

CRISE • Centre for Research on Inequality,
• Human Security and Ethnicity

Queen Elizabeth House, University of Oxford

Who should be included? Non-citizens, conflict and the constitution of the citizenry

Matthew J. Gibney

CRISE WORKING PAPER No. 17

September 2006



Table of Contents

Who should be included? Non-citizens, conflict and the constitution of the citizenry . 1

1. Introduction..... 1
2. The scope of the analysis 2
3. The creation of non-citizenship 3
4. The reproduction of non-citizenship 5
5. Citizenship as a focus of concern 7
6. Just principles for accessing citizenship 9
 - 6.1 Lack of alternative political membership..... 9
 - 6.2 Informal membership 10
 - 6.3 Democratic inclusion..... 10
7. Conclusion..... 11
8. References 13

Who should be included? Non-citizens, conflict and the constitution of the citizenry

Abstract

Recognising the way that political systems' failure to accommodate ethnic diversity can increase the likelihood of violent conflict, political scientists have in recent years expended much energy debating the character of appropriate political institutions for divided societies. However, a key limitation of these debates is that they have focused solely on the question of how best to represent an established (if often severely divided) citizenry (whether, for example, to represent citizens as members of ethnic groups, geographical regions, or as individuals). Consequently, the question of how the citizenry itself is constituted has largely been ignored. In this article, I aim to show why those who desire to avoid the tyranny of the ethnic majority – the dominance of one ethnic group over others – also have reason to concern themselves with the possibility of a tyranny of the citizenry – the illegitimate rule of the formal members of a society over those lacking in membership. I argue that how citizenship is distributed (who has access to it and who is excluded) in a society may be an important factor in explaining the existence of horizontal inequalities (understood as economic, social and political inequalities between groups in a society) and in their reproduction over time. The distribution of citizenship is thus likely to impact upon societal stability and the likelihood of conflict. Drawing in part upon empirical examples, I consider how people, both as individuals and as members of ethnic groups, become non-citizens and the factors that may force them to remain so over time in the country in which they reside. In Section 5, I explain why it is important for those interested in horizontal inequalities to consider how the issue of citizenship is distributed across a society and particularly across ethnic groups. In the final section of this paper, I reflect upon the vexed question of what it means to distribute citizenship fairly. Throughout this examination my focus is on formal, legal citizenship and the rights associated with it.

The Author

Matthew J. Gibney is Senior Researcher (Political Theory) at the Centre for Research on Inequality, Human Security and Ethnicity and University Lecturer in Forced Migration at the Refugee Studies Centre, Department of International Development, University of Oxford.

Email: matthew.gibney@qeh.ox.ac.uk

Who should be included? Non-citizens, conflict and the constitution of the citizenry

By Matthew Gibney¹

1. Introduction

A central hypothesis of the CRISE project is that severe inequalities between ethnic groups are likely to give rise to violent conflict (Stewart 2002). If one makes the plausible assumption that violence involves great costs and huge risks for those participating in it (loss of life, bodily injury, the destruction of property, etc.), it is reasonable to ask why groups would seek to address their grievances in this way. A number of answers suggest themselves, including the desire for revenge, the goal of total victory or revolutionary change, or an inadequate estimation of the consequences of violence.

But most often, it seems safe to assume, violence is employed because political routes for addressing the inequalities in question are blocked. Inequalities in the distribution of economic and social goods (income, housing, education, etc.) exist hand in hand with unequal political influence. Some ethnic groups are thus driven to achieve on the streets what they cannot attain through parliament or resort to gunfire because reliance on the ballot box is futile.

One form of blockage that can exist in ethnically divided societies is the domination of political institutions by an ethnic group or groups to the exclusion of participants in other ethnic groups (Lewis 1965). The recognition that democratic systems may result in ethnic group domination has resulted in a voluminous literature in political science in recent years. In ethnically divided societies, elections, as Donald Horowitz (1991: 97-98) has put it, may be more like a census than a competition for votes. The result is an unstable and (arguably) undemocratic 'tyranny of the ethnic majority'. In response to this problem, academics have fiercely debated the character of appropriate political institutions for divided societies (Shapiro 1999; Ejobowah 2001). They have proposed a range of different models that aim to reduce the salience of ethnic identities (Dorf 2004), reorganize political institutions around them (Lijphart 1977), or provide incentives for electioneering across ethnic divisions in the hope of moderating political rule (Horowitz 1991).

These have been important political debates. They have helped to identify the key and (often) conflicting values involved in the design of political institutions in societies with deep ethnic divisions. But a significant limitation of these debates is that they have focused solely on the question of how best to represent an established (if divided) citizenry (whether, for example, to represent ethnic groups or regions or individual citizens). Consequently, the question of how the citizenry is itself *constituted* has been largely ignored. This latter question demands reflection upon the possibility that, in divided societies, the issue of who is a member of the *demos* (the citizenry) may be a matter of interest and dispute.

In this paper, I will focus in a preliminary way on this vexed and important question. I will do so by considering the issue of access to citizenship (and the rights it typically entails) for non-citizens in divided societies. In Section 2, I define the scope of this analysis. In Sections 3 and 4, I look at how individuals, both on their own and as

¹ I would like to thank Frances Stewart and Arnim Langer for helpful suggestions on this piece.

members of ethnic groups, become non-citizens and the factors that often force them to remain so over time in the country in which they reside. In Section 5, I explain why it is important for those interested in horizontal inequalities – understood as economic, social and political inequalities between groups in a society – to consider how the issue of citizenship is distributed across a society and particularly across ethnic groups. In the final section of this paper, I will reflect upon the question of what it means to distribute citizenship fairly. I conclude with a discussion of the challenges associated with citizenship reform. I will have achieved my task if, by the end of this paper, I have shown why those who desire to avoid the ‘tyranny of the ethnic majority’ also have reason to concern themselves with the potential for a ‘tyranny of the citizens’ – the rule by those with formal membership in a state over residents unfairly deprived of membership.

2. The scope of the analysis

The term citizenship conjures up a number of meanings that correspond to different subjects of analysis. Citizenship may refer simply to *nationality*, the possession of formal legal membership in a specific nation state, recognized under both international and domestic law. Following Judith Shklar (1991: 2-3), a second, fundamental understanding of citizenship involves what is called *standing*, the idea that an individual is deserving of equal respect along with other members of the polity. Equal respect in this context fundamentally involves the recognition that the individual possesses the same rights (and duties) as other citizens, including the right to vote, to stand for public office, etc. A third understanding of citizenship is more explicitly normative and can be drawn from the *republican* tradition. In this view, citizenship is not simply a matter of reciprocal rights and duties, but a distinct and key form of activity. Rooted in ancient Greek and Roman republics, this participative understanding of citizenship sees involvement in the activities of ‘ruling and being ruled’ as fundamental to a full human life. While initially formulated in small polities where political participation in collective societal decisions was a practical reality, the understanding of citizenship as a non-instrumental good – as not just a means to being free but a form of freedom itself – still exercises a strong influence on contemporary understandings of citizenship (Ignatieff 1995: 32). In this paper, however, my focus will be on citizenship as nationality and standing and, in particular, on the implications of exclusion from these aspects of citizenship for people who are not members of the states in which they live.

Citizenship is inherently exclusive. To define a state’s citizenry is simultaneously to define who is not a citizen. However, non-citizens are not a homogeneous group. They may be subdivided in a variety of ways, such as between those passing through (visitors), living in (residents) or living outside (non-residents) a particular state. Amongst those living in the state, the focus of my concern here, four distinct groups of people are evident.

First, residents who are stateless; those, that is, who hold nationality neither in the state in which they live nor in any other state. Consequently, they are also excluded from the benefits of citizenship as standing. Palestinian refugees living in Lebanon are one example of this group.

Second, residents who lack citizenship where they are currently living but who hold it elsewhere. This group is composed mostly of immigrants who have moved from their state of origin for a variety of reasons including the search for better economic opportunities for themselves or their children.

Third, individuals who are nationals of the country in which they are living but who *formally* lack full standing in the society. These 'second-class citizens' typically share both the title and some of the rights of citizens but live in societies where there is a legal basis to their inferior status as citizens.² For example, women in many Middle Eastern countries (or countries under Sharia law) may not vote or pass on citizenship to their children. In some countries, such as South Africa until recently, certain ethnic or racial groups have not had the right to vote in national elections.

Finally, there are what might be referred to as 'stunted citizens'. In contrast to 'second-class citizens' these individuals possess both nationality and formal legal equality in their society of residence, but their ability to exercise the rights and privileges of citizenship is effectively 'stunted' by *informal* features of the society in question, for example: racism, sexism, and economic deprivation. Many immigrant groups (for example, Turks in Germany or North Africans in France) find themselves at the centre of a gap between the stated principles of a society built on equal citizenship and the reality of social, economic and political forces that generate inequality. The presence of at least some stunted citizens is a feature of every modern state.

In what follows I shall primarily be concerned with groups one and two (resident non-citizens that are stateless or living outside their country of origin). In the course of discussing the situation of non-citizens, however, I shall engage in some discussion of group three (second-class citizens), in part because the existence of this group suggests that not all societies may accept the Western idea that all citizens are entitled to equal concern and respect. The situation of stunted citizens (group four) will not be considered here. Important as this phenomenon is to the analysis of horizontal inequalities, my discussion in this paper will be limited to formal (legal) modes of exclusion.

3. The creation of non-citizenship

Every contemporary state is populated at any particular time by a combination of citizens and non-citizens (aliens). Those without formal membership may include tourists, illegal migrants, economic migrants, guestworkers, foreign diplomats, or refugees. By far the most common way for non-citizenship (or alienage) to be generated is through *boundary crossing*: moving out of a state in which one holds formal membership (nationality) into another sovereign state. Individuals may make such a move in a wide variety of ways: temporarily (students, tourists) or permanently (economic migrants, retirees); in order to pursue better economic or material conditions (immigrants) or to escape conflict or persecution (refugees, forced migrants); to a neighbouring state or one on the other side of the world. In an international system where political membership is defined by territorial sovereign states, moving outside the state in which one possesses citizenship almost always (with the exception of people holding dual nationality) means taking on the ill-defined status of non-citizen.³

Boundary crossing can also have important intergenerational effects. Despite having spent their entire lives in the countries in which they live, second- or third-generation children of immigrants may be ineligible for citizenship under some systems for

² I thus use the term 'second-class citizens' differently from many writers, who use it as a category applicable to non-citizens (e.g. guestworkers in Germany during the 1950s and 1960s) as well as citizens.

³ A notable exception to this situation is, of course, the movement of citizens of member countries between the countries of the European Union.

allocating membership (Carens 1995). This is typically the case in countries (such as Germany, until recent citizenship reforms) that allocate citizenship exclusively (or, more commonly, *almost* exclusively (Green, 2004)) on the basis of parents being citizens. Generations of non-citizens may result.

Second-class citizenship may also result from boundary crossing. In Nigeria, for example, citizens can lose some of their rights by crossing political boundaries *within* their own country. The federal system of governance in Nigeria privileges the 'indigenous' members of an internal state (province). Moving between states can deprive nationals of the right to run for office and to claim various privileges and entitlements where they reside. While in most federal systems the local states or provinces differentiate between the rights of residents and visitors, the Nigerian system is extreme in grounding this distinction upon an immutable characteristic like indigeneity rather than period of residence (Bach 1997).

A second, less common, generator of non-citizenship is the *revocation* or *withdrawal* of citizenship by a country in which a person previously held nationality. Most states claim the right to revoke citizenship under certain circumstances. However, such laws typically apply only to dual nationals (e.g. post-September 11 legislation in the UK enabled the withdrawal of citizenship from suspected terrorists.) Only the most authoritarian of states takes citizenship from people lacking any other nationality, thus making them stateless. The Nazi regime notoriously stripped Jews of citizenship in the 1930s and 1940s, ensuring that all those sent to concentration camps could not be described as German (Arendt 1986). Significantly, it did so only after first making Jews second-class citizens by depriving them of previously held rights.

The line between making someone stateless and making them reliant on another nationality is often blurred in practice. A person stripped of citizenship may only have nominal links to another country in which they hold nationality. Moreover, that country may not want them. For example, while Kenyan Asians held British passports when they began to leave Kenya and make their way to the UK in the 1960s, legislation was hurriedly put in place by the British parliament to strip them of entrance rights (Hansen 2000).

State revocation or withdrawal can also result in second-class citizen status. The situation of Jews in Nazi Germany is mentioned above, but even non-authoritarian regimes may take away some of the citizenship rights of certain groups of nationals. For example, in many Southern states in the US, including Florida, criminals convicted of felonies may lose temporarily or permanently their right to vote in national and state elections (Manza and Uggen 2006).

A third and final way that non-citizens can be generated is through *fundamental changes* in a citizenship-granting state, such as cessation or division. The state in which a citizen held citizenship may cease to exist, or have its identity so transformed that it is profoundly changed. Examples of state disappearance are rare (though the disappearance of Palestine with the formation of the state of Israel in 1948 approximates the phenomenon); state division is more common. After the Czech Republic separated itself from Slovakia in the early 1990s, the Roma population of the former Czechoslovakia became effectively stateless, fully attached to neither of the two new entities. A fundamental transformation that often results in profound changes in citizenship laws is liberation from an existing power. Many Russians forced to migrate to Estonia and Latvia when they were under Soviet occupation found themselves without citizenship when the collapse of communism enabled these countries to construct their own citizenship laws in the early 1990s (Weir 2002).

4. The reproduction of non-citizenship

As the previous discussion shows, the factors that generate non-citizenship and second-class citizenship are many and varied. The social and political implications of non-citizenship for individuals and groups also vary widely. For tourists and visitors, non-citizenship is typically a temporary and short-term affair that is not usually experienced as a situation of insecurity or vulnerability. For immigrants, on the other hand, who must interact more deeply with the society in which they lack citizenship because they live and work there, the rights withheld from non-citizens are likely to be much more important. For example, the absence of a right to join a union, to work, to have one's family migrate with one, to receive welfare or government assistance, to be protected from deportation, or to run for public office may have a profound impact upon one's quality of life or life chances. For those that are stateless, the non-recognition of certain rights is of even greater consequence because it is likely that there is no alternative state in which they can reside.

The nature of a non-citizen's experience is therefore determined by a number of factors. The most important of these are: the length of time they hold the status (the longer one is deprived of certain rights, the more onerous the deprivation becomes); the rights respected by the country they find themselves in (whether non-citizens can work, are protected from deportation, etc.); and the category of non-citizenship into which they fall (whether they are illegal migrants, legal permanent residents, refugees, or diplomats, for example).

These factors make it difficult to generalize across societies about the significance of holding or not holding citizenship. Nonetheless, it is evident that in virtually all countries non-citizens occupy a status subordinate to citizens, and in many situations this is a status that may continue for many years, or even a lifetime. This raises the question of why resident non-citizens are not integrated into citizenship in the countries in which they live. One obvious answer may be that they do not wish to take on the status of membership in the countries in which they reside. They may, for example, not feel loyalty or attachment to this country. This is indeed sometimes the case. However, to understand the persistence of non-citizenship status over time, it is necessary also to appreciate a range of barriers external to individual choice. These barriers range from unintentional obstacles to deliberate and orchestrated exclusion.

One such barrier may be *bureaucratic*. This rather banal reason for exclusion is surprisingly common. Non-citizen residents in a state may lack the documentation or proof necessary to apply for citizenship. They may lack proof of their place of birth or evidence of the time period they have been resident in the state of which they wish to become a citizen. Such situations are not rare in countries with poor or incomplete record-keeping. Alternatively, potential applicants might have failed to meet a deadline (perhaps due to lack of knowledge) by which to change their status. Deadlines are often used in regularisation campaigns for illegal migrants, though their use is not always so confined. More than 18,000 former citizens of the other Former Yugoslavian republics residing in Slovenia at the time of its independence in 1991 lost both the opportunity to apply for naturalisation and their status as permanent residents because of a failure to meet a state-imposed cut-off date (Advisory Board on Human Security 2004: 12.) Finally, the process of becoming a citizen may simply be slow or complicated, leaving people without citizenship for a long period after they have applied to transfer their status. Around 300,000 Estate Tamils in Sri Lanka are still waiting for citizenship over 15 years after legislation allowed them to change their status because of a combination of administrative red

tape and difficulties with required documentation (Advisory Board on Human Security 2004: 11.)

Bureaucratic hurdles may be unintentional, a product simply of government inefficiency. But sometimes they reflect the *political interest* of those controlling naturalisation in excluding certain groups. Those most commonly excluded from citizenship for political reasons are groups perceived to be 'disloyal' or potential or actual 'competitors' for political power.

Often ethnic groups (and sometimes individuals) are barred from accessing membership because they are perceived, as a result of their past or present actions, as disloyal or untrustworthy, and thus as likely to jeopardise the national security of the state. The Bihari of Bangladesh, for example, were stripped of their citizenship rights by the Bangladeshi government for their perceived sympathy for Pakistan during the country's intervention in the Bengali struggle for independence in the early 1970s (Advisory Board on Human Security 2004: 9). Even where a present danger is lacking, denial of citizenship can be a form of collective punishment dished out to ethnic groups for past actions. Russians and natives of other Soviet republics have been frozen out of citizenship in Estonia and Latvia because memories of their role in the Russian colonisation of the Baltic States remain (Advisory Board on Human Security 2004).

Arguably more frequent is the exclusion of specific ethnic groups from citizenship because they risk challenging the power of a state's dominant ethnic group or groups, either by claiming a share of scarce societal resources or by upsetting a fragile ethnic balance by increasing the size and influence of one of the participating (or hitherto excluded) groups. Politics is a competitive activity and just as appeals to ethnic identity can be one way of mobilising political support for a beleaguered regime or for political entrepreneurs keen on gaining or increasing their power, identifying some ethnic groups as undeserving of membership in the *demos* can be a way of neutralising potential competitors for power. The use of citizenship as part of competitive electoral politics is unfortunately common. Most recently, in the Côte d'Ivoire, a concept of the authentic community membership – *Ivoirité* – has been constructed by the government to justify the stripping of citizenship rights (including passport ownership, access to civil service occupations and rights to ownership of land) from residents of immigrant backgrounds (Advisory Board on Human Security 2004: 12).

However, the *inclusion* of non-citizens can also be highly political and ethically dubious. A case in point can be seen in Sabah, Malaysia, where the dominant Malay parties have used fraudulent documentation corruptly to enfranchise illegal Filipino worker migrants. In a recent article, Kamal Sadiq (2005:116) has argued that Malay elites have deliberately attempted to change 'the demographic and political character of Sabah so that it becomes Malay-Muslim dominated' in order to boost their political position vis-à-vis other ethnic groups.

Barriers to citizenship can also result from *ethnic and cultural understandings of national membership*. In some countries, entry to citizenship is barred by long-established ideas that link citizenship to membership in the dominant ethnic community. This is the case, for example, in Japan, Germany and Israel, each of which has in recent years set stringent restrictions on the ability of non-ethnics to access citizenship (Joppke 2005). Exclusion in these countries is, however, not necessarily driven by the kind of short-term political interests resulting from the play of domestic politics discussed above. Instead, exclusion is the product of long-held ideas of national self-determination and habits of national chauvinism that have

become historically removed from their original political context. Typically, such countries exclude members of *all* other ethnic groups from accessing citizenship and not merely those perceived to be enemies or threats to national security and do not strip groups of citizenship. Of course, the fact that this type of exclusion can be differentiated from more overtly political forms does not make the effects of exclusion any more pleasant for those residents denied citizenship.

A final set of obstacles is *economic*. Exclusion from citizenship may not only weaken the political power of non-citizens, it may also weaken their economic bargaining power. In a capitalist economy, non-citizens (especially those without any official status) may form a useful and pliable labour force because they are denied the protection of minimum wages, unions, and the courts. Many observers have argued that illegal migrants now form a large and important (though usually unrecognised) part of the workforce in many industrialised countries, including Japan, Malaysia, Thailand, the United States and the UK (Castles and Miller 2003). Those in business and government employing or otherwise benefiting from this workforce may have strong economic reasons to resist its transfer to the more empowered status of citizen.

The factors that reproduce *second-class citizenship* status over time are broadly similar. For example, political interests may give a group a powerful reason to limit citizenship rights to another group sharing the same state. The defining reason for the maintenance of apartheid in South Africa, for example, was to prevent black majority rule. In this case and others, however, such as the exclusion of women from voting, the justification for exclusion typically draws upon cultural understandings of the excluded group as somehow unfit or unsuitable for full participation. These justifications include but are not limited to claims of intellectual inferiority or divinely prescribed subordination to the dominant group. Other forms of second-class citizenship, such as that generated by moving between states within Nigeria, are an intra-state equivalent to the ethnic conceptions of membership recently on display in Germany and Israel.

5. Citizenship as a focus of concern

It is apparent from the preceding discussion that the distribution of citizenship in many states is a highly politicised matter, and one that creates and reinforces hierarchies of power between individuals and social groups and the state. I now want to consider three reasons why the exclusion of non-citizens should be of concern to those investigating horizontal inequalities and their relationship to conflict in ethnically divided societies.

First, the status of citizenship controls access to key social, economic and political goods, and how those goods are distributed has a great impact on the well-being of individuals and groups. While what separates citizens from non-citizens varies across societies, the key benefits of citizenship (*vis-à-vis* non-citizens) can be generally categorized in terms of access to *privileges*, *voice* and *security*.

The privileges associated with citizenship may involve favoured or exclusive access to public goods (such as housing, welfare, state-provided healthcare, education, etc.); government (public service) positions and membership of the military, and thus access to key elevators for social advancement; and the right to own land, other forms of property, and businesses. Voice (Shachar n.d.), on the other hand, involves the right to air in public *fora* views about the use and abuse of government power and the direction of society, and to participate in (or to be elected to) political organisations that fashion society's direction and government policy. The *sine qua*

non of citizenship is often thus seen as embodied in key rights associated with voice, namely rights 'to vote, hold elected and appointed government offices, to sit on various sorts of juries, and generally to participate in debates as equal community members' (Smith 2002: 105). Finally, citizenship typically offers a unique level of security of residence or presence in a state. Citizens, unlike non-citizens, typically cannot be deported or expelled, thus their access to other goods is uniquely secure (Gibney and Hansen 2003).

If we accept that privileges, voice and security involve fundamentally important human goods, then who has access to citizenship (and thus to these goods) is also of fundamental importance. Moreover, when access to citizenship coincides with ethnic group membership, as it does in many countries, lack of or denial of citizenship can be a key factor in explaining severe inequalities between groups and their persistence over time.

Not least because of the important goods associated with its provision, citizenship is also important because it may itself be a product of, or a source of, conflict and tension in ethnically divided societies. Stripping minority ethnic groups of citizenship or denying them access to it can, as I have shown, be a result of deliberate efforts by dominant groups to disempower or marginalise competitor ethnic groups. The revocation or withholding of citizenship can be a tool of war, or a symbol of ongoing repression that substitutes for or complements physical violence.

From the perspective of the excluded, lack of citizenship may deprive them of key social, economic and political goods, which they are then forced to use violent means to gain. A lack of citizenship may also be experienced more deeply, as a humiliation, as something that brands the excluded as not good enough for membership in the society (Margalit 1996). This sense of humiliation may exist even if members of the excluded group would not take up citizenship if they could: 'the humiliation', as Avishai Margalit observes, 'comes from the sense that you do not want the humiliator to define you. You do not want them to say you are not worthy of belonging to society' (1996: 112). This type of humiliation can become potent fuel for violent conflict, especially when the basis of exclusion is connected to ethnicity. This shared humiliation may facilitate collective action amongst members of the ethnic group concerned to strike back at those who have humiliated them. At the very least, it is likely to make the excluded less loyal to the society in question.

A final reason for examining citizenship is that even the most perfectly designed political institutions are likely to be ineffective in preventing ethnic conflict if significant groups are excluded from participating in them. The best political systems for divided societies encourage participants to learn the virtues of compromise, cooperation and 'loyal opposition' to the government of the day. Yet the distribution of citizenship (and the rights associated with it) may freeze out just those groups that most need to acquire these virtues. If resident non-citizens are capable of disrupting social order and peace (and, for reasons stated above, this often appears to be the case), then there are powerful reasons for encouraging their participation in political institutions designed to offer an alternative to violence. Admittedly, the basis on which they should be included in the political process raises difficult and contentious issues about membership that I have not yet begun to discuss. But the best starting point for exploring these questions is by asking whether some non-citizens may have a just claim to inclusion as full citizens.

6. Just principles for accessing citizenship

So far I have suggested the following: that the distribution of citizenship is in many countries a highly politicised activity, closely linked to ethnic group competition; that citizenship confers control over key social, economic and political goods that impact heavily on individual life chances and group well-being; and that those concerned with horizontal inequalities have good reason to look closely at how citizenship is distributed.

In this section of the paper, I want to concentrate exclusively on the situation of those without citizenship. I will consider (in a rudimentary way) principles for the incorporation of non-citizens. If some current practices are rightly perceived as unfair, what would a superior basis for determining who amongst non-citizens should be included in the *demos*? In order to answer this question, I will consider three different responses to this question, each more inclusive than the other: the *lack of alternative membership* principle; the *informal membership* principle; and the *democratic inclusion* principle.

6.1 Lack of alternative political membership

The first and least inclusive basis for a right to citizenship would derive from the fact that every individual in the world has a right to citizenship somewhere and, if they cannot claim this right anywhere else, they should be able to claim it where they are currently living. In its strictest version, this principle would apply only to those that are legally stateless, groups like the Palestinians, for example, or the Kurds or the Biharis. But it might be extended to apply to those that are 'effectively' stateless, to include refugees expelled or forced to leave their country of citizenship because of persecution or conflict. If the conditions making return impossible continue over a long time period, these people might be considered *effectively* to have lost access to their citizenship and the rights associated with it.

The idea at work in the lack of alternative political membership principle is that everyone should have citizenship somewhere. It is an idea that chimes well with a long strand of thinking in natural law (from which modern human rights thinking emerged) that everyone is entitled to a place to live. Kant, for example, wrote in 1795, that 'all men are entitled to present themselves in the society of others by virtue of communal possession of the earth's surface. Since the earth is a globe, they cannot disperse over an infinite area, but must necessarily tolerate one another's company. And no one originally has any greater right than anyone else to occupy any particular portion of the earth' (Kant 1991: 106). Indeed, international law recognizes the importance of dealing with the problem of the stateless and those deprived of effective citizenship. The 1951 UN Refugee Convention, under article 34, commits states to facilitating the naturalisation of refugees; the Convention on the Reduction of Statelessness aims to help avoid statelessness. As a general principle, a duty to incorporate the stateless is far from radical, even if many states currently deny the existence of any such obligation. But the widespread recognition and implementation of this principle would make a substantial difference to the situation of large numbers of people.

6.2 *Informal membership*

The informal membership principle is wider in its implications than the lack of alternative political membership principle. It suggests that formal membership (citizenship) should be made available to those residents of the state who are already *de facto* or, following Rainer Bauböck (1997: 210), 'societal' members.

How might one establish that an individual is a *de facto* member of the state? A number of criteria might be used. First, one might show how the individual (or the group) has contributed to society. Like citizens, non-citizens work, pay taxes, even undertake military service in ways that are indistinguishable from formal members. Second, one might argue that, also like citizens, non-citizens have powerful and enduring ties to the country in which they reside. They may have their children in school locally, be actively involved in civil society, and have established dense social networks of friends and associates. They may have come to see their host country as their home, and consequently their country of origin as a place which no longer constitutes a serious residential option. The contribution and ties of the non-citizen are likely to be even stronger when the individual in question has been living in the society for a long period of time because one can reasonably expect their connection to the state to be stronger. An 'extended period of residence' may thus constitute a third way of establishing societal membership.

Taken together, these three criteria serve to identify non-citizens with strong and deep links and connections to the society in which they are resident which cry out for political recognition. Those that are so linked to the society in question are deeply implicated in its fate and so should have a right to a say in the direction of society.

The notion of integration in this principle is communitarian. States are not simply legal membership organizations: they are communities, or, at least federations of communities, and membership in these communities should correspond to membership in the state. The implications of this principle are more radical than the preceding one. This informal membership principle would require access to citizenship for anyone who is a societal member whether or not they are stateless or *prima facie* whether their residence is legal in the eyes of the state.

6.3 *Democratic inclusion*

The democratic inclusion principle is the most radical of all. It dictates that the constitution of the *demos* (or the distribution of political rights) should be determined by all of those that are affected by political decisions in a state. Thus, rather than defining the *demos* in terms of legal citizenship or, as above, by informal membership, the right to participate politically should be determined by 'the contours of power relationships' (Shapiro 2003: 220): those at the receiving end of a state's power should have a say in how that power is exercised. For example, decisions on state provision of education typically touch upon the interests and well-being of citizens and non-citizens alike, as both groups are likely to have children in school. Accordingly, both groups should participate in decision-making in the realm.

The principle of democratic inclusion is widely appealed to by democratic theorists, even if its implications are sometimes less than clear. Robert Dahl, for example, has argued that 'the citizen body in any democratically governed state must include *all persons* subject to the laws of that state except transients and those proved to be incapable of caring for themselves' (2000: 78, italics added). According to Iris Marion Young (2000: 23), 'a democratic decision is legitimate only if all those affected by it are included in the process of discussion and decision making'.

The principle of democratic inclusion would provide a powerful basis for the inclusion of non-citizens in political decision-making. Simply by virtue of living in a state, non-citizens are heavily affected by its decisions and directions. Yet the principle of democratic inclusion does raise some thorny questions. First, given that it is not always obvious who is 'affected' by a decision, how should we determine who is to be included in decision-making? Should not the means for deciding who is to be included also be democratic? But, if so, we have a problem of infinite regress. At some point the decision of who to include has to be made in a way that lacks democratic justification (Smith 2003). Second, is it realistic to imagine a state in which rights of participation in decision-making vary from decision to decision? Wouldn't this be too complicated to be feasible? Finally, if we take the democratic principle seriously, then the ranks of who should participate in decision-making run beyond resident non-citizens to those people outside the state's boundaries who may be impacted by the state's decisions (Held 1991). Moreover, it would also seem to provide a rationale for disenfranchising citizens no longer living in the state. In an increasingly interdependent world, taking democratic inclusion seriously would challenge us profoundly to rethink who the *demos* is and the nature and form of current political institutions.

7. Conclusion

In conclusion, it is worth noting that each of these principles for inclusion in democratic decision-making has real force. Indeed they are not, I think, necessarily mutually exclusive. Each of them helps to clarify what we might mean when we describe some groups as *unjustly* excluded from citizenship. Yet these principles are not reducible to each other. Each has different implications for the scope and basis of inclusion and points to a different set of political arrangements. The first two can be accommodated by expanding citizenship to include some residents of the state currently excluded from formal membership. The last principle, however, suggests that voting rights (or participation in democratic processes) should be disconnected from formal membership. Non-citizens, that is, should be able to participate politically regardless of the fact that they are non-citizens (Honig 2001).

Clearly, more thought is required on how we might legitimately constitute the membership of democratic societies. But even if we can identify a principled basis for determining who the *demos* is, we would still confront two major problems. The first is that if these alternative principles have force it is because they resonate with the idea that everyone living under the authority of a state should have a say – an equal say – in how that authority is exercised. In this respect, these different formulations of who should be included heavily reflect the Western idea of citizenship and its attendant idea of individual equality. But, as I have shown, many societies are characterised by formally unequal (second-class) citizenship. Gender, race, or ethnicity is and has been used as a basis for excluding some members from full membership status.

According to some observers, the idea of the pre-social rights-bearing individual that forms the basis for equal concern and respect in Western societies lacks roots in many post-colonial societies (Adejumobi 2001; Kabeer 2002). The development of citizenship in many countries in Africa, it is argued, has been shaped by the interests of colonisers in keeping in place traditional status and group hierarchies in order to facilitate efficient rule (Kabeer 2002: 17-18). Moreover, these societies never experienced the kind of social and economic transformations that helped develop the conceptualisation of the individual as independent of group identity in Western countries (Kabeer 2002: 17-18). As a result, group memberships have proven far

more significant in determining access to rights, privileges and security than citizenship in many developing countries. The radical implication is that, because some countries lack the very idea of equal concern and respect for the individual *qua* individual, there may be no principled basis on which to extend citizenship to certain excluded groups and, even if citizenship was to be extended, it would not lead to equal treatment.

A second problem is simply that even if exclusion from citizenship is unjust under some circumstances, one has to confront the reality that it often serves powerful interests. Defining the *demos* in one way or another may dramatically change the balance of power in many states, empowering some actors and weakening others. It is because citizenship is linked to key political and economic resources, of course, that it raises such important and contested issues. Yet this suggests that citizenship reform is likely to be strongly resisted, especially by those benefiting under the present dispensation, making change difficult.

These are both serious problems. Yet they should not be overstated. For a start, they are obviously in tension with each other. If we accept that national citizenship is of little importance in the distribution of political and social goods (in contrast to group identities), it's difficult to explain why the expansion of citizenship is often bitterly resisted by powerful groups. In many societies the holding of citizenship does have important power and resource implications, even if it cannot completely insulate unfavoured individuals or groups from other types of informal (and even formal) exclusion. At the very least, the possession of citizenship may give the previously excluded group a status which they can use to draw attention to the social and political inequalities associated with their plight. Access to citizenship may also allow them to benefit from measures designed to alleviate other horizontal inequalities across the citizenry.

Furthermore, while changes in citizenship are likely to be resisted, it is difficult to see why this raises issues different from those associated with addressing horizontal inequalities *among* citizens. Most horizontal inequalities serve the interests of dominant groups. Attempts to reduce or eliminate them are thus likely to be contested. The real question may be whether it is possible to convince dominant groups that the grievances generated by arbitrary exclusion from citizenship lead to conflict and instability that is not in their interest. I have attempted to show in this paper why access to citizenship is an important subject of analysis for those concerned with inequalities across groups. But a detailed empirical understanding of the relationship between conflict and exclusion from citizenship may be required if the inequalities generated by citizenship are to be addressed.

8. References

- Adejumobi, Said. 2001. 'Citizenship, Rights, and the Problem of Conflicts and Civil Wars in Africa'. *Human Rights Quarterly* 23 (1): 148-170.
- Advisory Board on Human Security. 2004. *Denial of Citizenship: A Challenge to Human Security*. Report prepared for the Advisory Board on Human Security. New York: Advisory Board on Human Security
- Arendt, Hannah. 1986. *The Origins of Totalitarianism*. London: Andre Deutsch
- Bach, Daniel C. 1997. 'Indigeneity, Ethnicity and Federalism'. In Larry Diamond, Anthony Kirk-Greene and Oyeleye Oyediran, eds., *Transition Without End: Nigerian Politics and Civil Society Under Babaniga*. Boulder: Lynne Rienner
- Bauböck, Rainer. 1997. 'Changing the Boundaries of Citizenship'. In Rainer Bauböck, ed., *From Aliens to Citizens*. Aldershot: Avebury
- Carens, Joseph H. 1995. 'Complex Justice, Cultural Difference and Political Community'. In David Miller and Michael Walzer, eds., *Pluralism, Justice and Equality*. Oxford: Oxford University Press
- Castles, Stephen, and Mark Miller. 2003. *The Age of Migration*. 3rd ed. Basingstoke: Palgrave–Macmillan
- Dahl, Robert. 2000. *On Democracy*. New Haven: Yale University Press
- Dorf, Michael. 2004. *Can Ethnic Hatred be Eliminated by Eliminating Ethnicity?* Downloaded from <http://writ.news.findlaw.com/dorf/20040414.html>
- Ejobowah, John B. 2001. 'The Limits and Possibilities of Conflict-Reduction Strategies in Africa's Polyethnic States'. In E. Ike Idogu, ed., *The Issue of Political Ethnicity in Africa*. Aldershot: Ashgate
- Gibney, Matthew J., and Randall Hansen. 2003. 'Deportation and the Liberal State'. *UNHCR New Issues in Refugee Research Working Paper 77*. Geneva: UNHCR
- Hansen, Randall. 2000. *Citizenship and Immigration in Post-War Britain*. Oxford: Oxford University Press
- Held, David. 1991. 'Democracy, the Nation State and the Global System'. In David Held, ed., *Political Theory Today*. Cambridge: Polity
- Honig, Bonnie. 2001. *Democracy and the Stranger*. Princeton: Princeton University Press
- Horowitz, Donald. 1991. *A Democratic South Africa?* Berkeley: University of California Press
- Ignatieff, Michael. 1995. 'The Myth of Citizenship'. In Ronald Beiner, ed., *Theorizing Citizenship*. New York: State University of New York Press

- Joppke, Christian. 2005. *Selecting by Origin: Ethnic Migration and the Liberal State*. Cambridge: Harvard University Press
- Kabeer, Naila. 2002. 'Citizenship, Affiliation and Exclusion: Perspectives from the South'. *IDS Bulletin* 33 (2): 12-23
- Kant, Immanuel. 1991. *Political Writings*. Cambridge: Cambridge University Press
- Lewis, Arthur. 1965. *Politics in West Africa*. Oxford: Oxford University Press
- Lijphart, Arend. 1977. *Democracy in Plural Societies*. New Haven: Yale University Press
- Manza, Jeff, and Christopher Uggen. 2006. *Locked Out: Felon Disenfranchisement and American Democracy*. New York: Oxford University Press
- Margalit, Avishai. 1996. *The Decent Society*. Cambridge: Harvard University Press
- Sadiq, Kamal. 2005. 'When States Prefer Non-Citizens over Citizens: Conflict over Illegal Migration into Malaysia'. *International Studies Quarterly* 49 (1): 101-122
- Shachar, Ayelet. n.d. 'Birthright Citizenship as Inherited Property: A Critical Inquiry'. In Seyla Benhabib and Ian Shapiro, eds., *Identities, Affiliations, and Allegiances*. Cambridge: Cambridge University Press (forthcoming)
- Shapiro, Ian. 1999. 'Group aspirations and democratic politics'. In Ian Shapiro and C. Hacker-Cordon, eds., *Democracy's Edges*. Cambridge: Cambridge University Press
- Shapiro, Ian. 2003. *The Moral Foundations of Politics*. New Haven: Yale University Press
- Shklar, Judith N. 1991. *American Citizenship: The Quest for Inclusion*. Cambridge: Harvard University Press
- Smith, Rogers M. 2002. 'Modern Citizenship'. In Engin F. Isin and Bryan S. Turner, eds., *Handbook of Citizenship Studies*. New York: Sage
- Smith, Rogers M. 2003. *Stories of Peoplehood*. Cambridge: Cambridge University Press
- Stewart, Frances. 2002. 'Horizontal Inequalities: A Neglected Dimension of Development'. *Queen Elizabeth House Working Paper 81*. Oxford: Queen Elizabeth House
- Weir, Fred. 2002. 'Latvia gives Russians cold shoulder'. *Christian Science Monitor*, Nov. 26. Downloaded from <http://www.csmonitor.com/2002/1126/p08s01-woeu.html>
- Young, Iris Marion. 2000. *Inclusion and Democracy*. Oxford: Oxford University Press