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SOCIAL CITIZENSHIP IN THE EUROPEAN UNION

RESIDUAL, POST-NATIONAL AND NESTED MEMBERSHIP?

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Contents

Abstract

The social dimension of membership offers a strategic entry point for analyzing the development of citizenship in the European Union (EU). The first part of this contribution discusses the functions of social citizenship in this emerging supra-national and multi-level governance network. Second, the analysis deals with two prominent and stylized paradigms that have sought to make sense of the multi-level quality of social citizenship in the EU: residual, and post-national concepts of membership and citizenship in liberal democracies. Although each of these approaches captures selected elements of social citizenship, they are unable to deal in a satisfactory way with rights on duties on multiple governance levels. Therefore, the discussion moves to an alternative concept, namely nested citizenship. This means that regional, national and supra-national forms of citizenship function in complementary ways, while the associated norms, rules and instutions are under constant revision and further development. Third, the analysis shows that the concept of nested citizenship can help to overcome the fruitless dichotomy of Euro-optimism and Euro-pessimism concerning social policy and social citizenship. Both ideal-tpyical positions extrapolate the conditions of the nation-state to the supra-national level. Instead, this discussion suggests to conceive of European social citizenship as a '*projet*' (Sartre), evolving towards a common past, present and future understanding of democratic principles and substantial rights.

1. Introduction[1]

We need to conceptualize social citizenship in the European Union (EU). The concepts we used in the past are not adequate to capture the emerging and novel characteristics of citizenship in the EU. Social citizenship in the EU is multi-level. It is embedded in a supra-national and federated governance network with a mix of intergovernmental and genuine European authorities. Individual rights are now guaranteed on several levels of authority – supra-state, state and even regional. The EU started with a mercantile form of membership – but since Maastricht there is a EU form of citizenship. All citizens of member states now are citizens of the European Union. For example, they have the right to move about and live in any member states, albeit subject to exceptions. EU citizens living outside their own country in one of the member states can vote and be elected in municipal elections in their country of residence and in elections to the European Parliament. We can already see in the very definition of EU citizenship its multiple level character: You need to be a citizen of a member state to qualify for EU citizenship.

EU citizenship is also multi-dimensional: There are the various dimensions of citizenship – civil, political, social and cultural. On the EU level, the civil and partly the political elements are the most developed while the rest leads a shadow existence. First, social rights and citizenship are of particular importance because we can simultaneously look at how national welfare states and the EU have developed. Interestingly, the rapid expansion of European national welfare states in the post-World War Two era coincided with the evolution of the European Union from the 1950s to the 1970s. Second, social policy is one of the realms in European integration in which the nation-state is still supposed to reign relatively supreme, albeit with some restrictions for state sovereignty and state autonomy. Cultural citizenship, albeit not legally codified, also plays a role for social policy because welfare state policies have an ethical and a moral dimension.

For these two reasons, the dimension social citizenship is a 'strategic research site' (Merton 1987). Therefore, social citizenship offers a strategic entry for those who want know more about European citizenship in a more general way. In turn, the development of citizenship is what Karl Polanyi (1944) aptly called the *'second movement of society'*. The first movement has been marketization, the removal of barriers to the free mobility of goods, capital, persons and services. The second movement consists of policy and citizenship responses to border-crossing movement of the factors of production and reproduction, in order to reconcile individual freedom with social protection. After all, who is to be included into citizenship, and the extent of rights and duties have been forever contested (Walzer 1989). This exposé contributes to this line of analysis by conceptualizing social citizenship in the EU.

2. The Dimensions of Social Citizenship

According to the Aristotelian tradition citizenship constitutes an expression of full and formal membership of individuals in a state or state-like structure (Aristotle 1962). Citizenship forms a continuing series of transactions among citizens, governed by a state or a state-like governance structure. In the academic tradition of political science, citizenship connotes the institutionalization of reciprocal obligations of members in a political community against each other (cf. Hammar 1990: chapter 2). States or governance networks such as the EU hold ties and webs of solidarity and reciprocity in trust for citizens in the political community. Citizens can claim a set of mutually enforceable rights and duties. In short, citizenship is the public representation of these ties.

Broadly, the discussion follows T.H. Marshall's distinction between civil, political and social rights of citizenship – but without seeing social rights as the most fully developed aspect of citizenship. We nowadays have settled immigrant populations in advanced welfare states who have bundles of social rights approaching those of naturalized citzens (Faist 1995). Yet they do not hold political rights and are not full citizens of the respective nation-state. This latter case usually is a temporary phenomena until the descendants of these immigrants acquire full citizenship in all dimensions in the second or third generation – albeit the situation is constantly perpetuated by immigrant newcomers. In short, there are instances where it is not social rights crowning citizenship but political membership in the polity as the endpoint of citizenship. What is important here is that we conceive of social citizenship as one aspect of citizenship. But we do not need to assume that the bearers of social rights are necessarily also full citizens.

No matter whether we look at the civil, political or social aspect of citizenship, we need to consider at least two connections (see Figure 1): on the horizontal line – access and belonging, on the vertical line – the constitutional or foundational and institutional realm. As to the horizontal line: There is a tight coupling of citizenship: the access to legally guaranteed status and rights necessarily implies membership in a culturally defined community, the nation: nationality, or another form of political community, in the case of the EU: supra-nationality. It is important to realize this coupling because much social policy analysis tends to focus on the 'access' aspect only and tends to forget or at least neglect the 'belonging' aspect. Especially for social citizenship, the 'belonging' dimension is absolutely crucial because redistributive social policies need a basis in a common solidarity.[2]

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[2] Citizenship as a normative concept refers to various dimensions of full membership in a polity. It *"attempts to encompass in one word a legal status, a state of mind, a civic obligation, an immigration benefit, an international legal marking, and a personal virtue."* (Cover 1983). For our purposes, the distinction between constitutional-legal and political-institutional aspects is highlighted. Another distinction also is crucial, the one between the public recognition of state-citizen ties in rights and duties, on the one hand, and the responsibility citizens shoulder in assocations in civil society (*Bürgergesellschaft*), on the other hand; see Kymlicka's and Norman's (1994) categories of citizenship-as-rights and citizenship-as-activity. This duality concerns the division of labor between state and citizens as members of a political community. For an example using this distinction, see Faist (1999).

Figure 1: Dimensions of Citizenship

dimensions of ties between governance structures and individuals realm of rights' formalization	**access**	**belonging**
constitutional - foundational	*states / supra-national & federated governance networks guarantee and protect rights and duties among citizens*	*nationality; supra-nationality*
political - institutional	*policies and programs: regulatory, distributive and redistributive*	*public recognition of culture, life-style, religion, ethnicity*

Regarding the vertical line: Guaranteed rights and duties on the constitutional realm need the implementation of policies within institutions. And within nationality or supra-nationality there is either a sort of privilege for certain ethnic characteristics of majority groups, or – in a multicultural political community – recognition of diverse cultural backgrounds.

In order to explore notions of social citizenship in the EU we need to take a close look at the functions of social citizenship: First, there is a *provision* aspect: Social citizenship provides a context for the possession of social rights to a substantial package of key goods – for example, education and social services. Second, there is a *security* aspect: It helps people to cope with employment and life-course risks and provide security, enable them to live a meaningful life according to the cultural standards of their respective social and political spaces. Third, there is an *enabling* aspect: many contemporary political theorists claim that the concept of social rights can help assure individuals of both a basic standard of living and an effective capacity to participate in politics. The ugly yet appropriate German term for this function is a Teutonic nominal composita, *Staatsbürgerqualifikationspolitik* (Preuß 1990; it would roughly translate into 'citizen-enabling-policy'). And, fourth, there is the important *legitimation* aspect: Social citizenship enhances political stability and legitimacy by trust of people in the effective administration of social security by the rulers. Social policy historically has been not only an object of class struggle but an 'instrument of statecraft' (Flora 1986), a valuable source of mass legitimacy for politicians. The welfare state *"...has been an administrative and political innovation of the first order, comparable in significance to the introduction of representative democracy ..."* (de Swaan 1988: 149). And, we may add, the legitimation aspect of social rights and policies become even stronger in contemporary societies in which perceptions of cultural homogeneity are challenged by multicultural diversity and external effects such as Europeanization (cf. Habermas 1999).

This analysis deals with three models of citizenship (see Figure 2). The first perspective has the nation-state as its focus. The discussion also argues against an extreme version of the notion that social citizenship in the EU is of so little importance for nation-state citizenship to be negligible, namely residual citizenship. In other words, we question the proposition that the so-called 'social dimension' of the EU has born only minimalist results; ensconced by a lot of cheap talk. The second perspective sees the driving force of citizenship not at the nation-state but at the international and supra-national level: The advocates of post-national citizenship claim that a very significant amount of social rights, especially of settled non-citizens but also citizens, are determined by international institutions such as the UN or supra-national institutions such as the EU.

Figure 2: Perspectives on Social Citizenship in the EU

Perspective	*Analytical Focus*
Residual Citizenship	Nation-State
Post-National Citizenship	Supra-National Institutions
Nested Citizenship	Multi-Level Governance Structures

The position taken here is the third perspective, in the middle of residual citizenship on the one hand, and post-national citizenship, on the other hand. The proposition is that the real importance of European social citizenship lies in the fact that supra-state and state citizenship complement each other. Therefore, European social citizenship should be conceptualized as a form of nested citizenship.[3]

In order to arrive at this conclusion, the first part of the discussion describes the EU as a multi-level governance network in social policy-making. In the second step we discuss the question: What notion of social citizenship best describes the multi-level reality of social citizenship in the EU? The answer rejects exaggerated notions of citizenship that focus mainly on the national welfare state – the residual notion of social citizenship – and also a citizenship concept that is transnationally oriented – post-national citizenship. They are not so much empirically wrong but misleading as research perspectives. They do not offer an appropriate conceptual tool kit to questions of membership in dynamic and multi-level governance networks. The third part then details the concept of nested membership as against the ideas of Euro-sceptics and Euro-optimists.

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[3] This definition builds upon Tsebelis' (1995) definition and conceptualization of 'nested games', a contribution to social scientific game theory.

3. EU Social Policy and Rights in a Multilevel Governance System

European policy-making and politics proceed in a substantial multi-level governance system (Jachtenfuchs et al. 1998; cf. Jachtenfuchs and Kohler-Koch 1996). The EU clearly goes beyond a low-profile international regime, as an intergovernmental perspective would have it; although it has not developed into a coherent supranational institution, as the early functionalists envisaged (Haas 1958). Without taking a strong stand in these debates, it is fair to say that the European Union can be seen as a form of highly routinized and multiple governance structure. The EU is a supranational and federated governance network with mixed intergovernmental and common authorities. The interesting fact about the EU is that there are two sorts of 'citizens' – so to speak: nation-states and individual citizens of nation-states.

Moreover, within this multi-level governance system, the 'rules of the game' are constantly being developed and redefined. Social policy and accompanying rights have developed rapidly between the EU Charter of Social Rights in 1989 and the Treaty of Amsterdam in 1997 which subjected more issue areas to qualified majority voting. This means that the institutional design of relations between nation-state and its citizens and supranational & federated governance network and their members is in considerable flux. This means that we currently observe a very dynamic citizenship system in its initial period of development in which citizenship rights and above all benefits decline for some categories of citizens while they increase for others.

Social policy and rights-making is occuring on multiple levels in regard to areas in which interest groups such as the social partners are involved. Policy-making which involves social partners such as employer associations and labor unions has traditionally been a preserve of national-level bargaining. New trends of supra-national social partnership are especially visible in some policy areas in which explicit EU social policy competence has developed. We find that supranational actors such as the EU Commission – who has the right to propose legislation – encourages the building of rather comprehensive policy networks of state and non-governmental actors. These policy communities then discuss proposals in areas for which the EU has explicit policy competence. For example, prominent actors in such communities have been the European Trade Union Confederation (ETUC) and the Union of Industrial Corporations in Europe (UNICE). These collective actors on the EU-level are composed of representatives from nation-state trade union federations (Falkner 1998).

Not surprisingly, there are now policy 'ratchets' in some issue areas, prohibiting member states from cutting back their existing regimes: Examples include the European Works Council Directive of 1994, Atypical Work (health and safety) Directive of 1991, Maternity Directive of 1992, Parental Leave Directive in 1996, Atypical Work Directive (working conditions and distortion of competition) in 1997. Interestingly, the latter two directives are the first in which the social partners will be explicitly involved; perhaps a sign of evolving 'polity communities' (Falkner 1998: 114-45). Moreover, the Single European Act also included a new Article 118B stating that the Commission shall endeavor to develop the dialogue between management and labor at European level which could, if the two sides consider it desirable, lead to relations based on agreement (Ross 1997: 591).

The example of the posted workers guideline illustrates well the multiple-level goverance nature of social policy: Individual nation-states and the EU Commission were the main actors. Since 1993, service enterprises can be active all over the EU. One of the consequences has been that companies and even individuals can move to another member country, set up business and deliver services according to wages and social wages of their country of origin. It is needless to say that, for example, construction companies from Portugal, the United Kingdom and Ireland went to high (social) wage countries such as France, Germany and Austria. Unemployment among construction workers in the high wage countries increased. The unions charged 'social dumping'. This was a problem hard to solve in the EU because multi-level patterns of policymaking are prone to '*joint-decision traps*' (Scharpf 1988) in which efficiency and flexibility are subordinated to political accommodation and procedural guarantees. By 1995, sending countries had no incentive to agree on a guideline, because it would have undercut the competitive advantages of firms from their countries. And the main receiving countries, such as France, Austria and Germany had already implemented national laws to regulate the posting of workers from other EU countries within freedom of services (Faist et al. 1998: chapter 7). However, there have been institutional and political solutions to the problem:

(1) Because it was an issue of market competition, qualified majority voting and not unanimity applied (Arts. 47 and 55 EC-A): After seven years of bargaining, the Council of Ministers decided in 1996 on the Directive on the Posting of Workers (96/71/EC) – against the votes of Portugal, the United Kingdom and Ireland. According to this directive the companies from abroad have to pay minimum wages and provide working conditions prevalent in the country of activity.

(2) One of the prerequisites of this bargain was that the 'losers' such as Portugal, could be partly 'compensated': Logrolling arrangements were possible. For example, Germany aided Portugal in building up youth apprenticeship training.

Nevertheless, severe problems have remained in the 'receiving' countries such as France and Germany. These are primarily second-order effects: In low productivity sectors, such as construction, freedom of services has indeed contributed to undermine the institutional design of collective bargaining and cooperation between the social partners. For example, entrepreneurs in construction quit the employers associations. They are then able to undercut wage levels and some social standards set in collective bargaining agreements determined by labor unions and employers. So the evidence is mixed: While social rights for German construction workers have obviously declined, they have somewhat increased for quite a few Portuguese workers. It is mainly a matter of perspective.

4. Three Modes of Interpreting the Prospects and Consequences of Social Citizenship in the European Union

Let us now turn to the three stylized notions of social citizenship. No one author has single-mindedly adhered to one of the perspectives of residual, post-national or nested citizenship. And, indeed, each of these concepts describes part of the reality of social citizenship in the

EU. However, a critical discussion of these perspectives is helpful to bring out what needs to be explored more systematically.

(1) <u>Intergovernmentalism: Residual social citizenship</u>

Intergovernmentalists usually claim that social rights on the EU level are minimal (Moravscik 1999). Consequently, they do not grant high priority to European social citizenship. In its exaggerated form, the corresponding notion of residual membership assumes that social citizenship in the EU has a sort of 'virtual quality' only – very much like the 'virtual reality' of the internet world. This view emphasizes that 'positive' – meaning: market-correcting – social policy and rights at the EU level have not had any substantial impact on redressing risks and inequalities of EU citizens. In general, the residual perspective is particularly appealing because it makes the cogent point that the 'spillover' thesis has to be rejected: This thesis says that the politics of European integration is driven by a logic of spill-over from international market integration to supra-national welfare state formation (see Streeck 1996: 64).

Usually, we find three arguments supporting this position: First, the European Union is mostly engaged in market-making and market-compatility activities. For example, it encourages the free movement of workers.[4] The EU, so the view goes, is not so much involved in market-correcting, i.e. redistributive rights and policies. Also, there is no European law granting individual entitlements against Brussels, there are no direct taxes or contributions funding a social policy budget which would back such entitlements. Moreover, the European Union is not a big social policy spender by itself, only .7 % of the EU budget geared towards social policy. And EU expenditures represent little more than 1 percent of member states gross national product and less than 4 percent of the central government spending of member states; furthermore, the CAP and the structural funds preempt roughly 80 percent of EU expenditures (Leibfried and Pierson 2000: 33). In short, social rights are not embodied in a European constitution.

Second, EU social rights are effective in very few areas only, most notably gender – 'equal pay for equal work' (Article 119 EEC, now Article 141 EC-A[5]), health and safety in the workplace and intra-EU migration. These rights pale in their importance vis-à-vis social insurance and social assistance rights. In addition, the Treaties of Maastricht (1992) and Amsterdam (1997) have not yielded a total breakthrough. Only a few more areas are now brought under qualified majority voting, such as information and consultation of workers in multinational firms. But core issues of wage bargaining are still specifically excluded from EC competence – such as remuneration, the right to strike, and (collective) labor union rights.

Third, even if we take social policy in a wider perspective and include the structural & regional funds and the Common Agricultural Policy, the record does not get much better. Granted, these policies temporarily infuse Southern European member states with means to improve infrastructures in traffic, social services and environment – and thus indirectly help

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[4]   The mobility of labour clause in the Treaty of Rome (1957) goes back on Italy's insistence – at the time, Italy was the greatest labour exporter in the EU. Incidentally, average mobility of all employees in the EU is only 1.7% in the late 1990s (*Eureport social* 1998, 6, 3: 11).

[5]   The gender clause dates back to France's intervention in the late 1950s. At the time it was considered a purely hortatory clause and lay dormant for about two decades, until the late 1970s.

secure the provision, security and legitimation functions of social citizenship. Also, temporarily limited structural funds and cohesion funds are intended to counterbalance the uneven impacts of 'globalization' and the European single market. However, there are at least two difficulties. First, given the fact of highly unequal income distribution within the poorer regions in the EU, most of the funds probably lead to a decrease in real taxation within the subsidised region. For example, if we follow the experience of the Italian Mezzogiorno, most of the benefits then end up in the hands of relatively richer individuals. Also, we find that EU funding in Southern European countries has not been successful in absorbing the impact of economic restructuring of the labor market and has instead led to more dualism (see contributions to Brunn 1996). Second, it would also be exceedingly difficult to orient redistribution towards individual citizens or small collectives. After all, the member states decide upon the actual level of distribution. Given that the level of social income distribution between North and South in the EU is even more unequal than income from wage labor, it is hard to imagine that transfer payments to individuals would depart from the pattern of relatively low transfers to individual citizens in the South (cf. Majone 1994).

Nevertheless, we should critically question the residual social citizenship notion for two reasons: First, the Treaty of Amsterdam will probably add to the substance of EU citizenship by formally declaring that the basis of the EU lies in including fundamental human rights – as defined in the European Convention on Human Rights, Rome 1950 – and fundamental social rights – as defined in the European Social Charter, Torino 1961 and as developed in the Community's own Charter of Social Rights, 1989; and, in addition: practical employment-related social rights (Articles 117-120) (cf. Roche 1997).

(2) <u>Supra-nationalism: Post-national social citizenship</u>
While the intergovernmentalist perspective viz. residual citizenship ultimately disregards the emergence of effective individual rights through the EU, the concept of post-national citizenship is a genuine inter- and supra-national construct. Post-national citizenship is part of the academic musings that we are witnessing the dawning of a nation-less era. It deals with international influences upon single nation-state citizenship rights.

There are three main claims: First, human rights have indeed come closer to citizens' and thus also social rights. Post-nationals assert that liberal-democratic nation-states have come to increasingly respect human rights of persons, irrespective of citizenship over the past few decades (Jacobson 1995). Second, international human rights discourses and international & supranational institutions have led nation-states to grant rights to previously excluded groups, such as immigrants from outside the EU (Soysal 1994). This is because international norms make it easier for non-state actors to appeal to nation-state authorities on the basis of global and overarching principles. Third, applied to the EU this means that supra-national institutions such as the European Court of Justice (ECJ) have come to develop common rights for all residents – so that there are nowadays few differences in social rights and social citizenship between permanent residents and citizens of EU member states.

Unfortunately, the term post-national citizenship is a veritable contradiction in itself (see, however, Bader 1998). First, there are virtually no supranational institutions conferring the status of formal membership irrespective of the belonging 'nationality', not even the EU. It is also

important to note that EU citizenship does not cover third-country citizens. Second, the post-nationalists do not tell us how their claims contrast with competing explanations. A simpler account would say that virtually all nation-states have enshrined civil rights in their constitution long before post-national discourses arose. Moreover, as we know, the inclusion of non-citizens into welfare states does not mainly depend on nationhood. Access to full social rights has been primarily tied to residence and not to nationality. This is a very old welfare principles, dating back to times when the nation did not even exist as a collective of solidarity (cf. Reidegeld 1998). Therefore, supposedly post-national citizenship can easily be explained as a consequence of welfare state principles when border-crossing and settlement of persons occur.

(3) <u>Multi-level governance networks: Nested social citizenship</u>
EU citizenship is neither exclusively residual or post-national – although these elements capture part of what is happening. In contrast to these perspectives the concept of nested citizenship says that there is an interactive system of politics and policies on the state and supra-state level. The web of governance networks on multiple levels has become a site of building new rights. We should not judge as if the EU level had to compensate for national welfare states. The EU is not and probably will not become a federal welfare system like those found in regular states, such as Germany, France, or the UK and Spain. What has evolved in the EU is an extraordinarily complex network of overlapping authorities and attendant social rights, in which member states play a central but far from exclusive role.

A multi-level welfare governance network emerges in three realms: First, the EU in the common and intergovernmental pillars is concerned with the regulation of safety and health and policies regulating conditions of production. Agreed upon already at Messina in 1955 were the harmonization of social standards regarding the work week, overtime pay, and vacations, the coordination of social policy, and the free movement of labor (Moravcsik 1999: 141-2). Second, the respective member states have the sole purview over social security systems, and above all social service systems.[6] In short, most conventional social policies remain solidly ensconced behind borders of nation-states, albeit with lesser degrees of sovereignty and autonomy. Third, there are now obviously common areas, denoted by the intergovernmental pillars of the EU. There are overlapping authorities in fields such as employment policy – there will be annual reports and exchanges of so-called 'best practices'. This is the federated component of the supra-national governance network.

The first characteristic is thus of multiple levels of membership: The political actors – including nation-states and supra-national, regulatory & federated governance networks, associations and citizens – are involved in activities at several different levels. Nested citizenship means that European membership cannot be restricted to EU citizenship. It encompasses all relevant levels – supra-national and national; and, potentially, the regional level. EU citizenship and nation-state citizenship complement each other.

Second, strategy and institutional design are of utmost relevance in an embryonic and emerging governance system such as the EU: The political actors 'innovate', that is they take

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6   Some regions are beginning to exert their authority regarding social policy; take the autonomous regions in Spain. However, they do not (yet) grant social rights on their own. Nevertheless, this seems to be a realistic future scenario in regionally split societies such as Italy.

steps to increase the number of available options, so that some new option is now better than the current one. They seek to increase the number of alternatives. This actually changes the 'rules of the game' and involves efforts at institutional design of social rights and social policies. These developments not only occur through an expansion of EU-competences such as qualified majority voting, but also through courts, such as the ECJ, the EU Commission and nation-state governments.

A clarification of the term nested citizenship is now in order: The term has been used before – but in the sense of what has been called 'multiple citizenship' (Marks 1997: 35). In the meaning implied by David Held (1995) multiple citizenship connotes full membership on multiple governance levels. Elizabeth Meehan comes closer to the meaning of nested citizenship. According to her the emerging new citizenship in the European Union is *"neither national nor cosmopolitan, but (...) multiple in the sense that the identities, rights and obligations associated (...) with citizenship are expressed through an increasingly complex configuration of common Community institutions, states, national and transnational voluntary associations, regions, alliances of regions."* (Meehan 1993: 1) Nested citizenship goes a step further: In contrast to multiple citizenship, there is not simply coexistence of different levels. It is not only a multi-tiered system like Russian dolls with no interlinks between the different levels. The notion of nested citizenship explicitly deals with the interrelationships between the different levels.

The characteristics of nested citizenship become clearer when we look at an example of how the different levels interact in changing the 'rules of the game'. This particular illustration concerns the increased portability of social rights across nation-state borders in the case of German retirees and long-term care insurance. On average, about 30,000 pensioners from Germany have lived year-round in Spain in the past twenty years. The main problem occurred when these pensioners turned invalid and needed increased care (Seiler 1994). To be eligible for social assistance or, nowadays, the benefits of long-term care insurance, they had to return to Germany. This changed when the ECJ decided that the benefits of long-term care insurance are portable across borders to other EU countries (Sieveking 1998). In this case the ECJ has decided and the Federal Republic now has to implement the transnational portability of social rights. This example shows that prominent supra-national actors have helped to establish parameters for permissible social policies while leaving it to national welfare states to formulate the required adjustments.

5. Nested European Citizenship, EU Citizenship and Nation-State Citizenship

So far, the proposition has been that the concept of nested citizenship best captures evolving membership rights and rules within a predominantly regulatory governance network. This second main part describes in more detail the characteristics of nested citizenship along the aforementioned dimensions of citizenship (go back to Figure 1).

In looking at the so-called 'deficits' in formal EU membership, we see how the concept of nested citizenship differs from both nation-state citizenship and a purely EU citizenship

(Figure 2). The main claim here is that social citizenship in the European Union is not as demanding as those analysts claim who either deplore the 'deficits' on the EU level, or those who argue that it is impossible to transpose nation-state models to the EU level. Both perspectives share something in common: They take the nation-state model as the main point of reference. However, it is time to admit our uncertainty about what kind of governance system the EU is. It is a moving target.

The Euro-optimists and the Euro-sceptics elaborate four main deficits: the democractic, social, solidarity and cultural deficits. Here, the democratic and social deficit will not be dealt with in any great detail. These issues have been belabored at length in the political science and social policy literature (for an overview, see Böhner 1998). Suffice it to say that the notion of residual membership focuses on the social deficit and deplores the absence of full social rights on the EU level: *"The policy-making capacities of the Union have not been strengthened nearly as much as capabilities at the level of member states have declined."* (Scharpf 1999: 220) The democratic deficit is important because the weakness of the European Parliament, the absence of a demos; and the procedure to determine the executive branch of the EU all point to an important fact: Without a truly democratic setup the enabling function of social citizenship cannot be fulfilled. Connected to the democratic and social deficits are specific forms of legitimation deficits: Legitimation is partly based on democratic procedures which go hand in hand with trust of the demos into the ruling classes, and partly on achievement (Almond 1993: 15). In the EU – if compared to standards of democracy – there is a gap between a comparatively high technocratic efficiency and low degrees of democratic legitimacy. Now, the dimension of 'belonging' comes into the fore, the solidary and cultural foundations of social rights, policy and citizenship.

Figure 3: The 'Deficits' of Social Citizenship in the EU

dimensions of ties between governance structures and individual members realm of rights' formalization	**access**	**belonging**
constitutional - foundational	*'democratic deficit'* *(and 'legitimation deficit 1':* *participation of citizens)*	*'solidarity deficit'*
institutional	*'social deficit'* *(and 'legitimation deficit 2':* *effective rights and policies)*	*'cultural deficit'*

(1) 'Solidarity deficit'

Actually, we face a sort of non-problem when we extrapolate the nation-state to the EU. This is because regulatory EU-level policies are not as demanding upon solidarity as some of the more redistributive nation-state policies. Of course, low levels of solidarity are necessary even in the case of EU social policy, so that national electorates accept supra-national regulatory social policies.

But let us start with the argument of the Euro-sceptics who try to show that a transfer from nation-state to the European Union is impossible: They rightly assume that there is no pan-European communal solidarity in any strong meaning of the term. However, this would be necessary for full-fledged social citizenship because the solidary attitudes and behavior needed for raising resources in order to reduce social exclusion is much more practicable when a shared sense of belonging can be appealed to – notably a common national identity (cf. Miller 1993). Such national identities slowly emerged as communities of solidarity when old sodalities disintegrated in early capitalism. The nation-state then substituted them with new relations of solidarity that were permanent, did not exclude heavy social risks and were encompassing (Tennstedt 1981: 166ff.). The term nation has the connotation of a political community shaped by common descent, at the minimum by a common language, culture, and history. *"... the achievement of the nation-state consisted in solving two problems at once: It made possible a new <u>mode of legitimation</u> based on a new, more abstract form of <u>social integration</u>."* (Habermas 1998: 402; emphasis in original) In the post-World War II era the welfare state then was also part of the affirmation of liberal democracy against the twin perils of fascism and Soviet style communism, not only fostering expansive social rights but also national social integration.

Solidary citizenship is morally very demanding because it is geared towards security through serial reciprocity – consider, for example, the so-called treaty of generations in old age insurance. And redistributive policies lessened class tensions and introduced norms of equality in addition to those of fairness or equity. In this view, because the nation is such a demanding political and social community, it would be nearly impossible to create a similar one on the European level (Offe 1998). Only through nation-state solidarity in addition to trust between citizens can state authority be sustained and effective.

From the perspective of nested citizenship, two questions arise with such an interpretation: First, do we need a solidary collective on the supra-state level patterned on the nation-state level so that EU social policy can be carried out effectively? The tentative answer would be: not really. The reason is that EU social policy is mostly regulatory. Only in a wider sense is EU social policy redistributive, such as structural funds and agricultural policy. However, these policies do not carry explicit individual entitlements. But only the demanding redistributive policies need solidarity as a 'moral resource' on the national level – a sort of capital whose value does not diminish by using it over and over again (Hirschman 1984). The EU has taken this consideration into account: It is no coincidence that the structural and regional funds are designed to be limited in their duration. So, in a way, the objection raised by the critics of expanding EU social rights is partly a non-issue.

Second, those who deem it impossible to recreate nation-state solidarity on another level describe the present state of solidarity which is partly embedded in complex ways in the collective called the nation. However, first, the nation is more of a background context and is

not always directly present. For example, when asked about reciprocity in health care (i.e. the willingness to pay for others), mandatory insured in Germany responded that prior contributions to social insurance constitutes the prime factor upon which eligibility for care should be based. Only when prodded further, did they come up with additional indicators, such as aspects of belonging (Ullrich 1998). Second, the nation has not always been such an important solidarity collective. The history of social policy in Europe teaches us that welfare state institutions developed first and then the collective identities around it. Comparative studies of welfare state development in the USA, Germany, France and Great Britain show that in the course of the collectivizing process of welfare-state building, *"collective action produced both a collectivity capable of coordinating the actions of its members effectively and a collective good which corresponds to this level of integration, but can not exist apart from it."* (de Swaan 1988: 4) In Europe and North America, nation-wide social insurances only gradually replaced the smaller solidarity communities with bigger ones. Take the German health insurance as an example: Bismarckian legislation slowly overtook the mutual-aid societies after the 1880s (Frevert 1984).

Needless to say, in the real world institutions neither come before collective identity nor do collective identities precede the institutions. The causal arrows run both ways. But the point to remember is that the critics of European-wide solidarity should not simply be satisfied with analyzing the causal relationship from collective solidarity to institution building. It is important to remember that solidarity is embedded in a variety of differing welfare institutions and rights in the EU member states. Elites and masses within these welfare states usually stick closely to historically evolved patterns of risk insurance and welfare. Plausibly, we could argue that a transfer of 'best practices' among countries is a viable option for further convergence of nation-based welfare states.

In sum, both the Euro-optimistic and Euro-pessimistic social policy analysts do not see that the built-up of solidarities on the supra-national level on a scale similar to the national level is simply not the question. Instead, nested citizenship reigns supreme: national, regional and supra-national levels complement each other and have different functions. This is not to say that EU-level policies do not fulfill important functions for social citizenship: Gender and migration policies, for example, contribute to the enabling function in increasing resources and self-confidence of individuals in certain categories – in addition to the functions of provision, risk coping and security. Going further, we also should not simply equate the genesis of solidarity, its present incarnations and its future potentials.

(2) 'Cultural deficit'
Again, when we take the nation-state as the sole foil upon which to model social citizenship in Europe, we would face a tall agenda. In the words of an EU expert: *"European integration must recreate what exists on the level of the nation state, but this is impossible because Europe is devoid of a cultural framework independent of the nation state."* (Delanty 1996: 6) In essence, so the argument goes, there is a missing cultural framework, as evidenced in the weakness or absence of European-level public sphere and collective identity. Allegedly, this is so because common culture is the basis for collective ethnic and national identity, which in turn is often taken to be the basis for citizenship via the notion of belonging to a nation. And common or even shared ideas, symbols and practices, as Max Weber reminded us in his

sociology of religion, can serve as sort of train tracks to guide political interests (Weber 1988: 252). This also applies to social rights.

And there seems to be some truth to this claim. At a European wide level, national-type traditions are evidently lacking, or only present in weak and unconvincing ways. At best, we can observe the Europeanization of national identities – as happened on a grand scale in the Europeanization of German identity, standing in stark contrast to other member states such as the United Kingdom, where national identity is still defined in opposition to Europe. While an overwhelming large majority of all citizens in Europe does not feel exclusively 'European' – in contrast to being nationals of a country – representative surveys unearth a substantial majority who perceives of the European Union as a protection and not as a danger for national identity. Equally, a majority of respondents claims that European and national identities are quite compatible (Immerfall and Sobisch 1997: 33; based on Eurobarometer No. 38, 1992). All of this makes the concept of a common European identity, and thus the concept of a common European citizenship difficult to conceptualize and communicate. Nonetheless, a strong minority of citizens in the EU member states agree that there is a European cultural identity that is shared by all Europeans, about 38% in 1998 (Europäische Kommission 1999: 60; based on Eurobaromenter No. 50, 1998).

European Union social citizenship needs a basis in common understandings. The intellectual godfather of the social citizenship concept, T.H. Marshall, succinctly stated: *"(c)itizenship requires (...) a direct sense of community membership based on loyalty to a civilization which is a common possession"* (Marshall 1964: 92). Marshall's view was that common national cultures or 'civilisations' have evolved in societies in the modern period to which all members of those societies have equal claim. Such a notion of 'common civilisation' is akin to a set of 'collective representations'. Collective representations are shared ideas, beliefs, evaluations and symbols. They can be expressed in some sort of collective identity – we-feeling or we-consciousness – and refer to a unit of action. Collective representations are richer than individual activities and thus come to be autonomous of the group from which they emerge. They help to order and make sense of the world, but they also express, symbolize and interpret social and symbolic ties. Collective representations come to lead a life of their own, *"once born, obey laws all their own"* (Durkheim 1965: 471).

In order to forge new coalitions underlying a future basis for social citizenship (Esping-Andersen 1996: 267), we need to look for collective representations appropriate to the developing European project in the context of a multi-level governance network. According to Weiler, for example, EU citizenship would consist of *"shared values, a shared understanding of rights and societal duties and shared rational intellectual culture which transcend organic-national differences"* (1997: 118). Nation-state citizenship would remain the realm of affinity and a symbol of nationhood, whilst EU citizenship would be the realm of law and universal values. However, going beyond this very general formula, the question is how to analytically best approach the cultural foundations for social and nested citizenship. One way to do this is to refer to a widespread notion of cultural Europe which is a 'common culture' perspective. Common culture notions overemphasize the importance of the past and of traditions. Instead, it is more useful to speak instead of a 'common project' concept (Roche 1999 speaks of a 'common space') of nested citizenship in order to consider the embryonic and dynamic evolution of common cultural elements in Europe: A common present and a

common future can also serve as a guiding cultural foundation. It is a vision in the sense of Sartre's idea of common projects, advanced by *groups-in-fusion* who strive for authentic freedom (Sartre 1985).[7] If we translate Sartre's thoughts on human freedom to transnational citizenship, we could say that nested citizenship can be achieved through participating in a common project to shape European history.

If we accepted the common culture notion, we would search for commonalities undergirding EU social policy. We would then need to define the set of general cultural traditions encompassing all of Europe: Europe as resurrected Christendom, as both the German poet Novalis (1983) and the French scholar Alexis de Tocqueville (1968) suggested in the early 19th century – and which entered social policy via the doctrines of social Catholicism? Or, to take another familiar notion, Europe as the inheritor and successor of the Greek and Roman Empires – as the Renaissance thinkers believed? Furthermore, to close this incomplete list, a Uniting Europe as emanating from 18th century traditions of universalistic human rights and enlightenment – as many political thinkers in the liberal tradition would like to have it? A Europe of national characters as both the German thinker Johann Gottfried Herder and the Spanish writer Ortega y Gasset had in mind? The discomforting answer, of course, is that there is no pure, pristine and true cultural tradition of Europe (cf. Münkler 1991).

Given that it is hard to establish a common cultural tradition: Are there generally accepted ideas undergirding social policy all over Europe? The most obvious in the case of social citizenship would be the notion of subsidiarity. The idea of subsidiarity, originally voiced in catholic social doctrine, concerns the sharing of responsibilities and powers among the EU, member-state governments, regional and communal levels of governance, and the recipients of social citizenship. Basically, this social catholic doctrine voiced in the papal decrees *Rerum Novarum* and *Quadragesimo Anno*, and taken up by former EU presidents such as Jacques Delors, instructs authorities to leave to the lower levels the right to act on subjects which can be handled at those lower levels. It is the basis for all policy, according to Treaty on European Union. Yet, ultimately, it is a vague and difficult concept, prone to manifold interpretations. Nowadays, for example, new social democratic and liberal governments in the United Kingdom and Germany interpret subsidiarity as a form of social citizenship in which citizens have the duty to work – if they are not willing, they are more and more excluded from benefits (Jordan 1998). This is quite a cynical interpretation of subsidiarity in the face of rampant unemployment in France or Germany and the proliferation of low-wage jobs in Britain.

The common culture notion of social citizenship, such as subsidiarity, does not suffice to serve as an element for a common membership basis. Taking a conceptual perspective, a common culture or uncontested cultural homogeneity cannot serve as a basis for social solidarity because of changes in the cultural setup of Europe. A few of these changes, without any claim to exhaust the range of possibilities: Life-styles have pluralized and processes of 'individualization' have multiplied (Beck 1998). Because of international migration, various pluri-cultural mixtures have emerged in cities across Europe – and even transnational social spaces connecting these cities with mostly third non-EU member regions. And we see the renewal of regional collective identities among the various and periodically resurgent sub-national ethnic regional and urban-local cultures across Europe –

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7   I owe this reference to an oral comment by Dieter Senghaas.

think of groups in Scotland, Bretagne, Flandria and Wallonia, Basque country, Catalonia and Corsica (Garcia 1994). Therefore, the antiquated common culture notion has to be complemented, but not totally replaced, with citizenship as a common project.

The idea of a common project connects past, present and future (cf. Roche 1999): First, there has been a common European learning experience growing out of devastating wars in the past: One of the original goals of European integration was to guarantee peace and political stability, as much as to sustain economic prosperity and renewed growth. At the time of the inception of European integration, Europe had been the site of bloody wars for centuries. And there has been the common history of the two World Wars originating in Europe in the 20th century. Both political elites and mass publics have recognized the importance of this memory. This kind of a learning experience is part of a common project underlying nested citizenship. Nested citizenship in Europe is characterized by embryonic cultural ties which do not constitute a firm common culture but one or several evolving and border-crossing spaces.

Also, a characteristic of a common project within which nested citizenship can grow is the notion of a common future and present instead of a common past: Most of the common culture arguments tend to be weighted towards the heritage and the common past – rather than to the common future, or indeed even to the common present. They attribute too much significance to memory when conceptualizing culture and collective identity in modernity. Take an obvious counter-example: The French Revolution is a symbol that has repeatedly been used to connect the past with present- and future-oriented political agendas. Therefore, the cautious proposition here is that conceptualizations of common culture which are more present and future-oriented are also relevant towards understanding contemporary and emerging possibilities for social citizenship in Europe. The notion of a common project is relevant not only for aspects of social citizenship but also for the civil, political and cultural aspects of membership in political communities and governance networks.

Overall, the project of a common present and future needs to be tied to democratic legitimation. An insistence on cultural commonalties by itself and without a recognition of Europe as a democratic project would result in the well-known ethnicist, racialist and exclusivist thinking and policy features – aptly summarized in slogans such as 'Fortress Europe'. Therefore, an insistence upon the history but also present and future representative and substantive democracy needs recognition. This is obvious as the candidates for future membership in the EU in Eastern and Southeastern Europe are still undergoing the transition to more full-fledged democratic polities. But even more urgent is the extension of democratic principles in the governance structures of the EU itself. This common democratic project undergirds the strivings for an emerging collective European identity and solidarity.

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