Citizenship beyond the nation-State. New perspectives in the citizenship debate

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Abstract

Citizenship is one of the main elements of the modern notion of democracy: every restriction or improvement of this right influences democracy itself. Modern migration and the birth of multicultural societies (Kymlicka), the growth of mobility in a globalised world (Sassen, Urry, Recchi, Favell), emerging differences in the access to rights (Chatterje), the re-birth of cosmopolitanism on a global scale (Benhabib), the crisis of the welfare state in industrialised countries (Donati) and new forms of participation and active citizenship (Crick, Lockyer; Moro) are some of the emerging issues of debate in social sciences. The introduction of European Union (EU) citizenship added a crucial issue to this debate. EU citizenship is the only form of supranational citizenship in the world, undermining the exclusivity of national citizenship. Despite its contradictions and ambiguities, does it open the way to a new model of citizenship? How has EU citizenship contributed to this debate? Is EU citizenship a real challenge to state-based citizenship?

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1. From Marshall’s theory to contemporary debate

The notion of citizenship encompasses and links together a number of key aspects of Western political thinking spanning ancient Greece to contemporary societies (Turner, 1993). In particular, the relationship between citizenship and democracy is one of the key themes of contemporary debate on democracy. In formal terms it delineates legal membership of a state: every restriction or improvement of the rights that citizenship entails influences democracy itself. From this point of view, citizenship has a strong “spatial” feature: it defines the framework within which we can analyse political phenomena and consider that political actors are entitled to act. Thus citizenship can be considered one of the “theoretical artifices” produced by modern democracy with the aim of introducing a condition of equality among individuals.

In modern times, the notion of citizenship carries two different meanings: the political-theoretical and the legal meaning. The first defines the social status of a citizen as a member of an organised group; the second defines citizenship as a legal status, namely the belonging to the legal order of a state (Zolo 1999; 2007).

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Turner (1982: 2) proposes a “concept of citizenship in a broad and possibly innovative fashion”. He not only talks about a collection of rights and obligations (the juridical definition), but he emphasises the idea of practices “which define a person as a competent member of society, and which as a consequence shape the flow of resources to persons and social groups”. The word “practices” – he adds – “should help us to understand the dynamic social construction of citizenship which changes historically as a consequence of political struggle” (Turner, 1982: 2).

As Zincone (1992) stressed in her book, looking at democracy using citizenship as the starting point implies the assumption of a bottom-up perspective: from the bottom we do not look at the political system, but at the people: the possibility to influence decision making through the vote, personal freedoms, etc.

The outstanding contribution that Marshall (1963) made to the debate forms the basis of every reflection on citizenship. Marshall’s theory of citizenship is relatively well-known, moving from the analysis of the evolution of rights achieved through citizenship in the history of England, from civil rights (XVIII century), to political (XIX century) and social (XX century).

“The civil element is composed of the rights necessary for individual freedom – liberty of the person, freedom of speech, thought and faith, the right to own property and to conclude valid contracts, and the right to justice” (Marshall, 1963: 74). Marshall associates this set of rights with law courts.

“By political element I mean the right to participate in an exercise of political power, as a member of a body invested with political authority or as an elector of such a body” (Marshall, 1963: 74). The corresponding institutions in this case are parliament and local government bodies. This is a controversial topic in Marshall’s theory. According to some authors, there is no clear distinction between political and civil rights (Dahrendorf, 1974); Marshall’s equating of political citizenship with the extension of political participation is not shared by all of his critics (Rees 1996: 5). “By the social element I mean the whole range from the right to a modicum of economic welfare and security to the right to share to the full in the social heritage and to live the life of a civilised being according to the standards prevailing in the society” (Marshall, 1963: 74). The institutions connected with these rights are the educational system and social services.

Aside from this general theory, Marshall’s major concern is to define the relationship between citizenship and the rise of capitalism and social class (Marshall, 1963: 87). For this reason he focuses on the evolution of social rights: the conflict between citizenship and capitalism – he argues - is related to social, not civil and political rights. While the three dimensions of citizenship have developed at different rates, they have only fully come together with the creation of the welfare state. (Giddens, 1982: 168). Marshall argues that while early citizenship rights supported the growth of capitalism by fostering free commodity and labour markets, as citizenship grew to include political and social rights it began to pose a challenge to the capitalist class structure. “Marshall’s concern with citizenship was addressed to a specific problem in liberal theory: how to reconcile the formal framework of political democracy with the social consequence of capitalism as an economic system, that is how to reconcile formal equality with the continuity of social class divisions” (Turner, 1993: 6).

This is not the place to report the debate that Marshall’s theory provoked both inside British sociology and abroad (Turner, 1993; Bulmer, Rees 1996). Scholars have questioned the periodisation proposed by Marshall and the evolutionary process from one dimension of rights to another. They have also criticised his lack of attention to certain rights (women’s rights, minority rights), which were already guaranteed at the time he was writing, and the generally optimistic approach he followed in his analysis. In particular, critics reject his notion of social citizenship as the final stage in a long-term evolution, along with the Anglocentric approach he adopted. Finally, according to some scholars, Marshall overestimated the impact of citizenship rights on class structure: as Barbalet (1988) and Giddens (1982) argue, the effects have actually been quite modest and citizenship rights do not go as uncontested as Marshall claims.

Two issues emerge from Marshall’ legacy: firstly the tripartition of rights - civil, political and social - and secondly their periodisation (civil and political rights come first, followed by social rights). For the purpose of this paper, in Marshall’s theory all the groups of rights share a common trait: they are still nation-based, they are and remain the output of a struggle conducted at national level.
“Since Marshall wrote, things have moved on, and many recent commentators are not satisfied with a view of citizenship revolving so much around occupational social class, the ownership and control of industry, and the distribution and redistribution of income and wealth” (Rees 1996: 13).

Emerging political issues and policy innovations have fuelled growing interest in citizenship and its implications for society. Changes in contemporary societies have moved the debate beyond Marshall’s thesis. Migration and the rise of multicultural societies (Kymlicka, 1995), the growth of mobility in a globalised world (Sassen, 2006; Urry, 2007; Recchi and Favell 2009), emerging differences in access to rights (Chatterje 2004), the re-birth of cosmopolitanism on a global scale (Benhabib, 2006), the crisis of the welfare state in industrialised countries (Donati, 1993) new forms of participation and active citizenship (Crick and Lockyer, 2010; Moro, 2013) and finally the introduction of European Union (EU) citizenship represent the most significant challenges to the notion of citizenship in a global age.

How is citizenship questioned nowadays? According to some scholars the traditional notion of citizenship (state-based) has been called into question ever since Max Weber’s definition of the state as an institution that claims a monopoly of legitimate force for a particular territory (Hoffman 2004). Other scholars say we are going through a denationalisation process affecting “what had been constructed as national – whether policies, capital, political subjectivities, urban spaces, temporal frames or any other of a variety of dynamics and domains” (Sassen, 2006:1). Citizenship is the victim of this process and becomes a decontextualised notion when the rights it can guarantee lose their territorial reference: some people have no rights because they have no territory to claim as their own, thus they ask for a new model of rights regardless of residence and nationality. This topic as we can see later, is central to the notion of EU citizenship.

Looking at contemporary social processes, Urry proposed a “new paradigm for social sciences” based on the notion of mobility (Urry, 2007: 47). According to Urry (2007: 46), “all social relationships should be seen as involving diverse ‘connections’ that are more or less ‘at a distance’, more or less fast, more or less intense and that more or less involve physical movement. Social relations are never only fixed or located in one place but are to varying degrees constituted through ‘circulating entities’.

In all of these cases “the term ‘mobility’ refers to this broad project of establishing a ‘movement-driven’ social science in which movement, potential movement and blocked movement are all conceptualised as constitutive of economic, social and political relations’ (Urry 2007: 43). The new mobility paradigm not only refers to the increasing levels of mobility which characterise contemporary societies, but also implies the assumption that, as Simmel stressed, every social phenomenon can be understood only in its dynamic dimensions.

Mobility is the cornerstone of cross-border citizens and it also implies a redefinition of citizenship. The case of cross-border citizens in the EU is highly representative of a contemporary condition of the “pioneers of European integration” (Recchi and Favell; 2009; Favell and Recchi; 2008; Recchi, 2013) who live across borders and consequently benefit from the rights granted by EU citizenship (see below).

At the same time, the process of globalisation poses challenges to the notion of citizenship. On one hand new inequalities are becoming apparent; on the other hand the idea of cosmopolitan citizenship is emerging, according to a Kantian approach and adapted to the contemporary context (Archibugi and Held; 1995; Benhabib, 2006).

Finally, migratory flows open the way to a redefinition of citizenship (Castles and Davidson, 2000), highlighting the need for “multicultural citizenship” (Kymlicka, 1995) and the conditions of residents without citizenship (Brubaker, 1989), with second generations and refugees among those particularly affected.

2. Beyond the nation-state? The EU citizenship

The introduction of EU citizenship added a crucial issue to this debate. At present EU citizenship is the only form of supranational citizenship in the world, thereby undermining the exclusivity of national citizenship. Despite its contradictions and ambiguities, does it in fact open the way to a new model of citizenship? Can we talk about a denationalised citizenship (Bosniak, 2001)?
EU citizenship was introduced in 1992 by the Treaty of Maastricht (which entered into force in 1993). According to article 8 EC:

1. Citizenship of the Union is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union;
2. Citizens of the Union shall enjoy the rights conferred by this Treaty and shall be subject to the duties imposed thereby.

The Treaty of Amsterdam added a new sentence to paragraph 1: “Citizenship of the Union shall complement and not replace national citizenship”; thus, it confers additional rights to those already granted via national citizenship, but cannot replace it.

At the core of EU citizenship there is an original set of rights:
- the right to move and reside freely within the EU and not to be discriminated against on grounds of nationality;
- the right to vote and stand as a candidate in elections: when living in another EU country, citizens have the right to vote and stand as a candidate in municipal and European elections held in that country, under the same conditions as nationals;
- the right to petition: citizens can ask parliament to address either a personal need or grievance, or a matter of public interest. The subject must fall within the EU’s sphere of activity, and must concern you directly;
- the right to complain to the Ombudsman;
- the right to consular protection for unrepresented EU citizens.

As the EU Court of Justice has stated on several occasions (see, for instance, Case C-184/99 Grzelczyk, 2001, ECR I-6193, paragraph 31), EU citizenship is destined to be the core status of member states’ nationals, enabling them to enjoy the same treatment in law irrespective of their nationality, within the scope of the Treaties.

The ratification of the Lisbon Treaty strengthened the notion of EU citizenship and its rights in several ways. Article 11, paragraph 4 of this treaty states that “not less than one million citizens who are nationals of a significant number of member states may take the initiative of inviting the European Commission, within the framework of its powers, to submit any appropriate proposal on matters where citizens consider that a legal act of the Union is required for the purpose of implementing the Treaties”. This right, better known as “European Citizens’ Initiative” represents a major step towards the recognition of participatory democracy in the EU.

Last but not least, the EU Charter of Fundamental Rights, attached to the Lisbon Treaty, reinforced EU citizens’ rights and gave them formal recognition.

The citizens’ perspective is reaffirmed in the new definition of members of the European Parliament as “representatives of the Union's citizens” and not simply as “representatives of the peoples of the States brought together in the Community”.

However, not all citizenship rights are included in the citizenship section of the Treaty; they can be found in other provisions of the Treaties like art. 18 of the Lisbon Treaty (ex art. 12 TEC) that sanctioned the non-discrimination principle (“Within the scope of application of the Treaties, and without prejudice to any special provisions contained therein, any discrimination on grounds of nationality shall be prohibited”); other rights are included in the case-law of the Court of Justice and in secondary legal instruments.

The introduction of EU citizenship “had a clear normative purpose: to make the EU more legitimate and its benefits more tangible to the populations of the member states” (Bellamy, Warleigh 2001: 3); it was the counterbalance to the monetary union set up at Maastricht and the tool to empower the integration process through the construction of a common identity. As Viviane Reding - Vice-President of the European Commission and Commissioner for Justice, Fundamental Rights and Citizenship - recently commented: “it should be to political union what the euro is to economic and monetary union”.

In spite of this, “perspectives which tend to locate community and citizenship in the cultural community are running up against the fact that the European Community is a deeply diverse community ‘beyond tradition’. In such a community, a ‘feeling of togetherness’ will most probably be the outcome, rather than the cause, of practices of closer co-operation” (Kostakopoulou, 2001: 1). Thus the ambition to build a European “community”, characterised by a sense of belonging and identity through citizenship, has probably failed. On the one hand European citizenship
can only grant rights that have already been achieved (the right to vote, the right to move), on the other hand it can be attributed to a top down process that has characterised European integration.

3. Putting European rights to the test

In 2010, the European Parliament called on the European Commission to make 2013 the European Year of Citizenship with the aim of promoting awareness of rights associated with EU citizenship.

A series of reports were released on the status of European citizenship leading up to the “European Year of Citizens”.

In the EU Citizenship Report 2010 “Dismantling the obstacles to EU citizens’ rights” (COM 2010 – 603) the Commission identified 25 main obstacles that citizens may confront throughout their lives: 1) Citizens as private individuals; 2) Citizens as consumers; 3) Citizens as residents, students and professionals; 4) Citizens as political actors.

In the 2013 edition of the annual Eurobarometer survey on citizenship (Flash Eurobarometer 365, 2013), it emerged that the vast majority of respondents (81 percent) say they are familiar with the term “citizen of the European Union”; however, less than half of all respondents (46 percent) say they know what the term means, this represents an improvement by five percentage points since 2007; 43 percent of respondents say they do not feel very well informed about their rights as citizens of the EU.

Perhaps the right to move and reside freely (Directive 2004/38/EC ) and the right to vote are the most well-known. On May 9, 2012, the Commission launched a public consultation on EU citizenship and 87 percent of respondents said they had made use of the right to move freely; 48 percent of respondents said they had resided in an EU country other than their home nation.

The right to vote is the second most well-known right. In the Eurobarometer Survey on electoral rights (Flash Eurobarometer 364, 2013) it emerged that 72 percent of respondents were aware that citizens of the EU living in their country have the right to vote or to stand as a candidate in European parliamentary elections. Knowledge in this area has continued to improve since 2007, when 54 percent of respondents gave the correct response; 66 percent are aware that a citizen of the EU living in their country has the right to vote or to stand as a candidate in municipal elections. Unfortunately even though citizens are aware of these rights, they are not being exercised: only 43 percent of European citizens turned out to vote in the most recent parliamentary elections, with particularly low percentages registered in the new member states. European parliamentary elections in May 2014 will be the next test: the rise of euroscepticism and “no Europe” positions among several European parties are currently posing challenges to the European integration process.

In the EU Citizenship Report 2013 (published at the end of the European Year of Citizenship) the Commission proposed a set of 12 concrete actions in 6 areas to help Europeans make better use of their rights:

1. Removing obstacles for workers, students and trainees in the EU
2. Cutting red tape in the Member States
3. Protecting the more vulnerable in the EU
4. Eliminating barriers to shopping in the EU
5. Promoting the availability of targeted and accessible information about the EU
6. Strengthening citizens’ participation in the democratic process

All of these actions impact the ordinary life of European citizens and they concern job opportunities, administrative procedures and red tape, disabilities but also shopping, information and democratic participation. Mobility is the keystone of this “single market citizenship”: all the rights stemming from this approach to citizenship are at present essentially limited to cross-border citizens and they become effective only “abroad”. In a footnote of the report the authors introduced an important sentence that seems to open up to a wider meaning of the notion of EU citizenship: “In this report the term ‘citizen’ can also refer to any person who resides within the EU in accordance with the relevant Treaty provisions and secondary legislation” (p. 3). This sentence seems to pave the way towards a more inclusive notion of citizenship and to go beyond a state-based approach to citizenship. For
example, what about residents who work, pay taxes and are involved in social or community activities but don’t have a passport issued by an EU member state?

**Conclusions**

Despite the attention that institutions have devoted to promoting European citizenship, it has been widely criticised and several scholars have stressed the paradoxes and contradictions related to the concept.

1. Compared to citizenship of member states, European citizenship goes beyond the original relationship between citizenship and nation state. As Bellamy and Warleigh have stressed “though the EU has many polity-like features, it is not a state” (2001: 4). At the same time, despite important developments towards rights based on “personhood” and not “nationhood”, European citizenship is also marked by the interface between nation state and federal arrangements in EU politics. The degree of ‘incongruence’ in European citizenship is therefore dependent on the mixed nature of EU politics, rather than the effect of post-national projects that address the “liberation” of citizenship from nationality (Olsen, 2013).

2. European citizenship partly reflects Marshall’s tripartition: civil and political rights are well represented but social rights are an aspect that the European integration process lacks. “Social Europe” has never received proper attention from European institutions and this approach reflects the great inequalities Europe presents today in terms of shared social rights. It is worth mentioning that the recognition of social rights at the European level implies a deeper political integration among member states. Recent events have shown how the right to move and reside freely should be associated with the protection of basic social rights all over Europe in terms of incomes, social security, education, health care, etc. Otherwise new forms of inequalities will arise even among European citizens.

3. If we look at citizenship as a democratic tool to boost rulers’ accountability, EU citizenship has responded very little to this expectation. With the exception of the right to vote and the European Citizens’ Initiative, EU citizens have difficulty making their voices heard. Maybe the practices outlined by article 11 of the Lisbon Treaty represent a step towards deeper participation, according to the general principle that “every citizen shall have the right to participate in the democratic life of the Union. Decisions shall be taken as openly and as closely as possible to the citizen” (Art. 10).

4. Maybe “the true value of being a citizen of the Union lies not in rights one has towards the institutions of the Union, but in rights towards the other member states. Union citizenship extensively prohibits national governments from discriminating against the citizens of other EU states. The truly powerful impact of Union citizenship lies thus in its contribution towards creating a common space of free movement in which citizens do not lose their rights when crossing internal borders” (Bauböck, 2006:1). Maybe this is the most relevant contribution citizenship can make to the European integration process. Taking this perspective, we should not view European citizenship as an arrival point (a conquest) but we should opt for a dynamic notion, and consider citizenship as a vehicle for fostering the integration process.

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