terms of the institutional framework for decision-making—among the more significant elements of the constitutional treaty that is currently in limbo are a number of proposals to simplify decision-making—but also in terms of the identities and affiliations of citizens of the member states. An EU citizen from France may have much more in common with an EU citizen from Germany or Spain than with one from Estonia or Bulgaria. Or perhaps not. But certainly the Union's diversity measured in terms of member states' average wealth, employment rates, age structure, or other indicators, has increased significantly since 1992. The challenge is how to reconcile this increased diversity with the goal of constructing a common supranational political identity.

By Way of Conclusion [11]

Citizenship is a malleable institution. Like other effects of political contestation and bargaining, it can undergo both radical transformation and minute tinkering. In some states, citizenship laws and policies are deeply rooted and resistant to change. Elsewhere, they are less firmly entrenched, shifting easily as a result of partisan politics or other political conjunctures. As an institution, citizenship also shapes the terms of its own transformation by *defining* political actors and the rules within which they operate. It is precisely because citizenship delineates political membership—separating citizens from others, specifying the rights and duties of each category of people, and privileging certain public identities over alternatives—that citizenship is always contentious.[12] Decisions about the content of rights and duties, about the proper balance between them, and about which individuals should be considered citizens provide the foundation for all politics.

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[11]   Let me apologize for running out of time: this conclusion is a thinly-modified version of the conclusion to my book, which has just appeared: Maas (2007: 115-20). Future iterations of this paper will develop the theme much better, without relying so much on previous work.

[12]   Yashar (2005), Tilly (2005). Cohen (2003) argues that states never distinguished neatly between citizens and non-citizens but have always created "semi-citizenships."

The key point is that citizenship lacks a clear denotation and remains always open to contest.

Though citizenship is nothing novel, the start of the twenty-first century witnessed several important developments. After a slow process of solidification and crystallization from the peace of Westphalia to the first World War, and a period of hegemony of the nation-state in the twentieth century, the ties between political communities and states once again shifted. Most pertinently, the sources of rights multiplied. In addition to the traditional national sources of rights, a European Union citizen enjoys rights under the Universal Declaration of Human Rights and other UN conventions supported by the embryonic International Criminal Court, the Council of Europe with its court in Strasbourg, and of course the EU with its court in Luxembourg. This paper focused on the rights that individuals enjoy in the European Union, rights which coalesced into EU citizenship, arguing that European citizenship had long been an aspiration of political leaders from throughout Europe but that translating this aspiration into policies and laws was a gradual enterprise. The expansion of entitlements from their origins in free movement for workers illustrates the transformation of European integration from an economic to a political phenomenon based on individual rights. National political leaders, generally supported by supranational actors, introduced and subsequently expanded supranational rights and citizenship because they found it in their domestic interests to do so or because they believed that doing so was desirable for European integration.

To make this assertion is to simplify a process that was profoundly complex and sometimes even arbitrary. Policymaking is rarely uniform or easy, nor does it always follow in logical steps. The political world—the real one in which we live—is messier than the theoretical world. Nevertheless, the European experience captures important truths about the political, economic, and social processes that foster integration. The development of European citizenship mirrors integration processes operating in analogous situations in other times and places: political commitment can transform free movement of workers into an individual mobility right for workers. This modifies the political environment, producing demands for further rights. With ongoing political commitment, the resulting extension and expansion of rights may culminate in a common supranational citizenship, as happened in Europe. Like rights, however, the meaning and content of citizenship are never fixed, and supranational citizenship such as that now found within the EU can be undone in the same way that it was constructed.

It remains as important as ever to take citizenship seriously, because citizenship defines who we are and how we act politically. In other words, debates about citizenship are debates about the nature of the political community. The development of European citizenship resembles in many ways the development of citizenship in traditional states, so that examining the design and operation of citizenship in states clarifies the development of European citizenship, and vice versa. For example, the rights of citizens of federal states differ from unit to unit within the federation, just as citizens of different EU member states possess different rights. Because a necessary condition for a shared political community is the ability of citizens to move about within the common political space, migrations within democracies tend to be unhindered. Likewise, the political barriers to migration between substate jurisdictions are dramatically lower than those concerning migration across international borders. This is because the individuals in question share a single citizenship, and thus a single internationally recognized legal

status. Migration between EU member states, however, belongs to a different classification: movement between putatively sovereign states.

Comparative examples demonstrate that free movement rights are fundamental to citizenship: democratic citizenship invariably guarantees individuals the right to move within the state's territory, though the precise operation of that right differs from state to state. In much the same way that bureaucracies, courts, and legislatures in other states safeguard the right of citizens to move freely within the state's territory, so too the European Commission, Court, and Parliament work to safeguard the right of European citizens to move freely within Union territory. Within states, individuals who move from one jurisdiction to another (from one city or province to another, for example) lose the rights and duties associated with their status as residents of the first jurisdiction and gain new status as residents of the second, but they experience no change in the rights and duties associated with their overarching citizenship. Indeed, it generally matters little—in terms of the rights and duties of citizenship—which jurisdiction one moves from or to within the common social, economic, and political space. Within the EU, however, analogous differences remain more substantial. A (French) European citizen moving from France to Germany and a (German) European citizen moving from Germany to France experience differences both in the continuing rights and obligations to their member state of origin and those to their new member state of residence. Such differences might encourage individuals to move to particular states for particular purposes. As European borders become more malleable, understanding the changing rules and practices of citizenship in Europe is increasingly important.

In any state, it is only by ensuring that rights apply regardless of the citizen's place of residence that national citizenship possesses any power. Similarly, the European institutions attempt to implement principles such as benefit portability, prohibition of residence requirements for access to programs or rights, and mutual recognition of qualifications and credentials in order to uphold and expand EU citizenship. Such a dynamic is evident in a multitude of EU initiatives intended to reinforce the portability of benefits throughout Union territory. Rather than thinking of citizenship as flowing directly from a state to an individual, we should reconceptualize citizenship in terms of the variegated and complex relationships that individuals actually experience in their encounters with multiple jurisdictions.

History is replete with examples of barriers to international migration being established or removed in response to political pressures. Within market economies, however, free movement of workers tends to be guaranteed. In establishing a common, supranational market, Europe's political leaders opted not only to establish such free movement but to guarantee it by means of individual rights—and then to extend those rights to other categories of people, culminating in a common, supranational citizenship. The development of rights is perhaps a function of the debate about the extent to which political authorities want to control free movement of people alongside that of goods, services, and capital. Indeed, there are parallels between debates about the constraining effects of globalization on national autonomy and arguments in the eighteenth century about the domestic effects of market integration.[13] The question then becomes why other contemporary examples of market integration have not led to the same kinds of

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[13]   Garrett (1998: 822).

supranational rights. Certainly it is not because of any absence of people moving: the scale of Mexican immigration to the United States, for example, belies the idea that there is no movement within NAFTA comparable to that of the early years of the European Community. But there is no NAFTA citizenship.

This paper considered the process by which liberalization of trade in goods led to the liberalization of movement for people and supranational rights. Scholars of nationalism have long argued that processes of state-building were linked with the rise of a national consciousness, but the exact mechanisms by which national consciousness arose is a matter of debate. Easing restrictions on free movement within the state's territory was a critical prerequisite. Just as a key development in today's EU is the reduction or elimination of internal boundaries, so too the removal of internal borders was a crucial condition for the succesful rise of states.[14] Internal migrations, such as those from rural areas to cities during industrialization, did not *cause* nationalism, but they did generate needs that nationalism could address. Across Europe, the movement of people that spurred nationalism was migration *within* the state. A key function of the modern state was to facilitate the free flow of people within its boundaries. Indeed the essence of full-fledged state citizenship, as distinct from earlier town or district citizenship, was its uniform applicability throughout the state's domain.[15]

One definition of the nation holds that it is a "territorial community of shared history and mass culture, a unified economy and common rights and duties for all members."[16] Though the European economy is more unified than some national ones, the continuing enlargements of the Union mean that it has not yet established stable territorial limits. Nor, for the forseeable future, is it reasonable to attribute a shared history and mass culture to the wide variety of regional histories and cultures contained within the EU, despite the EU's efforts in the field of education. Yet the prohibition on nationality-based discrimination, coupled with the ever increasing growth of European rights, ensure that Europeans *do* share common rights and duties. The dynamic institution of EU citizenship has not yet reached a stable equilibrium.

Some lament that a genuine European political community can never come into existence because robust local identities preclude the formation of an overarching European identity. But the strength or depth of national affiliations might be overestimated—after all, national political institutions remain malleable rather than fixed. It would be a mistake to assume that political identification with the member states will simply disappear, but a mass European identity has progressively emerged and is growing stronger.[17] EU citizenship may eventually replace national citizenship in terms of importance. But if this occurs, it will come about because of a sustained political will

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[14]   Deutsch (1957).

[15]   Wiebe (2002: 20).

[16]   Smith (1995: 46). Some, like La Torre (1998: 457), argue that there *is* a common European

historical and cultural identity.

[17]   Bruter (2005).

rather than some natural or inevitable process. The continued existence of citizenship rights, like that of other rights, depends on constant political and institutional support.

The rights of EU citizenship are not the same as human rights. It is undeniable that non-citizens have gained important social rights in democratic states around the world; it is even possible that a "paradigmatic shift" changed the very nature of citizenship, relocating it from nation-state sovereignty to the international human rights regime.[18] But there has been an ever-present desire or need to develop specifically *European* rights that would apply only to EU citizens—even though that desire was and remains contentious, with many advocating the extension of European rights to all European residents. Rights have traditionally been coupled with identity—national identity in the case of sovereign states, guild or religious or other identities in earlier times. But some rights (most notably human rights) do not depend on any particular identity, thus it is worth asking whether European rights are more like human rights or more like traditional citizenship rights. The outcome of the struggle between inclusion and exclusion matters because the European developments analyzed above are only part of a larger trend of the proliferation of rights beyond borders and the consequent transformation of state sovereignty into regional, and perhaps ultimately global, governance arrangements: Europe may well become a model of post-Westphalian, post-sovereign political organization which is emulated by regions elsewhere.[19] At the same time, perhaps the conditions present in Europe were unique. For Spinelli, it was clear that the Second World War and its aftermath "greatly reduced the habitual respect of citizens for their states and their myths and opened the way to the united European transformation."[20] This popular reaction against state myths may have been a necessary condition for the creation of EU citizenship, and it is unclear whether it can easily be replicated elsewhere.

A major thrust of European integration has been to lower barriers, to break down impediments to movement, to make borders disappear at or at least lose the significance they once had. Support for this project transcends national origins. It is to some extent an ideology, and those inspired by it differentiate themselves from the view of the Union as a simple free trade market. Since the end of Europe's most destructive war, men and women who share the aim of creating European citizens have occupied key institutions, not only supranational ones such as the European Commission, Parliament, or Court, but also influential positions in national governments, industry and labor groups, and civil society. Together they have worked to integrate Europeans not only economically but also socially and politically by conferring upon them European rights. There has been opposition, but the goal of continental integration through rights is increasingly being realized as European citizens are created.

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[19]   Linklater (1998: 204), Slaughter (2004), Magnette (2005).

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