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MULTILEVEL CITIZENSHIP

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INTRODUCTION

CITIZENSHIP is today usually conceived as a unitary and exclusive relationship between an individual and a sovereign state, represented by agents of that state’s government; thus one can be a citizen of Canada or Brazil, but not of a company or a religious or private organization.¹ Nor is ‘citizenship’ often used to describe an individual’s relationship with a city, region, or sub- or suprastate entity. This reflects the assertion by states of a monopoly on determining the status of individuals under international law, represented in concrete form through the issuing of passports and

¹ Willem Maas, ‘Citizenship’, in *The Encyclopedia of Political Science* (Washington: CQ Press, 2011), pp. 226–230.

their recognition by other states.² The universalizing logic of state sovereignty was recognized with the Peace of Westphalia and, certainly from the French Revolution onwards, the doctrine of nationalism undergirded state efforts to create and reinforce a homogeneous national citizenry premised on the ideal of equality between citizens—though the category ‘citizen’ for a long time excluded all women and most men. The dominant view of the growth of citizenship accompanying the rise of sovereign states since Westphalia sanitizes a complex history and ignores important developments both ‘above’ and ‘below’ the state. For example, the rise of European Union citizenship inspires other regional integration efforts to develop common rights as a form of supranational ‘citizenship’ while many states, particularly federal ones, face growing demands for special regional or group-based statuses.³ Similarly, cities sometimes reassert what citizenship meant until current forms of statehood crowded out alternatives: a member of a city entitled to the privileges and rights of that city.⁴ If only sovereign states can confer citizenship, then cities, provinces, nations (to the extent they do not coincide with a state), or supranational entities like the European Union cannot do so.⁵ But this view of citizenship obscures historical and emerging forms of multilevel citizenship that span the world. This chapter argues that multilevel and federal citizenship are more prevalent than unitary citizenship, explores how multilevel citizenship operates in federal states, then discusses emerging supranational and municipal citizenships before concluding with future directions.

CONCEPTUALIZING MULTILEVEL CITIZENSHIP

The most common form of multilevel citizenship is federal citizenship, but federalism is a subset of the general phenomenon of divided and overlapping sovereignties.

² In this vein the 1930 *Hague Convention* declares that ‘it is in the general interest of the international community to secure that all its members should recognise that every person should have a nationality and should have one nationality only’, specifying that it ‘is for each State to determine under its own law who are its nationals.’ (*Convention on Certain Questions Relating to the Conflict of Nationality Laws*, the Hague, 12 April 1930, preamble and Article 1).

³ Willem Maas, ‘Varieties of Multilevel Citizenship’, in Willem Maas, ed., *Multilevel Citizenship* (Philadelphia: University of Pennsylvania Press, 2013), pp. 1–21; Diego Acosta Arcarazo and Andrew Geddes, ‘Transnational Diffusion or Different Models? Regional Approaches to Migration Governance in the European Union and Mercosur’, *European Journal of Migration and Law* 16, no. 1 (2014): pp. 19–44; Willem Maas, ‘Trade, Regional Integration, and Free Movement of People’, in Joaquín Roy, ed., *A New Atlantic Community: The European Union, the US and Latin America* (Miami: European Union Center of Excellence/Jean Monnet Chair, University of Miami, 2015), pp. 111–121.

⁴ The word ‘citizenship’ comes from the French *cité* and the Latin *civitas*, the community of citizens cited in Maas, ‘Varieties of Multilevel Citizenship’ (n 3), p. 1.

⁵ *Ibid.*, p. 1.

We can think of multilevel citizenship as premised on the coexistence of distinct polities on the same territory. In this way multilevel citizenship differs from simple administrative decentralization, which creates different territorial units without a corresponding differentiation of citizenship. Administrative decentralization of public services does not usually create a corresponding sense of peoplehood, even if such decentralization results in differences in welfare provision (such as differences in educational facilities, health care, or emergency services). But a substate unit with its own legislature, or a city with an elected mayor and council, could foster local loyalties. So could supranational entities such as the European Union, where we can speak of a shared citizenship even absent a sense of common peoplehood as strong as that of many nation-states.⁶ Regions play an increasing role in the public policy process, even in traditionally unitary states such as France, and the growth of multilevel governance places in question the nation-state as the citizen's primary reference point.⁷

In terms of governance beyond the state, multilevel citizenship can be distinguished from regional human rights regimes, such as the Council of Europe, or international governance or trade regimes, such as NAFTA or the WTO. Such regimes lack both a polity or sense of peoplehood and a means of involving individual citizens in decision-making, which are the necessary and sufficient conditions for multilevel citizenship.⁸ Citizen involvement can either be direct, such as through referendum or local citizen assemblies, or indirect through representatives

⁶ Seyla Benhabib, *The Rights of Others: Aliens, Residents, and Citizens* (Cambridge: Cambridge University Press, 2004), especially chapter 4; Rogers M. Smith, *Political Peoplehood: The Roles of Values, Interests, and Identities* (Chicago: University of Chicago Press, 2015). The idea that a common European sense of peoplehood is marginal may need reconsideration: in a recent Eurobarometer survey, 51 per cent of respondents define themselves as 'nationality and European', while 6 per cent define themselves as 'European and nationality' (placing more emphasis on their European citizenship) and 2 per cent define themselves as 'European only'—only 39 per cent of respondents define themselves as 'nationality only', a proportion that is declining: 53 per cent of respondents born before 1946 define themselves as 'nationality only', but only 33 per cent of those born after 1980. Standard Eurobarometer 85 (spring 2016), European Citizenship.

⁷ Romain Pasquier, 'Regional Citizenship and Scales of Governance in France', in Daniel Wincott, Charlie Jeffery, and Ailsa Henderson, eds., *Citizenship after the Nation State: Regionalism, Nationalism and Public Attitudes in Europe* (Basingstoke: Palgrave Macmillan, 2014). As one recent research project comparing eighty-one countries concludes, traditionally unitary countries may, like federal ones, have multiple levels of governance, directly elected regional assemblies, and regional governments that collect taxes, issue debt, and have extensive policy responsibilities with a high degree of autonomy from the central government (Liesbet Hooghe and Gary Marks, *Community, Scale, and Regional Governance* (Oxford: Oxford University Press, 2016), p. 153).

⁸ For an argument that corporations are becoming 'citizens' in an emerging international economic regime, a growing body of trade-related entitlements in which businesses both claim rights and participate in building institutions of economic governance, see Turkuler Isiksel, 'Citizens of a New Agora: Postnational Citizenship and International Economic Institutions', in Willem Maas, ed., *Multilevel Citizenship* (Philadelphia: University of Pennsylvania Press, 2013), pp. 184–202. Here I limit consideration to natural persons—though see Donaldson and Kymlicka in this volume for another extension of citizenship beyond humans.

elected by citizens, such as members of a local, regional, or national legislature, or supranational parliament. In this conceptualization, multilevel citizenship must be democratic—that is, forms of governance in which those being governed do not also play some role in governing are better understood as subjecthood rather than citizenship.

Citizenship-based equality applies only among those who share the same citizenship status. All EU citizens are equal with regard to the rights of EU citizenship, but not necessarily with regard to rights that are within the domain of national citizenship—despite the EU rules against nationality-based discrimination. Similarly, equality of national citizenship may nevertheless permit inequality of rights in substate polities. Multilevel citizenship therefore entails a space for legitimate inequality of some citizenship rights. However, inequality can come to conflict with a general ideal of equal citizenship in at least two situations: through free internal movement with extensive mobility, or through strong asymmetry in the relation of constituent polities to the overarching state. The resulting inequalities in the multilevel bundles of rights that citizens enjoy in different parts of the polity may be regarded either as an unavoidable price of federation, or as a positive aspect allowing for federal experimentation.⁹ But such inequalities become unavoidably more conflictual with higher levels of constitutionalized asymmetry and internal mobility.

With the exception of the mid-twentieth century—when alternative levels had largely been subsumed or were not considered relevant for citizenship—multilevel citizenship is the historical norm rather than an exception to unitary state citizenship. The origins of unitary state citizenship can be traced back to Westphalia, but in fact local citizenships dominated in most countries until relatively recently. In the United States, common citizenship supplanted earlier forms of plural rather than singular citizenship only after the Civil War and the Fourteenth Amendment (1868), and state-level entitlements remain important today. German and Italian citizenship simply did not exist before the unifications of Germany and Italy in 1871. Meanwhile, in Latin America, independence and state-building processes occupied most of the nineteenth century and it would be anachronistic to speak of homogeneous citizenships. The Austro-Hungarian, Ottoman, and Russian empires all featured forms of local status and rights that differed depending on territorial location or social membership. European colonial empires were characterized by forms of subjecthood in the colonies that were generally inferior to those in the metropole. Only since World War I and supported by the principle of national self-determination did unitary nation-states spread around the world; most of the world's states are less than one hundred years old and many are considerably newer.

⁹ As argued by James Madison in Federalist 10 (in *The Federalist: A Collection of Essays, Written in Favour of the New Constitution, as Agreed upon by the Federal Convention, September 17, 1787*, 2 volumes (New York: J. and A. McLean, 1788)).

Furthermore, three of the world's most populous democracies (India, the United States, and Brazil) are formal federations, while virtually all other states also contain deviations from the ideal of equal citizenship.

One example of such deviations are barriers to freedom of movement or residence, which can impede equal citizenship even in nominally unitary states. China's *hukou* household registration system, for example, was designed explicitly to hinder internal migration and is only now slowly being reformed by allowing rural residents to purchase 'temporary urban residency permits'.¹⁰ The relaxation of internal barriers is far from complete, however, as many provinces or municipalities provide residence permits only for migrants from the specific jurisdiction, thereby excluding millions of potential and actual migrants of equal access to public resources—meaning that the world's largest group of 'unauthorized migrants' are citizens of China moving between jurisdictions within China.¹¹ A related example of such 'internal passports' that prohibit or inhibit internal migration is the *propiska* system that severely restricted free movement in the former Soviet Union. It was cancelled in 1993, coupled with a constitutional guarantee that everyone lawfully on the Russian territory enjoys freedom of movement and residence.¹² Yet barriers to internal free movement continue to exist, most notably in the forty-three cities known as Closed Administrative Territorial Formations, home to well over one million people.¹³ Meanwhile, a study of disparate approaches to migration by four Russian regions reveals that regional authorities have an unusual level of power over migration, creating a patchwork of citizenship and migration policies and devaluing national citizenship.¹⁴

The patchwork of citizenships that operate in most countries is based on jurisdictional borders between different territorial units. But jurisdiction may instead follow personal rather than territorial lines, with authority based on personal characteristics or social divisions rather than physical borders. This type of organizing

¹⁰ Ling Wu, 'Decentralization and Hukou Reforms in China', *Policy and Society* 32, no. 1 (2013): pp. 33–42 (arguing that recent decentralization policies in China do make local governments more powerful and responsible for providing social welfare to their local citizens but have also undermined the incentives for local governments to provide welfare to migrant workers. Thus decentralization has hindered integrating the large number of migrant workers into local cities and promoting equity within national social welfare delivery).

¹¹ Willem Maas, 'Free Movement and Discrimination: Evidence from Europe, the United States, and Canada', *European Journal of Migration and Law* 15, no. 1 (2013): pp. 91–110, pp. 93–94.

¹² *Law on the Right of Russian Citizens to Freedom of Movement, the Choice of a Place of Stay and Residence within the Russian Federation* (1993, amended 2004). The constitutional guarantee is article 27.1, cited in Maas (n 11), p. 94.

¹³ Roemer Lemaitre, 'How Closed Cities Violate the Freedom of Movement and other International Human Rights Obligations of the Russian Federation', Leuven Institute for International Law Working Paper 77 (June 2005), online <http://www.law.kuleuven.be/iir/nl/onderzoek/wp/WP77e.pdf> (cited in Maas (n 11), p. 94).

¹⁴ Matthew A. Light, *Fragile Migration Rights: Freedom of Movement in Post-Soviet Russia* (New York: Routledge, 2016).

logic predates the idea of equal citizenship and prevailed in the Middle Ages—where society was divided into different estates, each with different laws and membership rules—as well as the millet system in the Ottoman empire, in which members of different religious communities were governed under their own laws with their own courts and own taxes.¹⁵ Such an alternative logic is reflected in the idea of non-territorial citizenships,¹⁶ an idea which has lost prominence with the rise of nation-states as the basis for political authority and the strengthening of the normative ideal of equal citizenship. As ‘the idea of the nation-state achieved its hegemony as a territorial, all-purpose political organization, it affected aspects of citizens’ identity. Out of the myriad ways in which each person can be characterized, one’s territorial location in a nation has come to assume overwhelming importance.’¹⁷

A territorial logic usually undergirds the notion of levels of citizenship—from local to regional to national to supranational¹⁸—although non-territorial citizenship is another possible response to pluralism and could also be considered under multi-level citizenship. No non-territorial group has ever achieved sovereignty—exclusive control over territory is considered a requirement for sovereignty, though Walker (in this volume) documents the partial unravelling of that requirement—but some models of differentiated citizenship distinguish between territorial state citizenship and non-territorial national or cultural citizenship.¹⁹ Such non-territorial citizenships persist in some states through contemporary versions of the millet system in which personal status depends on one’s registration within a religious community: in Israel, even staunch atheists are registered as Jewish, or else as Muslim or member of an officially recognized Christian sect, if they ‘belong’ to that religion. And in Egypt the operation of family law similarly depends on society’s compartmentalization into Muslim, Christian, or Jewish communities—which can give rise to complex jurisdictional questions whenever events involve individuals subject to different laws.²⁰ Categorization by authorities, particularly the registration of

¹⁵ Maas, ‘Varieties of Multilevel Citizenship’ (n 3), pp. 9–10.

¹⁶ Non-territorial citizenship must be distinguished from extraterritorial citizenship enjoyed by individuals residing outside a territory in relation to the authorities governing that territory. While the former conception has largely faded away, the latter has gained in strength in the context of international migration since World War II. See Collyer in this volume.

¹⁷ David J. Elkins, *Beyond Sovereignty: Territory and Political Economy in the Twenty-First Century* (Toronto: University of Toronto Press, 1995), p. 29.

¹⁸ Rainer Bauböck, ‘The Three Levels of Citizenship within the European Union’, *German Law Journal* 15, no. 5 (2014): pp. 751–763.

¹⁹ This was true of Otto Bauer’s and Karl Renner’s models. See Rainer Bauböck, ‘Political Autonomy or Cultural Minority Rights? A Conceptual Critique of Renner’s Model’, in Ephraim Nimni, ed., *National Cultural Autonomy and Its Contemporary Critics* (New York: Routledge, 2005), pp. 97–110.

²⁰ Will Hanley, ‘When Did Egyptians Stop Being Ottomans? An Imperial Citizenship Case Study’, in Willem Maas, ed., *Multilevel Citizenship* (Philadelphia: University of Pennsylvania Press, 2013), pp. 89–109.

minority and indigenous groups, determines the demographic presentation of the population.²¹

Special non-territorial citizenship statuses may also be appropriate for indigenous or Aboriginal peoples, 'nations' often dispersed territorially or too small for statehood. For example, Canada's 1966 Hawthorn Report concluded that 'in addition to the normal rights and duties of citizenship, Indians possess certain additional rights as charter members of the Canadian community'. This leads to an asymmetrical citizenship in which Aboriginal (or First Nations) individuals are 'a bit more equal than other Canadians', what Alan Cairns (echoing the Report) terms 'Citizens plus'.²² The idea that some individuals can be 'a bit more equal' than others, becoming 'Citizens plus' with additional rights, can seem jarring to views of citizenship as premised on equal status. But historically it was not unusual to have 'multiple categories and forms of citizenship within the jurisdiction of the same state, such as the "active" and "passive" citizens the French revolutionary regime distinguished until 1792 or the intricate hierarchy of citizenships the Venetian state established during its years of imperial glory'.²³ Although not based on territorial jurisdictions and thus not fitting neatly into a traditional federal framework, such examples demonstrate how differentiated citizenship can operate in situations of divided and overlapping sovereignties.²⁴ Relaxing the assumption of exclusive, universal, and equal citizenship recovers older forms in which citizenship emphasized duties rather than rights, and taxation or exemption from taxation determined membership.²⁵

The insight that citizenship is premised on jurisdiction, and that territory is often simply a convenient determinant of jurisdiction, rather than its sole possible source (as shown by the example of non-territorial jurisdiction) is gaining recognition in studies of federalism. Although federalism is often analyzed in terms of shared power over territory, it more accurately represents 'a division of authority over people. Unions of states which are federal are precisely more than just that: they are also unions of people'.²⁶ Such a political system is not only a union of states,

²¹ Shourideh Molavi, 'The Israeli Logic of Exclusion' (PhD dissertation, York University, expected 2017) (on file with author).

²² Philip Resnick and Gerald P Kernerman, eds., *Insiders and Outsiders: Alan Cairns and the Reshaping of Canadian Citizenship* (Vancouver: UBC Press, 2005); Alan Cairns, *Citizenship, Diversity, and Pluralism: Canadian and Comparative Perspectives* (Montreal: McGill-Queen's University Press, 1999); Alan Cairns, *Citizens Plus: Aboriginal Peoples and the Canadian State* (Vancouver: University of British Columbia Press, 2000).

²³ Charles Tilly, 'Citizenship, Identity and Social History', *International Review of Social History* 40, no. 3 (1995): pp. 1–17, p. 8.

²⁴ Elizabeth Dale, 'The *Su Bao* Case and the Layers of Everyday Citizenship in China, 1894–1904', in Willem Maas, ed., *Multilevel Citizenship* (Philadelphia: University of Pennsylvania Press, 2013), pp. 110–126.

²⁵ Hanley (n 20).

²⁶ Gary T. Miller, 'Citizenship and European Union: A Federalist Approach', in C. Lloyd Brown-John, ed., *Federal-Type Solutions and European Integration* (Lanham: University Press of America, 1995), pp. 461–499, p. 471.

in which citizens ‘remain unaffected and divided into discrete units,’ but indeed unites people across state borders through common institutions operating directly upon the citizens without intermediation; citizens thus have ‘two sets of meaningful relationships with two centres of authority or levels of government—in effect, two citizenships.’²⁷ This means that any federal system contains a kind of dual citizenship, which in Europe flows from the member-states both ‘upward’ to the EU and ‘downward’ to regions and cities.²⁸ Multilevel citizenship in Europe is thus no longer dual, but multiple: local, regional, state, and supranational.

LITERATURES RELEVANT FOR MULTILEVEL CITIZENSHIP

The literature on equality is relevant for multilevel citizenship, because within any state in which subjurisdictions provide social welfare, some citizens are more equal than others.²⁹ States attempt to minimize variation and guarantee equal citizenship through portability of welfare entitlements, prohibition of exclusionist residence requirements, mutual recognition of credentials, and other measures that facilitate mobility within the state.³⁰ Within the supranational European Union, the European Commission adopts similar strategies, working to remove barriers to free movement by making borders lose their significance, in an attempt to foster common EU citizenship.³¹

Variation tends to be most pronounced in states where subjurisdictions have greater authority, notably federal states. Thus the literature on federal citizenship is also relevant for general considerations of multilevel citizenship. Since the 1990s, scholars distinguish mononational from plurinational federal states, asking whether federalism allows for accommodation of plurinationalism and thus helps to preserve territorial cohesion or deepens territorial divisions and facilitates state breakup.³² Political systems riven by territorial and linguistic divisions can

²⁷ *Ibid.*, p. 470.

²⁸ Christophe Schönberger, ‘European Citizenship as Federal Citizenship: Some Citizenship Lessons of Comparative Federalism,’ *European Review of Public Law* 19, no. 1 (2007): pp. 61–82.

²⁹ Willem Maas, ‘Equality and the Free Movement of People: Citizenship and Internal Migration,’ in Willem Maas, ed., *Democratic Citizenship and the Free Movement of People* (Leiden: Martinus Nijhoff, 2013), pp. 9–30.

³⁰ *Ibid.*

³¹ Willem Maas, ‘The Genesis of European Rights,’ *Journal of Common Market Studies* 43, no. 5 (2005): pp. 1009–1025; Willem Maas, *Creating European Citizens* (Lanham: Rowman & Littlefield, 2007).

³² Michael Keating, *Plurinational Democracy: Stateless Nations in a Post-Sovereignty Era* (Oxford: Oxford University Press, 2001); Michael Keating, ‘Social Citizenship, Solidarity and

nevertheless remain stable political communities.³³ Other literature examines ways in which states work to accommodate distinct ethnic and cultural groups while maintaining national political unity, a project that can fit within traditional federalism or plurinationalism, which has been mostly understood as specific form of (or condition for) federalism.³⁴

Plurinationalism refers to the existence of two or more distinct national groups within a political community, whether a state or a supranational polity like the European Union. A large and growing body of literature considers cases of plurinationalism in Western political systems such as Canada, the United Kingdom, Spain, Belgium, Switzerland, and the European Union, all of which are federal in nature, but plurinationalism has also been recognized elsewhere in unitary states, particularly in Latin America.³⁵ For example, in 2008 Ecuador changed its constitution, with president Rafael Correa arguing that “Plurinationalism’ means admitting that several different nationalities coexist within the larger Ecuadorean state’, and that recognizing the different peoples, cultures and worldviews within the country should impact all public policies, such as education, health, and housing.³⁶ Bolivia went a step further and in 2009 changed its name to the Plurinational State of Bolivia, which fits with a general rise in Indigenous political activism.³⁷

Outside Latin America and New Zealand, where the special status of indigenous groups shapes the kind of unique citizenship statuses available, plurinationalism can be seen both as a driver and a possible consequence of asymmetric multilevel citizenship. There is also a growing literature on territorial governance and rescaling,

Welfare in Regionalized and Plurinational States’, *Citizenship Studies* 13, no. 5 (2009): pp. 501–513; Ferran Requejo Coll and Miquel Caminal i Badia, eds., *Federalism, Plurinationality and Democratic Constitutionalism: Theory and Cases* (New York: Routledge, 2012); Will Kymlicka, *Politics in the Vernacular: Nationalism, Multiculturalism, and Citizenship* (New York: Oxford University Press, 2001); Alain-G. Gagnon and James Tully, *Multinational Democracies* (Cambridge: Cambridge University Press, 2001); Jaime Lluich, *Visions of Sovereignty: Nationalism and Accommodation in Multinational Democracies* (Philadelphia: University of Pennsylvania Press, 2014).

³³ Joseph Lacey, ‘Centripetal Democracy: Democratic Legitimacy and Regional Integration in Belgium, Switzerland and the EU’ (PhD dissertation, European University Institute, 2015) (on file with author).

³⁴ Alfred Stepan, Juan J. Linz, and Yogendra Yadav, *Crafting State-Nations: India and Other Multinational Democracies* (Baltimore: Johns Hopkins University Press, 2010).

³⁵ Marc Becker, ‘Building a Plurinational Ecuador: Complications and Contradictions’, *Socialism and Democracy* 26, no. 3 (2012): pp. 72–92; Jason Tockman and John Cameron, ‘Indigenous Autonomy and the Contradictions of Plurinationalism in Bolivia’, *Latin American Politics and Society* 56, no. 3 (2014): pp. 46–69.

³⁶ Kintto Lucas, ‘Ecuador: New Constitution Addresses Demand for “Plurinational” State’, *Inter Press Service*, 5 May 2008, online <http://www.ipsnews.net/2008/05/ecuador-new-constitution-addresses-demand-for-plurinational-state/>.

³⁷ Deborah J. Yashar, *Contesting Citizenship in Latin America: The Rise of Indigenous Movements and the Postliberal Challenge* (Cambridge: Cambridge University Press, 2005); Sheryl Lightfoot, ‘The International Indigenous Rights Discourse and Its Demands for Multilevel Citizenship’, in Willem Maas, ed., *Multilevel Citizenship* (Philadelphia: University of Pennsylvania Press, 2013), pp. 127–146.

which is relevant for multilevel citizenship because it investigates alternative sources of political authority to the state.³⁸ Finally, there is a more recent literature on comparative supranational regionalism,³⁹ and emerging forms of supranational rights regimes that invoke the language of citizenship (discussed below).

FEDERAL CITIZENSHIP

Virtually every state in the world has internal jurisdictional boundaries, but these are most important in federal states, in which the substate jurisdictions usually have significant authority in a range of fields important to individual citizens.⁴⁰ This means that federal citizenship is the most common form of multilevel citizenship today, even though the concept of citizenship is often not employed in analyses of substate policies and programs that affect citizens in differential ways.⁴¹ The most common distinction within the literature on federal systems is between federations and confederations. However, in spite of the wide variety of ways in which today's states came into existence and developed there is probably no true confederation in the world today. The distinction between the federal and the confederal model of political organization is identified by Proudhon: In a federal state 'each citizen is subject to a dual jurisdiction—of "Centre" and of "Province"—whereas the central organs of a confederal arrangement do not have direct jurisdiction over the citizens of constituent states.'⁴² Since Switzerland has become increasingly centralized, while states such as Belgium and Canada remain insufficiently decentralized to be considered confederations—because their central authorities do have direct jurisdiction over the citizens of the constituent jurisdictions—there is no example of confederal citizenship today, with the possible exception of Bosnia and Herzegovina, whose

³⁸ Michael Keating, *Rescaling the European State: The Making of Territory and the Rise of the Meso* (Oxford: Oxford University Press, 2013).

³⁹ Thomas Risse and Tanja A. Börzel, *The Oxford Handbook of Comparative Regionalism* (Oxford: Oxford University Press, 2016); Carlos Closa and Daniela Vintilla, 'Supranational Citizenship: Rights in Regional Integration Organizations', paper presented at European University Institute, 14 May 2015 (on file with author).

⁴⁰ Maas (n 29).

⁴¹ In this light, see Lorenzo Piccoli, 'Regional Spheres of Citizenship? The Territorial Politics of Rights in Italy, Spain, and Switzerland', PhD dissertation, European University Institute, forthcoming, who demonstrates significant variation within Italy, usually considered a unitary state. This fits the observation that, in a democracy, when authority is conveyed to regional institutions, citizens should have some say. Hooghe and Marks (n 7), p. 161.

⁴² P. J. Proudhon, *The Principle of Federation*, translated by Richard Vernon (Toronto: University of Toronto Press, 1979), p. xxiii.

‘complex citizenship regime, created in response to stability challenges and freezing existing patterns of political interaction, weakens central state institutions and fails to protect basic human and political rights.’⁴³ By contrast, federal citizenship is quite common.

In the United States, the relationship between federal and state citizenship has long animated legal discussion. The US Articles of Confederation (1776) had established a severely underdeveloped central government, without a mechanism for enforcing its laws or collecting taxes, and dependent on voluntary compliance by the states. The US Constitution (1787, entry into force 1789) created a system of shared sovereignty between the federal government and the states, with the central government’s powers limited to those enumerated in the Constitution and the states remaining sovereign in all other areas. Over time, the authority of the central government grew primarily through expansive interpretations of the interstate commerce clause and the Fourteenth Amendment (1868), which provides that ‘All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the state wherein they reside.’ This was a direct rebuke of the *Dred Scott* decision (1857) which had helped spark the US Civil War by ruling that African Americans were not citizens of the United States, even if they were citizens at state level.⁴⁴ After the Civil War, the Fourteenth Amendment guaranteed individual rights in all states—particularly those states in which slavery had just been abolished; it ‘was designed to make national citizenship paramount to state citizenship, to confer national citizenship upon the newly freed slaves, and to secure for the former slaves the equal enjoyment of certain civil rights.’⁴⁵

But the move to equal citizenship encountered resistance. Responding to the Fourteenth Amendment, the *Slaughter-House Cases* (1873) established that ‘there is a citizenship of the United States, and a citizenship of a State, which are distinct from each other, and which depend upon different characteristics or circumstances in the individual.’⁴⁶ This, along with the *Civil Rights Cases* (1883), limited the Amendment’s impact, and as the federal government abdicated its responsibility to protect rights in the latter part of the nineteenth century, power reverted to the states.⁴⁷ As a result,

⁴³ Eldar Sarajlic, ‘Multilevel Citizenship and the Contested Statehood of Bosnia and Herzegovina’, in Willem Maas, ed., *Multilevel Citizenship* (Philadelphia: University of Pennsylvania Press, 2013), pp. 168–183, p. 182. The Dayton peace agreement created two constituent entities, the Republic of Srpska for Serbs and the Federation of Bosnia and Herzegovina for Bosniaks and Croats, with the federal government determined by ethnic proportionality, meaning that equal citizenship is impossible in practice.

⁴⁴ *Dred Scott v. Sandford*, 60 US 393 (1857).

⁴⁵ Earl Warren, ‘Fourteenth Amendment: Retrospect and Prospect’, in Bernard Schwartz, ed., *The Fourteenth Amendment* (New York: New York University Press, 1970), pp. 212–233, p. 216.

⁴⁶ 83 U.S. 36 (1873), paragraph 74.

⁴⁷ Bernard Schwartz, ‘The Amendment in Operation: A Historical Overview’, in Bernard Schwartz, ed., *The Fourteenth Amendment* (New York: New York University Press, 1970), pp. 29–38; Warren

individual states effectively 'retained the power to define most aspects of citizenship without interference from the national government', with racial policy, in particular, continuing to be determined by the states rather than the federal government.⁴⁸ With the New Deal, most social and labour policies except for veterans' pensions continued to be enacted and implemented at the state or local level, and eligibility was conditional on gender, race, and other norms, resulting in a 'semi-feudal' rather than rights-oriented welfare state, in which federalism permitted local differences to thrive.⁴⁹ Unemployment Insurance (UI, mostly used by men) short-circuited layers of federalism while Aid to Families with Dependent Children (AFDC, mostly used by women) granted a high degree of discretionary power to state and local officials, with eligibility determined by procedures that differed from jurisdiction to jurisdiction. Even UI eligibility differed from state to state; in 1971, for example, twenty-three states still disqualified women from collecting UI if they left work for reasons of pregnancy, childbirth, or other familial responsibilities. Over time, UI and AFDC 'evolved in a manner that separated non-elderly men and women as if they were citizens of distinct sovereignties, national versus state, wherein they experienced very different forms of governance'.⁵⁰ Although these programmes were centralized by the mid-1970s, the Personal Responsibility and Work Opportunity Reconciliation Act (1996) once again returned great authority to the states,⁵¹ resulting in a return to divided citizenship. Federalism often continues to perpetuate illiberal and undemocratic racial, ethnic, and gender hierarchies.⁵²

That the coexistence of two levels of citizenship can result in competition between the two levels need not be viewed negatively. Thus US Supreme Court Justice William J. Brennan issued in 1977 what he termed 'a clear call to state courts to step into the breach' left by what he felt was the Supreme Court's lacklustre and diminished rights protection; judicial federalism would thus provide a 'double source of protection for the rights of our citizens'.⁵³ He argued that 'state courts no less than federal are and ought to be the guardians of our liberties', and that 'state courts cannot rest when they have afforded their citizens the full protections of the

(n 45); Raoul Berger, *The Fourteenth Amendment and the Bill of Rights* (Norman: University of Oklahoma Press, 1989).

⁴⁸ Suzanne Mettler, 'Social Citizens of Separate Sovereignties: Governance in the New Deal Welfare State', in Sidney M. Milkis and Jerome M. Mileur, eds., *The New Deal and the Triumph of Liberalism* (Amherst: University of Massachusetts Press, 2002), pp. 231–271, p. 231.

⁴⁹ *Ibid.*, pp. 233–237.

⁵⁰ Suzanne Mettler, 'Dividing Social Citizenship by Gender: The Implementation of Unemployment Insurance and Aid to Dependent Children, 1935–1950', *Studies in American Political Development* 12 (1998): pp. 303–342, p. 340.

⁵¹ *Ibid.*

⁵² Rogers M. Smith, *Civic Ideals: Conflicting Visions of Citizenship in U.S. History* (New Haven: Yale University Press, 1997).

⁵³ William J. Brennan Jr., 'State Constitutions and the Protection of Individual Rights', *Harvard Law Review* 90, no. 3 (1977): pp. 489–504, p. 503.

federal Constitution. State constitutions, too, are a font of individual liberties, their protections often extending beyond those required by the Supreme Court's interpretation of federal law.⁵⁴ The aim was to reinvigorate a federalism animated by the fundamental promises of the Fourteenth Amendment—'that the citizens of all our states are also and no less citizens of our United States.'⁵⁵ Recent legal scholarship is returning to the idea of US citizenship as possessing a dual nature: the US founders arguably 'envisioned Americans with dual loyalties to their states and to the nation', with these dual loyalties serving as essential element of the system of checks and balances.⁵⁶

The constituent units in a federation tend to operate slightly differently from the regional administrative units in a unitary state, where regional governments more likely conform to a single model, that of an administrative arm of the central government. Civil servants are interchangeable and local political identities weak or non-existent. Furthermore, unitary states are characterized by the absence or relative paucity of legal distinctions in the rights and responsibilities of citizens, reflecting a continuum from centralized unitary states to decentralized federations; in a unitary state, the relationships between the central government and those of the regional administrative units tend to exhibit lower levels of competition and differentiation than in federations. The citizens of a 'federation have a dual relationship, as citizens of both the federation and a member State. Within their respective areas of competence, both the federation and the member States create rights and obligations for such individuals.'⁵⁷ A comparative study of federations found that all forbid unreasonable discrimination between citizens of the constituent states, guarantee freedom of movement and residence throughout the federation, and do not allow individuals to possess state citizenship without also possessing federal citizenship.⁵⁸

A subset of federal citizenship is that of federacies, which consists of a special relationship between a dominant unit and one or more smaller or distant units.⁵⁹ Examples include the Åland islands for Finland, the Faeroe islands and Greenland for Denmark, the Netherlands Antilles for the Netherlands, or Puerto Rico for the United States. Federacies often result from colonial legacies or special forms of plurinationalism where minorities are concentrated in offshore territories, and are

⁵⁴ Ibid., p. 491.

⁵⁵ Ibid., p. 490.

⁵⁶ Ernest A. Young, 'The Volk of New Jersey? State Identity, Distinctiveness, and Political Culture in the American Federal System', Duke Law Working Paper (2015), p. 7, online http://scholarship.law.duke.edu/faculty_scholarship/3431/. Young refers here to Alexander Hamilton in Federalist 28 (in *The Federalist: A Collection of Essays, Written in Favour of the New Constitution, as Agreed upon by the Federal Convention, September 17, 1787*, 2 volumes (New York: J. and A. McLean, 1788).

⁵⁷ William J. Schrenk, 'Citizenship and Immigration', in Robert R. Bowie and Carl J. Friedrich, eds., *Studies in Federalism* (Boston: Little, Brown, 1954), pp. 635–675, p. 635.

⁵⁸ Ibid., p. 644.

⁵⁹ The old term 'federacy' was reintroduced with this specific meaning by Daniel J. Elazar, *Exploring Federalism* (Tuscaloosa: University of Alabama Press, 1987).

by definition asymmetric whereas plurinational federations may be symmetric as a matter of constitutional principle. Citizens who are residents of the 'lesser partner' in the federacy typically enjoy a special status or certain unique rights with respect to 'normal' citizens of the state in question. This is at least partially the case because residents of the lesser partner in federacies are often geographically and politically removed from the centre of decision-making, and they may or may not possess the same participation rights as 'normal' citizens. Similarly, citizens of the dominant unit may not enjoy full citizenship rights within the federacy. This is the case on the Åland islands, where Finnish nationals who do not enjoy regional citizenship of those islands are subject to special conditions relating to the period of residence in order to be able to exercise their right to vote and to stand as candidates in municipal elections, for example. The United States has an analogous relationship with Puerto Rico, Samoa, and other dependencies. Federacies certainly deviate from the idea of equal citizenship more profoundly than other federal arrangements in which citizenships are horizontally differentiated and unequal but bound together by a single and equal federal citizenship. In federacies, by contrast, horizontal inequality is compounded by vertical inequality of citizenship across levels: not all citizens of the larger polity enjoy the same rights in relation to central state authorities.

SUPRANATIONAL CITIZENSHIP

If the levels in multilevel citizenship are usually territorial and federal citizenship represents the most common form of multilevel citizenship within states, then supranational citizenship can be viewed as a form of multilevel citizenship beyond the state, in which nation-states occupy the 'lower' level, with a common citizenship superimposed on the member states. Various forms of supranational citizenship are growing today, most notably citizenship of the European Union and the free movement and other rights attached to that status.⁶⁰ Conceived more broadly, however, the concept of supranational citizenship could include any form of supranational rights (such as the human rights that member states of the Council of Europe pledge to uphold) or regional organizations that provide special entitlements (such as preferential work visas for citizens of the United States, Canada, and Mexico within NAFTA, or similar arrangements within other regional trade organizations). Aside from the EU and the few forms of supranational citizenship discussed below,

⁶⁰ See Strumia in this volume.

however, such rights tend to be reciprocity-based arrangements rather than aspiring to a common citizenship.

A supranational citizenship of the European Union was discussed even before the first treaties, and supranational European rights were enshrined as early the 1951 and 1957 treaties of Paris and Rome.⁶¹ After years of efforts by integration-minded actors, the formal status of EU citizenship entered the treaties at Maastricht (1992), and its existence has subsequently provided a constitutional conundrum for European legal and political actors.⁶² European Court of Justice judgments since 2001 have affirmed that EU citizenship is 'destined to be the fundamental status of nationals of the Member States', while the European Parliament casts it as 'a dynamic institution, a key to the process of European integration, and expected gradually to supplement and extend' national citizenship.⁶³ Yet member states insist that 'Citizenship of the Union shall be additional to national citizenship and shall not replace it', in the language of the Lisbon treaty.

Supranational citizenship regimes require a level of coordination that goes well beyond that of simple trade agreements. In the EU, despite member state hesitation, functional needs driven by free movement of individuals are coupled with the growing realization that EU citizenship creates a new political sphere that is 'above' that of the member states and whose subjects, EU citizens, have rights and a status that transcends member state citizenship.⁶⁴ Desiring to increasing the role of EU institutions in citizenship questions, the European Parliament resolved in 1991 that the European 'Union may establish certain uniform conditions governing the acquisition or loss of the citizenship of the Member States', but this resolution did not make it into the Maastricht Treaty.⁶⁵ Despite the rejection of a greater EU role in determining citizenship status and the subsequent Amsterdam and Lisbon Treaties, however, coordination is necessary, as shown in the fields of electoral rights, diplomatic and consular protection, naturalization, and citizenship deprivation.⁶⁶ Although welfare provisions and social systems in Europe remain primarily national and jurisprudence safeguards the ability of member states to exclude individuals despite shared EU citizenship, political statements and legal judgments emphasize that 'the competence of Member States to enact laws concerning national citizenship has to be exercised in accordance with the Treaties' and that even member state

⁶¹ Maas, 'The Genesis of European Rights' (n 31).

⁶² Willem Maas, 'European Union Citizenship in Retrospect and Prospect', in Engin Isin and Peter Nyers, eds., *Routledge Handbook of Global Citizenship Studies* (London: Routledge, 2014), pp. 409–417; Willem Maas, 'The Origins, Evolution, and Political Objectives of EU Citizenship', *German Law Journal* 15, no. 5 (2014): pp. 797–819.

⁶³ Discussed in Maas, *Creating European Citizens* (n 31).

⁶⁴ Willem Maas, 'European Governance of Citizenship and Nationality', *Journal of Contemporary European Research* 12, no. 1 (2016): pp. 532–551, p. 544.

⁶⁵ European Parliament 'Resolution on Union Citizenship', 14 June 1991, discussed in *Ibid.*, p. 538.

⁶⁶ Maas (n 64).

naturalization and citizenship deprivation policies are ‘amenable to judicial review carried out in the light of EU law’.⁶⁷ Member state autonomy can thus be limited by the general principles of EU law even in areas of putatively exclusive member state competence, such as decisions regarding the acquisition and loss of member state (and hence EU) citizenship.⁶⁸

Despite its limitations, no other supranational rights regime is as advanced as that of EU citizenship. In North America, for example, the egregious misregulation of Mexican migration to the United States shows the limits of the North American Free Trade Agreement (NAFTA) free movement provisions; similarly, between 2009 and 2016, Canada required citizens of Mexico to obtain a visa not only to study or work but also simply to travel. The lack of extensive free movement provisions hampers even NAFTA’s limited goals. Comparative research demonstrates that successful and stable regional integration efforts must include free movement rights for people as a priority—Karl Deutsch observed that ‘[f]ull-scale mobility of persons has followed every successful amalgamated security-community in modern times immediately upon its establishment’ and that ‘the importance of the mobility of persons suggests that in this field of politics persons may be more important than either goods or money’⁶⁹—signalling that NAFTA may be doomed to remain forever a trade agreement rather than a truly integrated supranational community, which may correspond with the intentions of the member governments. To date, the European Union remains the only case of regional integration where free movement rights are relatively entrenched, and even EU free movement rights face opposition, as illustrated by the importance of free movement in the campaign for Brexit.

By contrast with NAFTA, emerging free movement efforts in Latin America show more promise; outside Europe, the most advanced efforts at establishing common supranational rights are occurring in Latin America. For example, the Caribbean Community treaty provides that ‘Member States commit themselves to the goal of the free movement of their nationals within the Community’, obviating the need for work or residence permits, and providing a common-format passport.⁷⁰ Meanwhile, the Andean Community includes an Andean Labor Migration Instrument which provides for the relative free movement of workers between member states, as well as banning discrimination based on nationality for workers from other Community member states, thus resembling the early free movement provisions of the European

⁶⁷ Ibid., p. 533. First quotation by the representative of the European Council at a European Parliament debate discussed in *ibid.*, pp. 540–541; second quotation from Judgment of 2 March 2010, *Rottmann* C-135/08 EU:C:2010:104, paragraph 48, discussed in *ibid.*, pp. 541–542.

⁶⁸ Ibid., p. 542.

⁶⁹ Karl Wolfgang Deutsch, *Political Community and the North Atlantic Area: International Organization in the Light of Historical Experience* (Princeton: Princeton University Press, 1957), pp. 53, 54.

⁷⁰ *Revised Treaty of Chaguaramas Establishing the Caribbean Community including the CARICOM Single Market and Economy*, 2001, article 45.

Community.⁷¹ Mercosur has a Residence Agreement with similar provisions, and a Citizenship Statute, signed in 2010, which provides an action plan for full implementation of common citizenship on the thirtieth anniversary of the signing of the Treaty of Asunción (in 2021) and has three main objectives: free movement of people within the region; equal civil, social, cultural, and economic rights and freedoms for citizens of member states; and equal conditions of access to work, health, and education.⁷² Meanwhile Unasur, which covers almost the entire continent of South America,⁷³ aims at ‘the consolidation of a South American identity through the progressive recognition of the rights of nationals of a Member State resident in any of the other Member States, in order to achieve a South American citizenship’; Unasur citizenship includes creating a ‘single passport’ and common educational rules to give South Americans the right to live, work, and study in any Unasur country.⁷⁴ These efforts appear more rhetorical than real for the moment, but they do indicate the growth in Latin America of incipient forms of supranational citizenship.

Efforts to create forms of supranational citizenship encounter an international system which remains very much in flux. There was a flurry of declarations of independence during the last century, and many citizenships are quite new. At the same time, the tension between a theoretical world divided neatly into separate territorial containers, one for each people or nation, and a real world in which individuals and collectivities do not fit neatly into these separate containers (for example indigenous peoples, Roma, and other ‘unusual’ groups), means a simplistic logic is misleading.⁷⁵

MUNICIPAL CITIZENSHIP?

As argued by Bauböck in this volume, the local is one level in multilevel citizenship that is ubiquitous in democratic states. Yet local citizenship is nowhere today

⁷¹ Maas, ‘Trade, Regional Integration, and Free Movement of People’ (n 3), p. 114.

⁷² *Ibid.*, p. 115.

⁷³ The Union of South American Nations, usually known by its Spanish acronym Unasur (Unión de Naciones Suramericanas; Portuguese: União de Nações Sul-Americanas; Dutch: Unie van Zuid-Amerikaanse Naties), includes every country on the South American continent except for French Guiana, which is an overseas territory of France.

⁷⁴ Maas, ‘Trade, Regional Integration, and Free Movement of People’ (n 3), p. 116. At Unasur’s December 2014 summit, Unasur general secretary Ernesto Samper emphasized that ‘We have approved the concept of South American citizenship. This should be the greatest register of what has happened’ (cited in *ibid.*).

⁷⁵ Lightfoot (n 37); Jacqueline Gehring, ‘Free Movement for Some: The Treatment of the Roma after the European Union’s Eastern Expansion’, in Willem Maas, ed., *Democratic Citizenship and the Free Movement of People* (Leiden: Martinus Nijhoff, 2013), pp. 143–174.

constitutive for citizenship in the larger polity and can thus be determined by different criteria: residence for local and birthright for state citizenship. By contrast, where regional polities are constitutive for the larger polity, their citizenships must be linked across levels through upwards derivation, as in the European Union and to some extent in Switzerland, or downwards derivation, as in all other contemporary federal states.

In light of policy stalemate at the federal level, many cities in the United States have been experimenting with forms of local incorporation such as municipal identity cards.⁷⁶ The proliferation of incorporation strategies at the state level creates ‘a de facto regime of state citizenship, one that operates in parallel to national citizenship and, in some important ways, exceeds the standards of national citizenship’ in the areas of health care, education, and access to employment opportunities.⁷⁷ Many scholars may not view sanctuary city movements for irregular migrants, municipal identity documents, and related efforts as truly creating a new level of citizenship but, as such examples demonstrate, local authorities undeniably articulate local citizenship as in conflict with regional or national citizenship by claiming powers normally reserved for ‘higher’ authorities.⁷⁸ By contrast, municipal citizenship is crucial in some contexts, such as that of Switzerland, where decisions about naturalization are taken at the local level.⁷⁹ Such a decentralized system ensures that regulations and laws account for regional or local specificities, as local political actors and administrative officials are close to those seeking naturalization. Yet this means differential treatment, and one might wonder about the relevant level at which foreigners become citizens: the local community, the substate region, or the nation-state.⁸⁰

Regardless of normative concerns, cities have a long history as the primary locus of allegiance and integration into the polity. Some social scientists argue that cities are returning to their roots as the site of true governance, with mayors as key democratic leaders, and at the same time there are growing efforts at transnational cooperation by mayors of various world cities.⁸¹ Others emphasize that cities should

⁷⁶ Els De Graauw, *Making Immigrant Rights Real: Nonprofits and the Politics of Integration in San Francisco* (Ithaca: Cornell University Press, 2016).

⁷⁷ Karthick Ramakrishnan and Allan Colbern, ‘The California Package: Immigrant Integration and the Evolving Nature of State Citizenship,’ *Policy Matters* 6, no. 3 (2015): pp. 1–19, pp. 10–11.

⁷⁸ See Monica Varsanyi and Doris Marie Provine, ‘Comparing Immigration Policy and Enforcement in Two Neighboring States,’ paper presented at the 2015 American Political Science Association Annual Conference (on file with author). For example, San Francisco recently updated its ‘Due Process for All’ ordinance, restricting cooperation with federal immigration law.

⁷⁹ Marc Helbling, ‘Local Citizenship Politics in Switzerland: Between National Justice and Municipal Particularities,’ in Willem Maas, ed., *Multilevel Citizenship* (Philadelphia: University of Pennsylvania Press, 2013), pp. 149–167.

⁸⁰ *Ibid.*, p. 165.

⁸¹ Benjamin R. Barber, *If Mayors Ruled the World: Dysfunctional Nations, Rising Cities* (New Haven: Yale University Press, 2013).

indeed enjoy greater constitutional standing than they do, particularly because cities inspire loyalty in ways analogous to those found in processes of nation-building.⁸²

FUTURE DIRECTIONS FOR MULTILEVEL AND FEDERAL CITIZENSHIP

Since federal or other forms of multilevel citizenship are the most common form of citizenship today, the relative lack of attention paid to deviations from the 'norm' is surprising. This can be expected to change in the future. Recent feminist research examines whether multilevel citizenship 'strengthens women's opportunities to experience dual citizenship or divides their energies and efforts', while other research emphasizes how women's entitlement to 'national' citizenship rights such as gender equality can compete with group rights at other levels of government.⁸³ Some globalization theorists, meanwhile, advocate developing political authority and administrative capacity at regional and global levels, seeing those levels as necessary supplements to the political institutions at the level of the state. Both approaches question the assumption that a homogeneous national citizenship is necessarily the best way of organizing political life, thereby interrogating the view of contemporary citizenship as a uniform political and legal status that can be bestowed only by sovereign states and must be based on political equality between citizens. The overwhelming focus of analysis on political rights, especially democratic and electoral politics, corresponds to the major concerns of citizenship theory, but deadens analysis of legal, social, civil, and other forms of citizenship.⁸⁴ A future direction of citizenship research would be to acknowledge the empirical reality of multilevel and federal citizenship and explore its implications for citizenship theory.

A key element of such work should be explorations of difference rather than equality, both in terms of policies and in terms of political identity. Discrimination

⁸² Daniel Weinstock, 'Cities and Federalism', in James E. Fleming and Jacob T. Levy, eds., *Federalism and Subsidiarity* (New York: New York University Press, 2014), pp. 259–290; Loren King, 'Cities, Subsidiarity, and Federalism', in James E. Fleming and Jacob T. Levy, eds., *Federalism and Subsidiarity* (New York: New York University Press, 2014), pp. 290–331.

⁸³ Louise A. Chappell, 'Feminist Engagement with Federal Institutions: Opportunities and Constraints for Women's Multilevel Citizenship', in David H. Laycock, ed., *Representation and Democratic Theory* (Vancouver: UBC Press, 2004), pp. 65–89; Melissa Haussman, Marian Sawyer, and Jill Vickers, eds., *Federalism, Feminism and Multilevel Governance* (Burlington: Ashgate, 2010). This sentence and the next two draw on Maas, 'Varieties of Multilevel Citizenship' (n 3), p. 5.

⁸⁴ Hanley (n 20), p. 163.

between ‘citizens’ of different constituent political communities tends to be frowned upon by the central government, but rights vary across the constituent units in most federations, raising important normative challenges of distinguishing acceptable from unacceptable rights diversity.⁸⁵ For example, US states differ or have differed on the legality of marijuana or other drugs, drinking age, age of consent for sexual activity, homosexual sex and marriage, obscenity, the death penalty and lesser penalties, age to obtain a driver’s licence, voting age, access to abortion or doctor-assisted dying, and of course slavery until the Fourteenth Amendment (discussed above), followed by state-sanctioned racial segregation, which ended only with federal military intervention and passage of the 1964 Civil Rights Act. Furthermore, ‘citizens’ of one unit in a federation may be treated differently from those of other units not only internally but also internationally; for example, certain public scholarships in France are available to applicants from Québec but not those from other Canadian provinces, despite shared Canadian citizenship. The ideal of the equality of all citizens counteracts such rights diversity, and an important way in which central authorities attempt to foster equality is through promoting a common identity or at least a common political culture.⁸⁶ One expression of this idea is the notion that ‘democratic citizenship need not be rooted in the national identity of a people [... but] does require that every citizen be socialised into a common political culture.’⁸⁷ Identity—even a territorial and political identity—need not be exclusive or primary (one can simultaneously be a Torontonion, Ontarian, Canadian, and possibly even North American; or identify simultaneously with Munich, Bavaria, Germany, and the European Union); in a world where borders matter less than they used to, multiple political identities should be more common.

Citizenship-as-equality has become the dominant representation of what citizenship means today. Yet this dominant narrative ignores most of the differentiated forms of citizenship held by the vast majority of the world’s population, particularly multilevel and federal citizenship. Nation-states assert a monopoly on the authority to bestow citizenship, but virtually all contemporary nation-states—and it must be remembered that most nation-states are quite recent creations—are characterized by often wide variation in the levels of rights and protections that they offer their citizens. Except perhaps for the mid-twentieth century, multilevel citizenship is the historical norm rather than an aberration. This can be seen in policies regarding freedom of movement within state territory, which is often restricted or subject to incentives or disincentives. It is also evident in differentiated social programmes,

⁸⁵ John Kincaid, ‘Federalism and Rights: The Case of the United States, with Comparative Perspectives’, in Gordon DiGiacomo, ed., *Human Rights* (Toronto: University of Toronto Press, 2016), pp. 83–113.

⁸⁶ Maas, *Creating European Citizens* (n 31).

⁸⁷ Jürgen Habermas, ‘Citizenship and National Identity’, in *Between Facts and Norms*, translated by William Rehg (Cambridge: MIT Press, 1996), p. 500.

or simply in differential application of common policies: despite the ideal of equal citizenship, where one lives or works often matters more than common citizenship status—to say nothing of the varied statuses Rogers Smith (in this volume) terms ‘quasi-citizens’. Federal states are most explicitly identified with a kind of dual citizenship, simultaneously of the substate jurisdiction and of the centre, while at the same time there is a growth of both supranational and local citizenship regimes. Continuing political contestation surrounding the project of making equal citizens out of many different individuals means that multilevel and federal citizenship requires more attention.⁸⁸ Particular attention should be paid to comparative research on different multilevel polities and different kinds of multilevel citizenship.

BIBLIOGRAPHY

- Acosta Arcarazo, Diego and Andrew Geddes, ‘Transnational Diffusion or Different Models? Regional Approaches to Migration Governance in the European Union and Mercosur’, *European Journal of Migration and Law* 16, no. 1 (2014): pp. 19–44.
- Barber, Benjamin R., *If Mayors Ruled the World: Dysfunctional Nations, Rising Cities* (New Haven: Yale University Press, 2013).
- Bauböck, Rainer, ‘Political Autonomy or Cultural Minority Rights? A Conceptual Critique of Renner’s Model’, in Ephraim Nimni, ed., *National Cultural Autonomy and Its Contemporary Critics* (New York: Routledge, 2005), pp. 97–110.
- Bauböck, Rainer, ‘The Three Levels of Citizenship within the European Union’, *German Law Journal* 15, no. 5 (2014): pp. 751–763.
- Becker, Marc, ‘Building a Plurinational Ecuador: Complications and Contradictions’, *Socialism and Democracy* 26, no. 3 (2012): pp. 72–92.
- Benhabib, Seyla, *The Rights of Others: Aliens, Residents, and Citizens* (Cambridge: Cambridge University Press, 2004).
- Berger, Raoul, *The Fourteenth Amendment and the Bill of Rights* (Norman: University of Oklahoma Press, 1989).
- Brennan, William J. Jr., ‘State Constitutions and the Protection of Individual Rights’, *Harvard Law Review* 90, no. 3 (1977): pp. 489–504.
- Cairns, Alan, *Citizenship, Diversity, and Pluralism: Canadian and Comparative Perspectives* (Montreal: McGill-Queen’s University Press, 1999).
- Cairns, Alan, *Citizens Plus: Aboriginal Peoples and the Canadian State* (Vancouver: University of British Columbia Press, 2000).
- Chappell, Louise A., ‘Feminist Engagement with Federal Institutions: Opportunities and Constraints for Women’s Multilevel Citizenship’, in David H. Laycock, ed., *Representation and Democratic Theory* (Vancouver: UBC Press, 2004), pp. 65–89.

⁸⁸ Maas (n 29).

- Closa, Carlos and Daniela Vintilla, 'Supranational Citizenship: Rights in Regional Integration Organizations', paper presented at European University Institute, 14 May 2015 (on file with author).
- Dale, Elizabeth, 'The *Su Bao* Case and the Layers of Everyday Citizenship in China, 1894–1904', in *Multilevel Citizenship*, edited by Willem Maas (Philadelphia: University of Pennsylvania Press, 2013), pp. 110–126.
- De Graauw, Els., *Making Immigrant Rights Real: Nonprofits and the Politics of Integration in San Francisco* (Ithaca: Cornell University Press, 2016).
- Deutsch, Karl Wolfgang, *Political Community and the North Atlantic Area: International Organization in the Light of Historical Experience* (Princeton: Princeton University Press, 1957).
- Elazar, Daniel J., *Exploring Federalism* (Tuscaloosa: University of Alabama Press, 1987).
- Elkins, David J., *Beyond Sovereignty: Territory and Political Economy in the Twenty-First Century* (Toronto: University of Toronto Press, 1995).
- Gagnon, Alain-G. and James Tully, *Multinational Democracies* (Cambridge: Cambridge University Press, 2001).
- Gehring, Jacqueline, 'Free Movement for Some: The Treatment of the Roma after the European Union's Eastern Expansion', in Willem Maas, ed., *Democratic Citizenship and the Free Movement of People* (Leiden: Martinus Nijhoff, 2013), pp. 143–174.
- Habermas, Jürgen, *Between Facts and Norms*, translated by William Rehg (Cambridge: MIT Press, 1996).
- Hanley, Will, 'When Did Egyptians Stop Being Ottomans? An Imperial Citizenship Case Study', in Willem Maas, ed., *Multilevel Citizenship* (Philadelphia: University of Pennsylvania Press, 2013), pp. 89–109.
- Hausman, Melissa, Marian Sawyer, and Jill Vickers, eds., *Federalism, Feminism and Multilevel Governance* (Burlington: Ashgate, 2010).
- Helbling, Marc, 'Local Citizenship Politics in Switzerland: Between National Justice and Municipal Particularities', in Willem Maas, ed., *Multilevel Citizenship* (Philadelphia: University of Pennsylvania Press, 2013), pp. 149–167.
- Hooghe, Liesbet and Gary Marks. *Community, Scale, and Regional Governance* (Oxford: Oxford University Press, 2016).
- Isiksel, Turkuler, 'Citizens of a New Agora: Postnational Citizenship and International Economic Institutions', in Willem Maas, ed., *Multilevel Citizenship* (Philadelphia: University of Pennsylvania Press, 2013), pp. 184–202.
- Keating, Michael, *Plurinational Democracy: Stateless Nations in a Post-Sovereignty Era* (Oxford: Oxford University Press, 2001).
- Keating, Michael, 'Social Citizenship, Solidarity and Welfare in Regionalized and Plurinational States', *Citizenship Studies* 13, no. 5 (2009): pp. 501–513.
- Keating, Michael, *Rescaling the European State: The Making of Territory and the Rise of the Meso* (Oxford: Oxford University Press, 2013).
- Kincaid, John, 'Federalism and Rights: The Case of the United States, with Comparative Perspectives', in Gordon DiGiacomo, ed., *Human Rights* (Toronto: University of Toronto Press, 2016), pp. 83–113.
- King, Loren, 'Cities, Subsidiarity, and Federalism', in James E. Fleming and Jacob T. Levy, eds., *Federalism and Subsidiarity* (New York: New York University Press, 2014), pp. 290–331.
- Kymlicka, Will, *Politics in the Vernacular: Nationalism, Multiculturalism, and Citizenship* (New York: Oxford University Press, 2001).

- Lacey, Joseph, 'Centripetal Democracy: Democratic Legitimacy and Regional Integration in Belgium, Switzerland and the EU' (PhD Dissertation, European University Institute, 2015) (on file with author).
- Light, Matthew A., *Fragile Migration Rights: Freedom of Movement in Post-Soviet Russia* (New York: Routledge, 2016).
- Lightfoot, Sheryl, 'The International Indigenous Rights Discourse and Its Demands for Multilevel Citizenship', in Willem Maas, ed., *Multilevel Citizenship* (Philadelphia: University of Pennsylvania Press, 2013), pp. 127–146.
- Lluch, Jaime, *Visions of Sovereignty: Nationalism and Accommodation in Multinational Democracies* (Philadelphia: University of Pennsylvania Press, 2014).
- Lucas, Kintto, 'Ecuador: New Constitution Addresses Demand for "Plurinational" State', *Inter Press Service*, 5 May 2008, online <http://www.ipsnews.net/2008/05/ecuador-new-constitution-addresses-demand-for-plurinational-state/>.
- Maas, Willem, 'The Genesis of European Rights', *Journal of Common Market Studies* 43, no. 5 (2005): pp. 1009–1025.
- Maas, Willem, *Creating European Citizens* (Lanham: Rowman & Littlefield, 2007).
- Maas, Willem, 'Citizenship', in *The Encyclopedia of Political Science* (Washington: CQ Press, 2011), pp. 226–230.
- Maas, Willem, 'Free Movement and Discrimination: Evidence from Europe, the United States, and Canada', *European Journal of Migration and Law* 15, no. 1 (2013): pp. 91–110.
- Maas, Willem, 'Equality and the Free Movement of People: Citizenship and Internal Migration', in Willem Maas, ed., *Democratic Citizenship and the Free Movement of People* (Leiden: Martinus Nijhoff, 2013), pp. 9–30.
- Maas, Willem, 'Varieties of Multilevel Citizenship', in Willem Maas, ed., *Multilevel Citizenship* (Philadelphia: University of Pennsylvania Press, 2013), pp. 1–21.
- Maas, Willem, 'European Union Citizenship in Retrospect and Prospect', in Engin Isin and Peter Nyers, eds., *Routledge Handbook of Global Citizenship Studies* (London: Routledge, 2014), pp. 409–417.
- Maas, Willem, 'The Origins, Evolution, and Political Objectives of EU Citizenship', *German Law Journal* 15, no. 5 (2014): pp. 797–819.
- Maas, Willem, 'Trade, Regional Integration, and Free Movement of People', in Joaquín Roy, ed., *A New Atlantic Community: The European Union, the US and Latin America* (Miami: European Union Center of Excellence/Jean Monnet Chair, University of Miami, 2015), pp. 111–121.
- Maas, Willem, 'European Governance of Citizenship and Nationality', *Journal of Contemporary European Research* 12, no. 1 (2016): pp. 532–551.
- Mettler, Suzanne, 'Dividing Social Citizenship by Gender: The Implementation of Unemployment Insurance and Aid to Dependent Children, 1935–1950', *Studies in American Political Development* 12 (1998): pp. 303–342.
- Mettler, Suzanne, 'Social Citizens of Separate Sovereignities: Governance in the New Deal Welfare State', in Sidney M. Milkis and Jerome M. Mileur, eds., *The New Deal and the Triumph of Liberalism* (Amherst: University of Massachusetts Press, 2002), pp. 231–271.
- Miller, Gary T., 'Citizenship and European Union: A Federalist Approach', in C. Lloyd Brown-John, ed., *Federal-Type Solutions and European Integration*, edited by C. Lloyd Brown-John (Lanham: University Press of America, 1995), pp. 461–499.
- Molavi, Shourideh, 'The Israeli Logic of Exclusion' (PhD dissertation, York University, expected 2017) (on file with author).

- Pasquier, Romain, 'Regional Citizenship and Scales of Governance in France', in Daniel Wincott, Charlie Jeffery, and Ailsa Henderson, eds., *Citizenship after the Nation State: Regionalism, Nationalism and Public Attitudes in Europe* (Basingstoke: Palgrave Macmillan, 2014).
- Piccoli, Lorenzo, 'Regional Spheres of Citizenship? The Territorial Politics of Rights in Italy, Spain, and Switzerland', PhD dissertation, European University Institute, forthcoming.
- Proudhon, P. J., *The Principle of Federation*, translated by Richard Vernon (Toronto: University of Toronto Press, 1979).
- Ramakrishnan, Karthick and Allan Colbern, 'The California Package: Immigrant Integration and the Evolving Nature of State Citizenship', *Policy Matters* 6, no. 3 (2015): pp. 1–19.
- Requejo Coll, Ferran and Miquel Caminal i Badia, eds., *Federalism, Plurinationality and Democratic Constitutionalism: Theory and Cases* (New York: Routledge, 2012).
- Resnick, Philip and Gerald P Kernerman, eds., *Insiders and Outsiders: Alan Cairns and the Reshaping of Canadian Citizenship* (Vancouver: UBC Press, 2005).
- Risse, Thomas and Tanja A. Börzel, *The Oxford Handbook of Comparative Regionalism* (Oxford: Oxford University Press, 2016).
- Sarajlic, Eldar, 'Multilevel Citizenship and the Contested Statehood of Bosnia and Herzegovina', in Willem Maas, ed., *Multilevel Citizenship* (Philadelphia: University of Pennsylvania Press, 2013), pp. 168–183.
- Schönberger, Christophe, 'European Citizenship as Federal Citizenship: Some Citizenship Lessons of Comparative Federalism', *European Review of Public Law* 19, no. 1 (2007): pp. 61–82.
- Schrenk, William J., 'Citizenship and Immigration', in Robert R. Bowie and Carl J. Friedrich, eds., *Studies in Federalism* (Boston: Little, Brown, 1954), pp. 635–675.
- Schwartz, Bernard, 'The Amendment in Operation: A Historical Overview', in Bernard Schwartz, ed., *The Fourteenth Amendment* (New York: New York University Press, 1970), pp. 29–38.
- Smith, Rogers M., *Civic Ideals: Conflicting Visions of Citizenship in U.S. History* (New Haven: Yale University Press, 1997).
- Smith, Rogers M., *Political Peoplehood: The Roles of Values, Interests, and Identities* (Chicago: University of Chicago Press, 2015).
- Stepan, Alfred, Juan J. Linz, and Yogendra Yadav, *Crafting State-Nations: India and Other Multinational Democracies* (Baltimore: Johns Hopkins University Press, 2010).
- Tilly, Charles, 'Citizenship, Identity and Social History', *International Review of Social History* 40, no. 3 (1995): pp. 1–17.
- Tockman, Jason and John Cameron, 'Indigenous Autonomy and the Contradictions of Plurinationality in Bolivia', *Latin American Politics and Society* 56, no. 3 (2014): pp. 46–69.
- Varsanyi, Monica and Doris Marie Provine, 'Comparing Immigration Policy and Enforcement in Two Neighboring States', paper presented at the 2015 American Political Science Association Annual Conference (on file with author).
- Warren, Earl, 'Fourteenth Amendment: Retrospect and Prospect', in Bernard Schwartz, ed., *The Fourteenth Amendment*, (New York: New York University Press, 1970), pp. 212–233.
- Weinstock, Daniel, 'Cities and Federalism', in James E. Fleming and Jacob T. Levy, ed., *Federalism and Subsidiarity* (New York: New York University Press, 2014), pp. 259–290.
- Wu, Ling, 'Decentralization and Hukou Reforms in China', *Policy and Society* 32, no. 1 (2013): pp. 33–42.

Yashar, Deborah J., *Contesting Citizenship in Latin America: The Rise of Indigenous Movements and the Postliberal Challenge* (Cambridge: Cambridge University Press, 2005).

Young, Ernest A., 'The Volk of New Jersey? State Identity, Distinctiveness, and Political Culture in the American Federal System', Duke Law Working Paper, 2015, online http://scholarship.law.duke.edu/faculty_scholarship/3431/.