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Cities vs States: Should Urban Citizenship be  
Emancipated from Nationality?

Edited by Rainer Bauböck and Liav Orgad



European University Institute

**Robert Schuman Centre for Advanced Studies**

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## **Abstract**

A majority of the world population lives in cities, but determining citizenship remains a monopoly of nation-states. Should cities claim their own citizenship, based on residence rather than nationality? Should they get enhanced powers and bypass states when addressing challenges of migration or climate change? Or would urban citizenship deepen the political divide between metropolitan and rural populations that disintegrates liberal democracies today? These questions are raised in Rainer Bauböck's kickoff for a GLOBALCIT Forum that was also published on Verfassungsblog. 22 authors respond to these questions and reflect on the prospects for urban and local citizenship. The forum concludes with a rejoinder by Rainer Bauböck

## **Keywords**

Urban citizenship, local citizenship, multilevel citizenship, nationality, residence, urban-rural divide

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## **Cities vs States: Should Urban Citizenship be Emancipated from Nationality?**

Rainer Bauböck\*

Since the first decade of the millennium – for the first time in human history – more people are living in urban areas than in rural ones. According to UN projections, in 2050 the share of urban populations could rise to more than two thirds of the world population. Will this demographic change also lead to a decline of nation-states and a rise of cities as the dominant arenas of politics, democracy and citizenship? My response will be ambivalent.

Yes, cities should play a greater role in addressing global problems, such as the climate crisis or international refugee protection, where sovereign states have failed dismally precisely because their sovereignty hampers cooperative solutions. Yes, cities should experiment vigorously with democratic innovations that could diminish the severe legitimacy crisis experienced by representative democracy in many countries around the world. Yes, cities should determine who their citizens are independently of how states do this.

No, contrary to the catchy title of the late Ben Barber's book (2013), mayors should not rule the world. No, cities cannot replace nation-states and supranational institutions as political arenas that need to be filled with democratic life and to whom citizens can feel to belong. No, national citizenship should not be based on the same principle of membership as urban citizenship.

### **We need a new citizenship narrative**

There are two reasons for my ambivalence. The first is my belief that the global problems that the international system of sovereign states is unable to address require a multilevel political architecture, in which supranational, regional and local political authorities play different but complementary roles. The European Union, in spite of its many structural weaknesses and policy failures, shows how state sovereignty can be pooled. Multilevel democracy beyond the nation-state is a European idea that is worth promoting in other world regions. Yet multilevel democracy requires also that citizenships at various territorial levels must be complementary and not substitutive.

The second reason has to do with the 'democratic recession' (Diamond 2015) and the rise of populism. According to many diagnoses these threats result from new political cleavages that cut across the traditional one between left and right (Kriesi et al. 2008). The new divisions are between attitudes in favour of more open or more closed states and societies; between those embracing cultural and gender diversity and those asserting conservative national and religious values; between those who worry about the climate crisis and those who worry about their traditional ways of life. The former are overwhelmingly concentrated in metropolitan regions and university towns, the latter are more widely dispersed across rural areas and declining industrial towns as well as working class neighbourhoods of larger cities. This divide is also closely associated with patterns of increasing geographic mobility among younger urban populations that disconnects their spaces of opportunity and imagined identities from those of sedentary majority populations whose life worlds remain predominantly local and national ones.

Liberals and democrats may hope that the growth of urban populations and the persistence of more open attitudes among younger cohorts will eventually swing the political pendulum towards greater openness (Lutz 2012). However, current electoral systems often give greater weight to voters outside the big cities (Rodden 2019), enabling political victories of illiberal populists who can wreak havoc by destroying democratic institutions and the capacity of states to tackle the global challenges of our time. The response cannot be just to politically mobilise those who are already in favour of more open

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societies – although it is certainly very important to do so. Radical democrats (Mouffe 2005) emphasise the need for partisan mobilisation and radical urbanists (Bookchin 1987; Harvey 2008) pitch the city as a site of struggle against neoliberal capitalism or a laboratory for emancipatory democracy and ecological utopias against the nation-state. Beyond mobilisation that articulates and deepens the new cleavages, there is, however, an urgent need for new narratives that can bridge them.

Such narratives have been successfully told in the past when democracies faced new challenges. And they focused on the idea of a common citizenship – as a status and bond that is able to support a sense of equality and unity in difference. After World War Two the British sociologist T. H. Marshall (1949/1965) justified the effort to build a welfare state in response to intolerable inequalities of social class, the acceptance of which had been undermined by the sacrifices of ordinary British people during the war. His story was that after the emergence of universal civil rights in the 18<sup>th</sup> century and political rights in the 19<sup>th</sup>, 20<sup>th</sup> century democracy needed social citizenship, i.e. a floor of social equality provided through public services and redistribution that could provide legitimacy for the inequality of social outcomes in capitalist markets.

In the 1990s the Canadian political philosopher Will Kymlicka (1995) commented that Marshall's model for integrating the working class through social citizenship could not provide a template for how to integrate culturally divided societies with indigenous peoples, national minorities and immigrants from diverse origins. His response was again framed in the language of citizenship. In order to build fully inclusive liberal nations, culturally diverse democracies had to provide minorities with differentiated rights to cultural accommodation, special recognition and territorial self-government. The point of calling this a project of multicultural *citizenship* was that Kymlicka – in contrast with most critics of multiculturalism – was convinced that it would help to unite national societies rather than segregate them along cultural lines.

A citizenship narrative for our times must not abandon these older ones. Social inequality and cultural diversity remain among the most pressing challenges and Marshall's and Kymlicka's answers to these seem to me still fundamentally the right ones. But we have to face new problems now that can no longer be contained within the nation-state, which both Marshall and Kymlicka assumed to be the self-evident and stable background for integration through citizenship. If such a new story aims to bridge cleavages and integrate divided societies, it cannot be only about the city. It must instead tell urban and rural, young and old, mobile and sedentary populations what they have in common and why they have to respect each other as equals who share a stake in institutions that express their common desire for democratic self-government.

I believe that such a narrative must be about multilevel as well as transnational citizenship. For this reason, it must take sides and embrace the open society side of the globalisation divide, just like Marshall's story focused on the benefits for those deprived of substantive citizenship through market inequalities and just like Kymlicka's focused on the benefits for disadvantaged cultural minorities. And this means that an attractive vision of urban citizenship must be at the core of the new story since it is in the big cities that mobile populations find their homes while their voices and votes remain all too often unheard and undercounted in national arenas. Yet, again like the two earlier narratives, the story must have a broader appeal if it aims to re-integrate democracies and strengthen their problem-solving capacity.

### **Three accounts of urban citizenship and a fourth alternative**

Once upon a time, all citizenship was urban. Rural folks didn't have citizenship and town-folks had it only if they were both lucky and tenacious in fighting to get and keep it. This time is not a distant past. Less than 250 years ago, the American and French Revolution introduced a modern conception of national citizenship that tore down the physical and institutional walls that had protected free cities. Empires, most of which were eventually destroyed from within by national, democratic and colonial

revolutions, had subjects rather than citizens, but they lacked the instruments of social control over territorial populations wielded by the modern nation-state. Empires left thus lots of space for local autonomy. Cities with independent sources of wealth owed allegiance to emperors and the rulers of principalities, but they had a fighting chance to establish themselves as free republics within autocratically ruled territories (Prak 2018).

The democratic revolutions that invented the new notion of a national citizenship inherited ideals about freedom, equality and collective self-government from the city republics that they destroyed. But the new conception of citizenship also created something historically entirely new by turning citizenship into a device for sorting human populations into states (Brubaker 1989). Citizenship as nationality is no longer just a domestic privilege but a status in the international system. It is still particularistic in the sense of linking individuals to specific states but at the same time universal in the sense of aiming to categorise all of humanity.

Talking about urban citizenship in this context has seemed anachronistic for a long time. No longer so today. Yet any conception of urban citizenship worthy of consideration must figure out the relation between nation-states and cities – both in the sense of structural constraints that the former imposes on the latter and in the sense of more or less utopian visions how to overcome these.

Three different accounts of this relation emerge from present debates, which we can call diminutive, derivative and postnational urban citizenship.

The first view captures the ‘constitutional silence’ (Hirschl 2020 forthcoming) on the powers of local level government in many democratic constitutions and the treatment of municipalities as creatures of higher level governments whose borders and competencies are determined by them for the sake of administrative convenience. This is the attitude prevailing in the US and Canadian federations as well as in continental European centralised states like France or the Scandinavian countries. The diminutive view of urban citizenship may not see a problem with thoroughly undemocratic practices, such as the appointment of mayors by the central government, which was common in 19<sup>th</sup> century Europe or the still existing plutocratic franchise in several Australian cities (Ng, Goghill, and Thornton-Smith 2016) and the City of London that gives business corporations and real estate owners extra votes in local elections. A diminutive view shines also through in some interpretations of the expansion of the local franchise to immigrants independently of their nationality in fourteen European and eight South American states (Arrighi and Bauböck 2017; Pedroza 2019). On this account, immigrants can be optionally included in the local demos because the matters decided at local level are of minor importance or because local citizenship for immigrants is merely considered as a training ground for national citizenship.<sup>1</sup>

A derivative conception gives more weight to urban citizenship by regarding it as similar to citizenship in the constitutive polities of a federation (cantons, provinces, regions or states). Citizenship in a US state is derived from federal citizenship and attributed to all federal citizens who take up residence in a state. Why not extend this principle further down in a triple-level federation that would give constitutional status also to municipalities? In fact, countries like Austria, Germany and Switzerland are triple-level federations of this kind. In the former two, Constitutional Courts have invoked a principle of homogeneity of the federal people in order to strike down attempts by cities to introduce local voting rights for (non-EU) foreigners.<sup>2</sup> Switzerland has taken a different path, since it is still in some aspects a confederation in which federal citizenship is derived upwards from the lower levels of municipalities and cantons. This has enabled some cantons to introduce the local franchise for non-Swiss citizens or to allow their municipalities to adopt such rules for themselves. Cities in two-level federations could adopt a similar strategy by campaigning for their upgrading into a federal province, as Toronto has done for some time.

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<sup>1</sup> See e.g. Patti Lenard’s review of Luicy Pedroza (2019) for GLOBALCIT.

<sup>2</sup> See the GLOBALCIT reports on access to electoral rights in Austria and Germany.

A third interpretation of urban citizenship is postnational. It aims to sever the relation between city and state as much as possible and tells a story about the emancipation of cities from the chokehold of the nation-state through forging transnational city networks (Acuto 2013), through promoting new forms of direct democracy, such as participatory budgeting and randomly selected citizens' assemblies (Smith 2011), through providing sanctuary to irregular immigrants whom national governments want to deport (Varsanyi 2006), through issuing city ID cards (de Graauw 2014), and also through enfranchising those who lack the national approval stamp of the right passport.

This postnational view gets many things right. Democracy is strengthened if cities do all these things. But the justifications for doing them cannot rely only on the interests of migrants and urban populations. We need to think how urban citizenship could contribute to overall democratic integration within and beyond nation-states.

Consider again the case of the local non-citizen franchise. In EU Member States it is derivative from EU citizenship, which is in turn derived from the nationality of one of the Member States. In most cases this means that only EU citizens can vote in local elections. In twelve EU countries, however, non-EU citizen can vote as well. The demos that authorises local governments through democratic elections is thus composed of all residents in the city. Instead of giving immigrants special representation (for example in elected advisory bodies) citizenship is attributed to all co-residents no matter where they come from.

This is appropriate because the distinction between nationals and non-nationals is irrelevant from the perspective of local democracy. In order to safeguard the human right to free movement inside the territory of states, municipalities must have open borders and cannot control who takes up residence in their territory. They have to provide public services for local populations who select themselves into municipalities by taking up residence, by moving out or by staying. Urban citizenship must therefore be constructed in such a way that it integrates mobile populations into a common membership and this is achieved through deriving it from residence instead of territorial birth or descent. The integrity and inclusiveness of local democracy would be jeopardised if those born in the city or descending from parents established in the city enjoy special privileges – as they do under the Chinese hukou system of household registration. Local democracy is equally undermined if large urban populations remain disenfranchised because they do not hold national citizenship.

A citizenship based on *ius domicilii* creates a status of equality that is uniquely appropriate for cities as it can be shared by sedentary and mobile populations (Bauböck 2003; Bauder 2014; de Shalit 2018). But it cannot be limited to cities only. It applies just as much to rural municipalities and small towns as to large cities. If everybody has a right to free movement within a national territory, then everybody must be regarded as a local citizen in any municipality where she takes up residence. Local citizenship is therefore not just urban; it is a basic status of local equality among co-residents in a country.

### **Complementing, not replacing national citizenship**

This does not mean that local citizenship is going to replace national citizenship. Non-national residents who are turned into local citizens retain their nationality of origin and it is *this* status that provides them with free movement rights in the international system. They have an unconditional right to return to their country of nationality and – if they are multiple citizens – can freely move between their countries of origin and destination. Native citizens sharing a local citizenship with immigrants also need their national citizenship when they emigrate – as a protection when they are abroad and a guarantee that they can return. Finally, for sedentary people whose life plans do not reach across international borders as well as for migrants, national citizenship signals their belonging to an intergenerational political community. The fact that national citizenship is attributed at birth to people who have been thrown together without exercising choice is a resource for solidarity in mobile and diverse societies that a more ephemeral local membership based on residence cannot equally generate (Bauböck 2017).

That is of course only true if national citizenship itself is sufficiently open for naturalisation of immigrants and automatically includes second generations born in the territory. Such openness does not erase the difference between local and national memberships. Only national citizenship based on birthright (be it *ius sanguinis* or *ius soli*) can currently guarantee sufficient stability of democratic citizenries across generations. This is essential for promoting a sense of responsibility for the future of a country and its institutions, for a stable allocation of state responsibility for protecting individuals in the international state system, and also for enabling international free movement that states are only willing to grant to the citizens of other states on a basis of reciprocity.

Similar caveats apply to dreams about cities resolving the global collective action problems that states have been unable to tackle. Even if cities form international networks these are by their very nature selective in membership and geographic scope and cannot substitute for the role of states in creating international institutions and law. Globally networked cities can set agendas and locally demonstrate the feasibility of solutions for the biggest problems facing humanity, but they cannot create binding rules and secure their implementation on a global scale (Aust 2017).

What we need therefore is an urban citizenship that is derived from residence rather than nationality and that complements national citizenship instead of replacing it.

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## Thinking Like a City, Thinking Like a State

Avner de Shalit\*

In 2014 I began the first steps of what would become my research on cities and migration (de Shalit 2018). I conducted one of my first interviews in Berlin. It was a pleasant morning. I strolled the streets in search of interviewees and approached a school yard, where a local Berliner, who had just said goodbye to his eight-year-old child, was prepared to answer my questions about locals' attitudes towards immigrants. "Immigrants?" he repeated my word with disgust. "They are responsible for the rise in crime rates here. They rape, they steal, and they cheat. You just cannot trust them. They exploit the good will of the German welfare system. And on top of this, they are not really Christian. You know, I don't care if one goes to church or not, but they are different; they have their own religious beliefs, which are so different. They should not be here". I was a little bit surprised, not so much by the content as by the forceful manner in which he spoke. I asked, "Well, could you please describe your most recent encounter with immigrants?" "Sure", he replied, "only yesterday I escorted my child to school, like I did today, and I saw another child standing in the school playground, crying". So, I asked my child what happened to him, and my child said, "Oh, he is from a family from Kosovo; they came here a week ago and he doesn't know anybody or speak the language properly, so he cries all day". I looked at my child and said, "Well, then, go and invite him over; tell him he can come and play with you this afternoon. We don't want him to stand crying here all day".

What happened to this interviewee? The interviewee changed, very rapidly, from expressing xenophobic and intolerant attitudes towards the immigrants to expressing care and concern, in a very warm manner. One could think that this was due to him seeing a crying child. But in my interviews, I found that those who express intolerance towards immigrants rarely if ever distinguish between men, women, children, and the elderly. Rather, what happened to this Berliner was that he changed from 'thinking like a state' to 'thinking like a city'.

Indeed, in the interviews following this one people spoke about immigrants very differently when they were asked about them in the context of the city, rather than in the context of the state. This actually should not surprise us. Most of our encounters with immigrants are as city-dwellers and as city-zens (citizens of cities) rather than as citizens of the state. It is when we stand in the queue, when we shop in the local grocery shop or at the local market, when we notice who cleans the city's streets, who drives the city's taxis, and, often, who works as a nurse and as maintenance people in hospitals. In that context city dwellers, whatever their national political opinions are, have no reason to hate or feel intolerance towards the immigrants. Quite the opposite, city dwellers are likely to like them, see the human in them, feel that they share the city's public space with them.

This is so because the city is not only a "densely populated area of continuous settlement, which is organised as a single jurisdiction" (an often-used formal definition of a city); the city is also a state of mind, a certain political and social consciousness.

It is easy to see how the city is a political consciousness distinguishable from the state by comparing how inhabitants of cities perceive their cities with how they perceive their states. Consider how New Yorkers perceive the USA today: probably as a state torn between liberals and conservatives, suffering from / benefitting from a controversial administration under the leadership of President Trump. Now consider how they perceive New York City: a hectic, ambitious, and busy city which is the centre of the world, not only the USA, regardless of, and independently from, any administration in Washington DC (Bell and de Shalit 2011; Acocella 2008). Or consider another example: many think of my own state, Israel, as a right-wing country that is engaged in occupation and the denial of human rights. But this is not how residents of Tel-Aviv see their city. Instead they perceive it as a very hedonistic, liberal, 24/7

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city, which is thought to be the 'gay capital of Europe.' We could continue by comparing how Londoners, as well as people outside the city, think of London, a multicultural, cosmopolitan city, with half its residents born outside the UK, and how they think of the UK, which is currently engaged in the Brexit process, regressing from its status as a world leader, isolating itself from Europe. These examples, as well as the example of the Berliner interviewee, indicate that a city, especially a metropolitan city, is indeed (among other things) a certain state of mind, a political consciousness.

And, as such, it seems that for many people in the developed world, and mostly in metropolitan cities, the answer to the question that Rainer Bauböck raises is already given. Of course, urban citizenship should be distinguished, indeed emancipated, from nationality. Urban citizenship is so different from nationality – the city is cosmopolitan, impartial, flexible, and open towards whoever enters it, whereas the state and the nation tend to be particularistic, partial, closed, and inflexible because they are trapped in their institutions, which are not easy to change. Moreover, the city is sheer fun – it is hectic, hedonistic, it is a Mecca for foodies, it is a centre of culture, and it is full of opportunities. This is true even for the newcomers, the immigrants, who reach their destination city and there can rise from their despair and recover from their long journey, inspired by the hope that they derive from and associate with the city of destination. Many would describe their city and living in it as 'fun' (consider how people describe Copenhagen, Amsterdam, Berlin, Shanghai, and how often we see stickers *I love Amsterdam/ Berlin, etc.*); but rarely if ever will we hear somebody saying that “Denmark is fun, Holland is fun, Germany is fun, or China is fun”. Never do we see stickers announcing *I love Holland* or *I love Germany*, etc. The state is so serious, stable, demanding, and often unpleasant. So, part of my answer is that the question comes, in a way, too late. The train has already left the station. The rise of urban city-zenship in the form it has taken is irreversible.

And yet, Bauböck is spot on in his cautious approach to this divorce between city-zenship and the nation. He argues that many of the current challenges the world is facing require “a multilevel political architecture, in which supranational, regional and local political authorities play different but complementary roles”. Any environmental activist should agree. How can you think globally and act locally if you do not adopt this framework? So cities should calm down a bit. Yes, it is heartwarming to see how mayors and cities step in when a vacuum is created, e.g., when Trump's administration retreats from the USA's endorsement of the Paris agreement. However, states are needed in order to invest the huge sums of money in research and development of alternative technologies, to coordinate between all the institutions, firms, and individuals, who have good intentions, to introduce novel education policies to educate the young generation about the risks associated with climate change, and to legislate and regulate so that all members of the nation will adopt a more responsible and environmentally friendly way of life.

Bauböck's second reason for thinking of a multilevel political architecture is the ‘democratic recession’ and the rise of populism. Urban citizenship, he argues, must be complimentary to, not instead of, national citizenship, and should go hand in hand with some form of international citizenship. This has some far-reaching institutional implications, e.g., national citizenship itself should be open for immigrants' naturalisation and should “automatically include second generations born in the territory”. We therefore need “urban citizenship that is derived from residence rather than nationality and that complements national citizenship instead of replacing it”. An interesting question, which might raise some worries among nationalists, though, is whether urban citizenship should be granted to immigrants *before* their naturalisation. Some countries accept this, but in most states becoming a national citizen is a prerequisite for voting in municipal elections as well. Thus, although some cities around the world were pioneers in this respect, e.g., Toronto and Hamburg, deciding to offer immigrants who settled in them voting rights in municipal elections before naturalisation, yet they failed to implement this because of appeals to the Canadian and German Supreme Courts (Lenard 2015). It seems that, in some countries, city-dwellers are more ready for the combination that Bauböck offers than their fellow citizens in small cities and rural areas.

I want to suggest a third reason why we need urban city-zenship on top of, and side by side with, national citizenship, and, arguably, global citizenship. In a study I have been conducting with Jonathan Wolff in several European and South American cities, we have found that when city-dwellers are asked two questions—what bothers them about inequality in the city and what bothers them about inequality in the state—they raise very different concerns. We conclude that people’s political expectations from the city authorities and the city as a whole are very different to their expectations from the state and the national government. For example, when asked about inequality in the city, very rarely do city-dwellers relate to material inequality of any kind (income, pensions, etc.); however, they do mention quite a number of expectations and concerns that are spatial (access to parks, distance to kindergartens and schools, number of pubs in one's area, frequency and variety of public transportation, commuting time) and, perhaps more interestingly, relational (feeling secure and relaxed in one's neighbourhood, social capital, trust, capability to enjoy the ‘cool’ parts of the city and genuinely feel part of it, and the like). The latter expectations are not mentioned when these people are asked about their concerns with regard to inequality in the state. If this is so, then urban city-zenship differs from, and complements, national citizenship, and the two institutions—the state and the city—should focus on what they are, apparently, more capable of providing. The state and national citizenship will probably relate more to material inequality; whereas the city and city-zenship will relate more to spatial and relational inequality.

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## City-zenship and National Citizenship: Complementary and Competing but not Emancipated from Each Other

Nir Barak\*

Global trends in urbanisation demonstrate not only population shifts from rural to urban areas, but also an increase in the political power of cities. While cities are typically characterised as sub-units of the state, they are increasingly becoming semi-independent political actors. Their activity in global politics (e.g., supranational city-based networks) and within the state (e.g., regulations which challenge national laws) indicate a desire for greater political autonomy vis-à-vis the state. To that extent, it may seem as if cities and city-zenship are headed towards an emancipation from nationality, calling for the expansion of civic capacities at the city level. However, while applauding this trend, I want to deepen the ambivalence in Rainer Bauböck's account of urban citizenship and to suggest a sceptical but friendly critique towards notions of emancipating urban citizenship from nationality. The relationship between urban and national citizenship should not be seen as mutually exclusive; claims for enhancing city-zenship and decentralising state power are warranted only insofar as they provide forward-thinking urban response to the decline in democratic participation and civic solidarity at national levels. While these claims highlight the tensions between cities and states, they do not obviate the role of the state as the polity that safeguards the autonomy of city-dwellers and enables them to act individually and collectively towards shaping the city's public sphere and its conception of the good.

To complement Avner de Shalit's story about changing sociopolitical attitudes when thinking like a city or state, I open my response with another story, also from Berlin. In the summer of 2016, I was researching the nexus of ecological citizenship and political city-zenship, part of which entailed conducting interviews with urban environmental activists (Barak 2019). One of the projects I visited was an area in the city centre squatted by activists. Originally slated to become a parking lot, the activists had transformed it into an urban forest, with a community food-garden and café in which local city-zens could relax, practice urban agriculture and meet. The activists justified their opposition to the municipal plan by passionately declaring their *right to the city*: "we have a political mission! For us, the main question was who decides how to use urban space. We have tailored this space according to the real needs of the people who live here". They further justified their action by making a connection between themselves and the history and civic memory of the city, whereby their successful struggle was viewed as building on the local legacy of resistance to urban development projects characteristic of West Berlin in the 1960s. However, when I inquired more deeply into their oppositional stance vis-à-vis the municipality, one of the activists responded: "We negotiate with the municipality because they always want to close us down (...) and there's always the danger of privatisation, which is what the municipality really wants to do (...) [My actions are legitimate because] I'm a citizen; I have rights".

What happened to these interviewees? When we were discussing the character of their activism, they connected their form of political participation with their residence in the city and its political identity. However, when it came down to legitimacy for action, these activists acknowledged that active participation that opposes municipal policies (e.g., direct action, demonstrating, rallying, demanding referenda) is contingent upon the civil and political rights enshrined in and safeguarded by the state (e.g., the right to liberty, freedom of thought, speech, association, and peaceful assembly). In other words, when thinking about participation, membership and political identity, these activists were *seeing like a city* (Magnusson 2011). But when it came down to legitimacy for action, these activists were *seeing like a state* (Scott 1998), acknowledging its *raison d'être* as a precondition for meaningful participation.

Indeed, in interviews in other German and Israeli cities, I found similar responses: the forms of participation that activists take and their justification for action are associated with membership-residence in specific cities, implying that different civic meanings and justifications are attributed to

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similar projects. *Ius domicilii* is not only a good criterion for determining membership in the city's political community, but residence in a city is also associated with cities' *intrinsic logic* (Löw 2012), civic ethos (Bell and de Shalit 2011), and civic memory (Dagger 1997). In this regard, the city seems like a discrete political arena where city-zens promote the common good. However, especially in civic struggles that oppose municipal planning and social policies, city-zens/ urban activists recognise that political participation in cities is not independent of the state, but rather dependent on the political and civil rights enshrined therein.

While *seeing like a city* is distinct from *seeing like a state* (Barak and de Shalit 2020), it is crucial to acknowledge the institutional hybridity of city-zenship and the state's fundamental role in securing individual civil and political rights. Recognising this aspect does not eliminate the challenges that cities pose for states by filling policy lacunas or challenging national legislation in domestic and global issues. In this respect, city-zenship ought to be distinct from national citizenship and seen as complementary. However, adding to Rainer Bauböck's focus on the international status of national citizenship and the stability it provides across generations, it is no less important to recognize how national citizenship facilitates urban citizenship and, to a large extent, enables civic engagement at the city level. Thus, urban citizenship is not only complementary to national citizenship, it is also contingent upon its functioning and, therefore, cannot be emancipated from it.

What is true at the level of individuals is, I believe, also applicable at the institutional level of cities and states. Indeed, cities are boldly facing up to local and global problems insufficiently addressed by nation-states, and putting forward urban responses (e.g., cities action in global climate politics). In this regard the post-national conception of urban citizenship is certainly a good argument for enhancing cities' political autonomy and for deepening the schism between cities and states. However, thinking about *emancipating* urban citizenship from nationality raises three points for consideration.

While cities are quite successful in the untraditional issues they are tackling, they lack the political capacity to address these issues comprehensively, which suggests that their *emancipation* from nationality would not only impose impossible burdens on them, but would also absolve the state from its responsibilities. For example, regarding climate and environmental policies, C40 and other cities are effectively reducing their carbon emissions, divesting from fossil fuels, and transitioning to more sustainable development schemes. However, structurally, cities lack the capacity to legislate and regulate resource extraction, industrial policies and other necessary factors for effective climate policy (Wachsmuth, Cohen, and Angelo 2016). With regard to income inequality, cities lack access to effective tax and welfare policies (and as suggested in de Shalit's response – issues of material inequalities are more closely associated with state capacities). Divorcing city-zenship from national citizenship might change this situation; however, it is quite difficult to see how cities could be effective in addressing these issues while maintaining their socio-political attributes as non-sovereign entities.

Also, think about the following political architecture: the principle of *ius domicilii* is equally applied not only to properly urban communities (i.e., cities) but also to sub-urban and rural local governments (or else it would entail an inegalitarian political arrangement), and this form of citizenship is fully emancipated from nationality. When these local governments convene as equals in attempts to devise effective climate governance, or any other national and global collective action problem, this would introduce additional veto players who can block global efforts, and therefore deepen already existing urban-rural schisms. In this regard, binding urban citizenship to national citizenship serves as a mechanism for restraining declining urban-rural solidarities. Moreover, this political architecture is quite different from the current situation in which supranational city-based networks are challenging national legislation in virtue of their economic and political power, and due to their ability to cooperate, learn and transfer effective policies (and I should clarify that in no way do I suggest that these actions are illegitimate). Lastly, I tentatively suggest that, in virtue of their power, the bigger and richer cities have a normative duty to be more attentive to this concern to justify their enhanced capacities further.

My final point in addressing the relationship between urban citizenship and nationality relates to the downplayed role of the state in contemporary urban narratives about dysfunctional nation-states and highly competent cities. The high-functionality of cities is tied with the functionality of the state and/or federal government in many, supposedly invisible, domains – primarily in providing national security and the protection of civil and political rights, in employing fair and just income tax and many more fields which do not, and probably cannot, have a city-based equivalent. Apropos his most radical suggestion – to change the global order of states through city-based cooperative networks – Benjamin Barber admits:

“Cities can cross borders easily, but they exist only within borders as subsidiary civic entities inside of states, subject to statist powers, sovereignty, and jurisdiction. Cities can govern globally where states can’t, but only insofar as national states let them or look the other way”. (Barber 2013, 166)

The authors of the ‘new localism’ complement this notion:

“The devolution of power and problem solving to local levels is not an argument against the importance of federal and state governments... The federal government must do things that only it can do, including safeguarding national security, providing a stronger social safety net than it presently does, providing guarantees of constitutional protections and civil rights, making smart national infrastructure investments, protecting natural resources, protecting the integrity of markets and funding scientific research, innovation, and postsecondary education to keep the nation competitive”. (Katz and Nowak 2018, 10)

These caveats swallow the premise of any attempt to emancipate urban citizenship from nationality. An autonomous and empowered city will ‘solve problems’ very efficiently given the condition of a competent, just, and functional federal and state government. If so, the implicit attempt to short-circuit state and federal politics in favour of a city-based ‘problem solving’ by emancipating urban citizenship from nationality is off the mark. Depicting the relationship between cities, states, and federal governments as a zero-sum-game over political power is thus likewise misguided, politically dangerous, and normatively undesirable (Therborn 2011). Just think where New York City would be if there had been no 2008 federal bailout.

Bringing all these aspects into consideration it becomes clear that while enhancing the schism between cities and states, divorcing urban citizenship from nationality is unwarranted. It would impose an impossible burden on cities and change their fluid dynamic; to a large extent, it would also absolve the state from its responsibility to address collective action problems. Additionally, a divorce might lead to even more complex policy deadlocks, and deepen the already painful schism between urban and rural communities. Lastly, a divorce of this type overlooks the significance of state-functioning for meaningful civic engagement at the city level, and the enhancement of municipal capacities.

This being said, the time is ripe for a new division of political labour between cities and states. In a multilevel political architecture, the role of cities, especially the powerfully-networked global cities, not only complements nationality but also rightfully legitimises cities’ contestation of state policies. This multilevel political architecture locates cities as polities that are not preoccupied with an inter-urban parochialism, positing them instead as polities that live up to their contemporary challenges as national and global leaders.

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# Urban Citizenship Threatens Democratic Equality

Patti Tamara Lenard\*

Cities around the world are growing larger, as more and more people move to them. One consequence of this movement is more focused attention on the political role that cities, and their residents, can and should play in national and international political spaces (e. g., de Shalit 2018). It seems urgent that ‘urban citizenship’ is properly characterised to understand not only the rights and responsibilities citizens of cities may well have, but also their grounding. I have no quarrel with this project. However, so far, accounts of urban citizenship – like Rainer Bauböck’s in the piece that launched this forum – do too little to consider the citizenship that is ‘left over’ for those who do not, or cannot, move to cities. In what follows, I shall make three claims: 1) Bauböck, and others who offer more robust accounts of urban citizenship, mischaracterises those who are ‘left behind’; 2) this makes it easier to downplay the inevitable challenges that they face and, as a result, to ignore them on the grounds that their problems will naturally recede; and (3) the implied responses to these worries are unlikely to be sufficient, and certainly need much more fleshing out. In particular, more needs to be said about how urban citizenship accounts interact with the (perhaps boring, perhaps traditional) story told about the importance of national citizenship as protecting the equality of *all* citizens, regardless of where they live.

## Who does not move to cities?

All kinds of people are making their way to cities, mainly in search of economic opportunities. Estimates are that 55% of the global population live in urban centres, and this number is projected to grow to 60% by 2030. In North America, a full 82% of citizens live in urban spaces. International migrants overwhelmingly choose cities and are a major source of the ethnic and cultural diversity that characterises most of them.

Notice, however, that those who are ‘left behind’ continue to make up nearly half of the world’s population. How should we think about this population? Here is what Bauböck says of them, ruefully: the historically greater weight given to non-urban communities has enabled “political victories of illiberal populists who can wreak havoc by destroying democratic institutions”. There may be numerical truth to this claim. However, it is worth resisting blanket claims that portray urbanites as progressive and cosmopolitan and non-urbanites as backward, and so susceptible to the outlandish claims of populists who make impossible-to-keep promises about reinvigorating non-urban spaces.

One reason to take more care in how non-urban communities are portrayed is simply the empirical one. Whatever the political and moral views of this population, and their political concerns, they are not homogeneous. Here is one example. Canada has of late gotten some international kudos for its robust (compared to other similarly situated countries) commitment to resettling refugees. One way resettlement happens in Canada is when private citizens step up to collaborate with the government to sponsor refugees, and rural communities have done it so successfully that government energy is directed to supporting rural communities to do more and better for the refugees they support (Haugen 2019).

Cities have real and profound (if incomplete) roles to play in responding to global challenges, says Bauböck. So-called “networked cities” can have a key role (in partnership with states) in “setting agendas for” and demonstrating “the feasibility of solutions for the biggest problems facing humanity”. Yet, think again of rural Canadians enacting the profound welcome required to resettle refugees. They suggest that there is no reason to think that only cities, and not rural spaces, can and do have a role to play in confronting global challenges. Why treat non-urban citizens as a monolithic group with retrograde – that is to say, illiberal – ideas? Why blame them for the challenges facing democratic

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institutions so blithely? Non-urbanites can and should be treated as partners in combatting global challenges, rather than as an obstacle in doing so.

### **Should non-urban concerns be dismissed as unreasonable?**

A second reason to take more care in fairly representing non-urban communities is that their inaccurate representation risks giving support to those who suggest that their worries and demands can be ignored, because they are in some sense unreasonable. Where non-urban communities have grievances against the state (and their urban counterparts), they often stem from an extended and well-documented period of decline; the result is that in many such spaces non-urban citizens struggle to provide for their basic needs. Consequently, they find themselves under pressure to give up the lives they have lived (and loved) and which they had no reason to predict would be treated as obstacles to global justice. Perhaps they have non-cosmopolitan political views (but perhaps they don't) – but this is not a (legitimate) reason to permit urbanites (and their growing numerical, and eventually also political, power-base) to ignore their needs. The willingness to paint non-urbanites as backwards and intolerant, and even as responsible for the demise of democratic institutions, underpins the political willingness to brush their needs, and legitimate grievances, aside.

Here is one example of how the elevation of urban concerns over non-urban concerns manifests itself. In the recent Canadian election campaign: One key issue was the perennial inability of the federal government to provide access to clean water in certain remote Indigenous communities. Of 600 First Nations communities across Canada, nearly 400 have laboured under a “water advisory” at some point since 2004; members of the Neskantaga First Nation have been boiling their water for 20 years. A reporter interviewed New Democratic Party leader Jagmeet Singh about his vocal support for Indigenous communities, asking whether it wouldn't simply cost too much to provide clean water to them. Singh responded, “If Toronto had a drinking water problem, if Montreal had a drinking water problem, would you be asking the same question? No, you would not”. Singh's point is at least in part wrapped up in the historical, deeply problematic ways in which Canadian political actors have engaged with, or failed to engage with, the ongoing struggles faced by Indigenous peoples (Coulthard 2007). In attending to the needs of densifying cities, justified in part by the portrayal of non-urbanites as morally and politically retrograde, we risk ignoring or downplaying the struggles of those who are not swept up in the wave of movement to urban spaces.

One response to the decline of non-urban spaces is to support, or perhaps encourage, their citizens to join in the great migration to cities. In Newfoundland and Labrador, the provincial government has been offering financial incentives to isolated communities to do so, as long as residents vote 90% in favour of moving. The provincial government expects to financially gain from this: the incentive is offered if and only if the cost of paying it is lower than the expected gains from being discharged of the responsibility for paying for services to the isolated community. If the community decides to move, all services are cut off, leaving holdouts with few options. One resident of Little Bay Islands, a community that ultimately made (unanimously) the choice to move, said “I've lived here all my life, I've been employed here all my life, I'm still employed now...I've got a different perspective on it than anyone else in the community”.

### **What can advocates of urban citizenship say in response?**

Some suggestions for a response feature in Bauböck's piece, but they are insufficient. One response is, simply, that this is what national level citizenship is for, i.e., to make sure that the democratic commitment to equality is protected for all citizens, whether urban or not. Remembering this key role for national citizenship, Bauböck might just say, resolves the tension that might appear to be generated by accounts of urban citizenship. But does it? Isn't the challenge posed to Mr. Singh, that it is simply too expensive to protect basic human rights access for far-flung communities, evidence that national

citizenship rather than urban citizenship requires revitalizing? Isn't Mr. Singh's response – that this wouldn't be a question if we were focused on such basic rights access in major cities – an indication of the kind of problem that Bauböck's account exacerbates rather than resolves? To repeat, the danger of an over-emphasis on urban citizenship is the willingness to, and justification for, ignoring the needs – and correspondingly, the valid moral claims – of non-urban citizens.

A second hint at Bauböck's likely response lies in his calling for understanding urban citizenship as based on '*ius domicilii*' (that is to say residence) that is "uniquely appropriate for cities" – but which can somehow apply "just as much to rural municipalities and small towns as to large cities". Yet what is this residence-based citizenship that "applies" to both spaces, with their radically distinct needs and priorities? The vision seems to be of an entirely differentiated sub-state citizenship that applies separately to rural citizens and urban citizens, with their distinct visions, orientations, and preoccupations, based in their respective residential locations. There is a real danger that celebrating residential-based citizenship – as I have done myself with respect to the importance of granting non-citizens the right to vote (Lenard 2014) – will exacerbate rather than remedy the democratic challenges faced in diverse democratic states.

I do not mean to suggest that the project of developing an account of urban citizenship should be abandoned. Rather, I mean to ask its advocates – note that Bauböck describes his enthusiasm for urban citizenship as 'ambivalent' only – to think through the challenges that are posed by describing and defending it more robustly. The answer that we should remain attentive to the importance of national-level citizenship, as the main vehicle for delivering remedies to inequalities among citizens, suggests we should be circumspect about giving urban citizenship a more robust status, since doing so threatens to divide urbanites and non-urbanites in ways that will render the project of democratic equality more difficult to attain. The answer that we should treat residence as the basis for urban citizenship, which can just as well translate into non-urban spaces, seems not to fare much better, especially when the resources to manage so many problems faced by non-urban spaces are being absorbed by urban spaces. The path forward is not clear, except to encourage urban citizenship advocates to avoid the homogenisation of non-urban views that lends to downplaying their struggles.

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## What's the Added Value of Legalising City-zenship?

Josephine van Zeben\*

In his kick-off, Rainer Bauböck discusses the influence of citizenship, both urban and national, on the relationship between cities, states and the people that reside in them. His position is that urban citizenship should not, and cannot, replace national citizenship; rather, the future lies in an urban citizenship “derived from residence rather than nationality ... that complements national citizenship”. Bauböck believes that such a multilevel citizenship would be able to create a ‘status of equality’ shared by urban and non-urban populations. My response to Bauböck’s reflections on urban citizenship considers some legal implications of the postnational view that Bauböck finds most promising. Specifically, it questions how suited citizenship is – as a legal instrument – for accommodating the concerns raised in Bauböck’s contribution.

### Legal implications of citizenship

Apart from its effects on identity, belonging and nation-building, citizenship represents a bundle of rights and duties vis-à-vis a specific government and, to some extent, other citizens. Seen through a legal lens, the opportunity, and challenge, of multiple overlapping citizenships lies in the duplication of such rights and duties in the same legal space, and the possibility for conflict between them.

Generally speaking, law does not necessarily present the best solution to complex situations; rather, it allows us to arrive at *one possible* solution in situations of reasonable indecision (Gardner 2019: 14). In the words of John Gardner, “[Law] is needed to settle which way we are going to go, from now on, on a matter on which there is, apart from the law, more than one defensible way to go” (ibid.: 13). In some ways, the debate on urban, national and supranational citizenship follows directly from this. Regardless of our position on the value of citizenship, the law tends to steer us to only one possible outcome on citizenship: national *or* local. EU citizenship is a limited exception to this situation and continues to depend on national citizenship. Moreover, the spheres of influence of national and EU citizenship do not overlap in meaningful ways – EU citizenship is primarily activated through movement beyond national borders. Within the current legal framework, this type of coexistence is not as readily available for local and national citizenship: the coexistence of two sovereigns in one jurisdiction is an uncomfortable legal reality. Dual national citizenship continues to be rejected by a minority of states partly for this reason;<sup>1</sup> it can create an overlapping set of competing obligations to different sovereigns.

Beyond citizenship, law has an inherently complex relationship to space: law is ‘local’ insofar as most laws originate and apply within limited geographical boundaries. National law continues to dominate, despite significant competition from the supranational and the local level. The creation of the European Union is an important example of law’s changing relationship with space, chiselling away at the nation-state’s monopoly on sovereignty. The increasing importance of transnational law, where private actors are an important source of transboundary norm creation, presents another challenge to the dominance of national law originating from public institutions. Nonetheless, the national space continues to be the benchmark against which other legal spaces (local, European, international) are assessed. The fact that in the relatively recent age of Empires, the nation-state was not a dominating or even coherent force (Prak, 2018) is not reflected in the current legal system or the scholarship surrounding it.

The resurgence of cities as national and international political actors, and the use of citizenship to signal local belonging can be listed as another challenge to the existing categorisation and hierarchy of

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<sup>1</sup> <https://migrationdataportal.org/themes/citizenship-and-migration>.

‘spaces’ in legal scholarship. The creation of an urban citizenship alongside a national one would further exacerbate these growing tensions. The existence of rights and duties vis-à-vis another sovereign within the nation-state would require clarifying the relationship between the newly-minted local citizen and her local government. It would also necessitate a conversation regarding a hierarchy, or coexistence, of local, national, and European or international rights and duties. As suggested previously, coexistence may not lead to *one* answer for indeterminate situations; the European legal space has shown us that a legal system can also embrace a plurality of overlapping norms.

### **How to ensure an added value of legal city-zenship?**

Proposing the legalisation of urban residency through city-zenship implies that the creation of such a status would create or formalise an additional set of rights and duties of value for the individuals and their locality. Depending on which rights and duties would be connected to city-zenship, this added value could come from increased democracy within cities due to clearer voting and electorate rights, or more sustainable urban economies through duties related to taxation. All of these developments could lead to the empowerment of both cities and their inhabitants within the national and international arena.

Apart from its instrumental value, some may consider the legalisation of local residency inherently valuable. Our societies increasingly appear to be ‘legalising’ – in the sense of being ever more regulated by law – as exemplified by the interviewee in Nir Barak’s contribution who refers to his ‘right to the city’ when speaking about the processes regarding urban planning. Being able to ‘constitutionalise’ one’s status or entitlement to a certain thing, activity, or process appears to be giving weight to practices that were (and still are) mostly regulated through social norms, in the shadow of the law.

That said, for some issues, such as securing equal rights for different groups and abolishing discrimination, the law can be a powerful tool. While national citizenship may have created a degree of formal equality between national citizens, there are many legal and practical exceptions that persist regardless of citizenship status. National citizenship has historically failed to ensure material equality between groups. Moreover, between nation states, citizenship has arguably given rise to more rather than less inequality (see, for example, Kälin and Kochenov 2019). Bauböck, I believe correctly, points out that national citizenship creates inequalities between nationals and non-nationals which play out at the local level. De Shalit expresses optimism regarding city-zenship’s ability to manage spatial and relational inequality. Perhaps. The creation of additional legal statuses for city residents may provide some protection for some people; it will also create further ways to differentiate between groups and their rights at the local level – something that Patti Lenard’s highlights in her contribution on the role of those ‘left behind’, i.e., the non-urban population.

In my view, the proof will be in the legal pudding, to which urban citizenship would add one additional flavour. In 2014, Benjamin Barber dedicated his book to “our cosmopolitan mayors everywhere, who take responsibility for a world they have not been given the full power to govern” (Barber 2014: v). This quote refers to the fact that many local governments are constrained in their ability to legislate on certain topics. If urban citizenship would become a reality, we would need to ensure that cities are able to match the changed status of their inhabitants: the duty to pay local taxes needs to be mirrored by the power to tax. Having a right to stand for election requires the existence of elected local councils and/or mayors. The added value of city-zenship in these cases would depend in large part on additional institutional changes that in turn depend on national governments.

### **More is less?**

In a multi-layered system, Bauböck’s suggestion of creating multiple, overlapping memberships at each level is vastly preferable to the current restrictive system of national citizenship. This is especially true if your view of the future of such a system is polycentric, like the one I presented in van Zeben (2019).

However, mirroring the existing national system of citizenship at the local level risks repeating past mistakes.

In a polycentric society, individuals are able to exercise a large degree of self-governance to organise themselves in mutually beneficial ways. In order to do so successfully, certain conditions must be fulfilled, including freedom of entry into and exit from the relevant communities in the polycentric system; the ability to enforce and peacefully contest shared rules; meaningful access to information and justice, and capacity building for learning (ibid: 27). Urban citizenship could be a vehicle for such processes. Alternatively, it could lead to a multiplication of existing processes and provide a basis for discrimination and exclusion – a real and tangible concern in a polarising world, even if urban citizenship *could* be more inclusive than certain forms of national citizenship.

There is ample behavioural and sociological work to suggest that people are not motivated primarily by the law or their rights. They act due to social norms, the desire to be part of a community, to obtain trust and respect from their peers. The law needs to enable people to take responsibility and to give them power to govern, for example, by creating the polycentric prerequisites mentioned above. The legalisation of urban residency through city-zenship is one tangible legal mechanism through which these things can be achieved, but it may not be the only or best mechanism.

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## **Urban Citizenship is About Improving the City - not Just About Letting Foreigners Vote**

Warren Magnusson \*

In a way, the question of urban citizenship is easy. If a state were to give non-citizens citizenship rights with respect to local elections or urban affairs more generally, it would be fully within its powers to do so. As [Rainer Bauböck](#) and others have argued, there are many good reasons why a state might want to do so – and just as many reasons to protect the state’s authority to uphold the system of rights as a whole. That said, many issues remain. There is no consensus, and perhaps there never can be on the key terms at issue: state, nation, urban, and citizenship.

### **The State, Nations and Urban Citizenship**

The easy identification of nation and state is problematic in many respects, not least in the way that it can be used for exclusionary purposes. If a state uses its powers to maintain some particular national identity, that action is questionable at best. Even if the more overt forms of ethnic, racial, religious, or cultural discrimination are not involved, and instead appeals are made to ‘democratic values’ or some such thing, we know from past experience that socially disadvantaged, economically deprived, racially stigmatised, or culturally marginalised groups will suffer from the treatment they receive. By what right can a state close its borders to people who simply want a better life, and come peacefully in search of security, shelter, and the opportunity to make a living and raise their families? Appeals to national identity as a ground for state authority and an aim for state action are at odds with the very idea of a constitutional state, which is supposed to be an impersonal order, founded on fundamental principles of justice.

Canada is undoubtedly a state, but many Canadians reject the idea that Canada is a nation. Québec’s nationhood is now widely accepted, as is the nationhood of the many Aboriginal or Indigenous groups that we now call First Nations. I live in an urban area that is on the territory of at least three First Nations whose rights are ongoing. The exact implications of that in terms of citizenship rights is hard to work out, but the First Nations themselves say that they are committed to principles of sharing and mutual respect, which would allow for the inclusion of everyone in democratic processes.

Once we begin thinking about the urban as a distinctive realm of citizenship, we have to consider what the limits of that realm are. To illustrate: I live in a small city (Victoria) at the centre of a larger built-up area (encompassed administratively within the Capital Regional District of British Columbia) closely connected to a larger city (Vancouver) at the centre of a major metropolitan area, rivalled by a larger but almost contiguous metropolitan area centred on a foreign city (Seattle), which happens to be the headquarters of two of the world’s most powerful corporations (Amazon and Microsoft) and the site of one of the most powerful naval bases (Bremerton) of the most powerful country in the world. I wonder whether urban citizenship would allow me some means of holding Amazon and Microsoft – or the US Navy – to account. I suppose not. So, what would it be about, and who would my fellow citizens be? If urban citizenship is just about allowing non-citizens resident in Victoria and its suburbs to vote in municipal elections, that does not seem like a big deal – especially since it only takes three years for a foreigner resident in Canada to qualify for citizenship. Is more at stake?

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## **Urbanisation and inclusion**

Much depends on how we think about citizenship or political engagement more generally. One of the interesting things about cities – or indeed other settlements like villages or refugee camps – is how proximity forces people to work together to provide for common services and facilities. There is often violence, exploitation, corruption, and discrimination, but there are countervailing tendencies. As Plato’s Socrates noted in *The Republic*, the *ur*-text of the Western political tradition, cities arise because of “some need we have of one another”. We are social beings who group together in particular places and must find means – *political* means – for establishing some sort of order that we can live with and that provides for the many things we cannot get for ourselves as individuals or families.

It is obvious that urbanisation generates new needs and forces people to find new ways of doing things. The mundane task of fetching water from a nearby stream turns into a huge engineering enterprise that fortunately enables wonders like hot and cold running water and flush toilets. One of the political possibilities that we notice in studying the urban is that people may be willing to cooperate in dealing with mundane issues like water supply and waste disposal even when they are in conflict about other things, including identity issues like the ones posed by claims of nationhood. Seen in this light, recognition of urban citizenship may be a reminder that the need we have of one another is greater than whatever sets us apart. By focusing on how to improve urban life, rather than on how to promote our different identities, we may be able to overcome some of the divisions that plague us.

In a way, this has always been the hope of urbanity. We can live with strangers, and not be locked into islands of identity, be they of tribe, village, class, race, ethnicity, sexuality, or anything else. But, what of rural people and rural areas? Are they just left behind, forgotten and reviled by trendy urbanites, as [Patti Lenard](#) suggests? Hardly. In the first place, the urban and the rural bleed into one another. On some accounts, my city is rural because it is on an island and relatively small. You can find some farmland and wilderness between my house and the airport, although that is largely the result of planning decisions made locally and provincially. Here as elsewhere, people with appropriate means can build houses in the country and commute into the city for work or other purposes. Or, they can just telecommute for the most part, and fly wherever they need to, whenever. People of more limited means can live in the country too, or at least in the suburbs. Farmers in Canada follow the markets carefully online, drive into town to do their shopping, and take their winter vacations in Mexico, Florida or Hawaii. Are these people different from urbanites by virtue of being “rural”? Of course, many people *are* left behind in our post-industrial economies, but you can find more of them in towns and cities than out in the country. Certainly, there is a class divide, and the parochial smugness of metropolitan elites plays a part in it, but the belief that people who live in “rural areas” are outside the urban world is actually a symptom of that smugness, not a realistic analysis of their position. In principle, urban citizenship can encompass everyone.

If we think about citizenship broadly, it is more about inclusion and engagement than about particular rights like voting. Nonetheless, to grant voting rights is to signal inclusion in an important way. More important still is for the excluded or marginalised to demand inclusion on the same terms as anyone else. That is one of the lessons of the women’s suffrage movement. Gaining the same voting rights as men was important for women. But, the great gain was in women organising to demand those and other crucial rights. The analogy here is important. If urban citizenship is simply a gift of the state or the liberal elite that controls it, it means much less than if it appears as a political necessity in face of mass mobilisation. Migrants have a right of entry to places that can afford them a better life. Once they have arrived, they should have the same rights as anyone else. How to convey this in a way that resonates with the people concerned and facilitates wider solidarities is the greatest challenge of urban citizenship, broadly conceived.

## Urban Citizenship: A Path to Migrant Inclusion

Harald Bauder\*

If urban citizenship is emancipated from national citizenship, then all inhabitants of a municipality could be recognised as members of the local communities in which they live. Such emancipation would mitigate the tension between the de-facto political community and the categories imposed by the nation state that exclude people who lack national citizenship or resident status. This tension has recently erupted into open conflict between the Trump administration and New York, Chicago, and many other sanctuary cities in the USA. It can also be observed in solidarity cities like Berlin in Germany, cities of refuge like Barcelona in Spain, or the ‘Commune of Reception’ (*Comuna de Acogida*) of Quilicura outside of Santiago de Chile.

Earlier commentaries in this forum highlighted various aspects of urban citizenship, such as the exclusion of non-urban populations (Lenard) or the conundrum of multilevel frames of legal authority (van Zeben). I am focusing, too, on one particular aspect, and suggest that urban citizenship can be an important mechanism to create inclusive communities.

To fulfil its promise, urban citizenship, as Rainer Bauböck correctly points out, should follow the domicile principle (*ius domicilii*). Emancipated urban citizenship could apply this principle to *all* inhabitants of the city – not only those who carry a national passport or national immigration papers; it would also apply to people who overstayed their visas or work permits, failed refugee claimants who nevertheless remain in the city, and those who crossed the border without state permission. This means that urban citizenship is about more than extending voting rights to immigrants; it is about including de-facto inhabitants of the community, especially those whom the nation state does not want to live in the country and thus the city.

Palermo’s charismatic Mayor Leoluca Orlando articulated the idea behind this principle in an eloquent way. When I interviewed him at his Palermo office earlier this year, he said: “If you are in Palermo, you are a Palermitan. I’m sorry, but you are a Palermitan. You can leave Palermo if you want. But as long as you are in Palermo, you are a Palermitan”. Not everyone may agree that short term visitors and tourists should be counted as members of the urban community. However, Orlando’s statement makes clear that not national status (or lack thereof) but presence within the municipal boundaries matters for membership. Or, in the words of Warren Magnusson, once migrants have arrived, “they should have the same rights as anyone else”.

What makes the city an intuitive scale to define political community and membership is that it is not a community like the nation that is imagined based on the “cultural artefacts” of nation-ness and nationalism (Anderson 1991: 4). Rather, the urban community is tangible because it is defined by the physical space of the city and the way this space is used on a daily basis. As Avner de Shalit remarks, people know and interact with each other when they go about their daily business in the space of the city. The local scale is where a political community exists in and for itself. Then what stands in the way of emancipating urban citizenship?

### **Sovereignty is the problem, not just an obstacle**

The question of sovereignty poses a major obstacle to the practical implementation of urban citizenship. Bauböck states that “cities should play a greater role in addressing global problems, such as the climate crisis or international refugee protection, where sovereign states have failed dismally precisely because their sovereignty hampers cooperative solutions”. In the context of migrant exclusion, I would go a step

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further: the sovereignty claimed by states does not only stand in the way of finding solutions but has created the problem in the first place.

We have seen throughout the Global North that migration control and the exclusion of migrants are used strategically by populist politicians to assert territorial state sovereignty. The policies of Donald Trump in the USA, the debate leading to the Brexit vote in the UK, and the successes of the Five Star Movement in Italy, Marine Le Pen in France, and the Alternative for Germany illustrate the effectiveness of demonising migrants in feeding anxieties among disillusioned voters over the effects of globalisation and the perceived loss of national sovereignty (Dauvergne 2008).

While some scholars have questioned the nation state's moral authority to regulate the movement of people (Carens 1987, Bauder 2017), others are pointing out that sovereignty itself is not something that exists naturally. Rather, the state needs to continuously claim and enact sovereignty through "theatrical performances" (Brown 2017: 3), such as by demonstrating that it has the authority to exclude migrants (De Genova 2010). The idea that a sovereign state can arbitrarily exclude people from its national community, even if they are already living in the country, has created the very problem that urban citizenship seeks to solve through including non-national residents.

Yes, we are in "urgent need for new narratives" (Bauböck). But these new narratives need to go beyond a narrow political imagination that merely affirms the dominant Westphalian political order and its idea of state sovereignty. The European Union is an example of how new political configurations are being created based on political need and practice. The problem, however, is that Europe has only rescaled migrant exclusion from the national to the European level, with the effect that Europe's outer border has become the deadliest one in the world. I believe that the urban scale can offer an alternative political narrative. Cities in Germany, for example, are proposing to serve as sea bridges (*Seebrücken*) and have offered to accept migrants and refugees rescued at sea directly – only to learn that the national government is blocking these efforts.

### **Urban citizenship as social practices of inclusion – and exclusion**

When it comes to multi-level governance, new forms of political organisation and new spatial and territorial configurations have always emerged from social and political practice. We cannot design them as an architect would draw a blueprint for a new house. This architect will only take the techniques and building materials into consideration that currently exist. The structure of the future, using yet unknown techniques and undiscovered materials, is beyond our reach. Similarly, if we rely solely on concepts (such as territorial citizenship) and structures (such as the nation state) that dominate our political life today, then we will only reproduce and not overcome the problems these concepts and structures inherently produce.

What we can do, however, is to look at the urban struggles of sanctuary cities, solidarity cities, and other urban initiatives that accommodate fellow inhabitants the nation state seeks to exclude, and explore how the associated social and political practices can be enshrined into law and translated into new frameworks of governance. Urban citizenship, emancipated from national citizenship, is one of these practices.

We need to be mindful, however, that citizenship is a two-sided sword. Citizenship is not only a mechanism of inclusion but also of exclusion (as Patti Lenard illustrated in her commentary). Likewise, urban autonomy can create an urban citizenship that is inclusive of all inhabitants, or that purposefully excludes parts of the population. More than a decade ago, the town of Hazelton, Pennsylvania, tried to tighten the rules around housing and employment in an effort to exclude non-status migrants. Around the same time, the Quebec town of Hérouxville introduced a 'code of conduct' that prohibited the stoning of women although it does not have a significant Muslim population and nobody had proposed to introduce sharia law there. Since then, many towns and cities have enacted policies that seek to exclude migrants from the local community by instilling fear and denying them rights and access to

basic services. If we focus too much on procedures of governance without simultaneously tackling questions of social exclusion and political oppression in fundamental ways, then the emancipation of urban citizenship can easily backfire.

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## **‘Zombie Urbanism’ and the Search for New Sources of Solidarity**

Sandra Seubert\*

Let me start with a reminiscence: a few weeks ago, I was sitting in one of my preferred cafés in Paris, *le Café Odéon- Théâtre de l’Europe*, a vivid place near the *Jardin de Luxembourg* in the heart of the university quarter. I realised that the waiter was wearing a shirt with the letters ‘*Defend Paris*’, which he explained to be a statement against the forces that make Paris an uneasy place to live, a defiance against the powerful and social injustice. With a mixture of rebellion and idealism, he added that he understands himself as part of a ‘Reclaim Your City’ Movement, thus representing what is central for urban citizenship today: a republican defence against forces that make a metropolitan city a trademark to be sold to people who can afford it, but increasingly less a home for ordinary people who want to live in the city. Walking through the streets, passing a small jewellery shop, a place of distinguished understatement showing a picture of Meghan Markle wearing ‘rose’-earrings displayed in the window, the term ‘zombie urbanism’ came to my mind – a term used by Jonny Aspen, professor at the Institute of Urbanism and Landscape in Oslo,<sup>1</sup> to describe a cliché-like way of dealing with urban environment by developers and designers – a ‘staged urbanism’, in which urban features are used as a means for selling, marketing and branding.<sup>2</sup>

Global metropolitan cities like Paris are certainly extreme cases – but they raise the question: How can this ‘staged urbanism’ provide spaces of urban citizenship. Under what conditions can urban citizenship “contribute to overall democratic integration within and beyond nation-states”, as Rainer Bauböck expects?

### **Why urban citizenship?**

Bauböck relates his initiative of strengthening urban citizenship to the rise of populism. He rightfully calls for new narratives that can bridge the divide between mobile/sedentary, urban/rural, cosmopolitan/parochial populations and identities. This divide – which is frequently referred to as the new ‘globalisation cleavage’ – should indeed be considered the primary challenge a citizenship narrative has to address today. Under conditions of rising inequities among regions and states, urban and rural areas, and polarisation of labour markets with certain strata of the population being stuck in unqualified jobs and few possibilities to move ahead, traditional legitimisation narratives have lost their resonance. We witness a “populist moment” which comes along with phantasms of homogeneity and embodiment that openly attack the pluralist constitution of modern democracy (including right-wing anti-migration propaganda contributing to reinforcing new border practices, see Varsanyi).<sup>3</sup> ‘The People’ has become a central concept in political discourse again but, as many liberal analysts argue, it is often brought forward in a way that is deeply conflicting with emancipatory aspirations of democratic citizenship. However, there are also movements on the rise that try to conceive of populism in a progressive way. Far from being a perversion of democracy, it is supposed to constitute the political force to recover it and expand it on the different levels of society (Mouffe 2018).

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<sup>1</sup> See Bjerkeset and Aspen (forthcoming 2020) and <https://conversations.e-flux.com/t/jonny-aspen-on-zombie-urbanism/4318>.

<sup>2</sup> This kind of city-marketing proves quite successful: whereas the burning of Notre Dame mobilised hundreds of millions of donations within a short period of time, the burning of the National Museum in Rio de Janeiro soon after, extinguishing 200 years of documentation of cultural memory, mobilised only 225.000 Euros (state 1.4.2019)

<https://www.br.de/nachrichten/kultur/fuer-rios-abgebranntes-nationalmuseum-spendet-kaum-jemand,RNtwWMY>.

<sup>3</sup> Cf. Krastev 2007.

Rainer Bauböck is appealing to the emancipatory idea of democratic citizenship: the narrative he is searching for **ought to tell people “what they have in common and why they have to respect each other as equals who share a stake in institutions that express their common desire for democratic self-government”**. Where Marshall argued for social citizenship to meet the demands of the postwar-era, and Kymlicka developed the concept of multicultural citizenship to answer the challenges of growing diversity in the 1990ies, today the idea of urban citizenship is supposed to address the concerns of those most affected by the globalisation divide. Urban citizenship must be at the core of the new story.

### Who is the urban citizen?

In Bauböck’s view, urban citizenship should be part of a multilevel institutional architecture of democracy. Consequently, urban citizenship ought to be part of a multilevel form of citizenship. It thus seems important to keep in mind that the different levels of democratic self-government ought to be pervaded by a political culture expressing values of equal worth, respect and cooperation, not only within the boundaries of *one* level but also transcending each of them. The challenge for urban citizenship as part of a multilevel citizenship regime is the construction and legitimation of new frames of reference while at the same time including equal rights empowering subjects for collective action and developing a self-understanding as a citizen. What is more, the political culture of democracy stands in systemic tension with a social culture of capitalism with its values of competitiveness, merit and individualising of achievements. While the social culture of capitalism produces differences in status and wealth, i.e. social inequalities, the political culture of democracy requires to ‘stand eye to eye with fellow citizens’ (Pettit 1997, 51). Normatively, citizenship claims to be a generalisable ideal, but insofar as its social foundations are misinterpreted, its effects become exclusionary (Mark 1843). The political citizen then turns out to be an economic citizen (‘bourgeois’) – which historically meant: a male white property owner.

It has frequently been criticised that citizenship as a privilege for the propertied classes is enjoying a resurgence. This resurgence is discussed not only in the literature on neo-liberal transformations of the welfare state, but also on multiple citizenship.<sup>4</sup> In the context of debates about the ‘global city’, urban culture and the dynamics of gentrification the argument is taken up by demonstrating that the ‘new global cleavage’ is, at least partly, linked to the old social cleavages. But the forces that bring about these cleavages are reorganised (Sassen 2008, 503-511).

### Three dimensions of meaning

I generally agree with Rainer Bauböck’s assumption that urban citizenship must be at the core of a new citizenship narrative. But the construction of this new democratic narrative raises a bunch of questions: The concept of urban citizenship implies three dimensions of meaning, which complicates addressing the challenge: first, the idea refers to a certain *space*: the city, as a particular locus for action; second, it refers to a certain *social situatedness*: being mobile and looking for a new home in the big cities; and third, it refers to a certain *mindset*: a post-national identity, embracing open societies and cultural diversity. How do these dimensions matter with regard to the task of re-integrating democracy?

Regarding the scenes, the *spaces*, on which the history of modern citizenship is projected forward today, the city is certainly playing an extraordinary role (Colliot-Thelene 2011, 218-232).

Enfolding dynamics of enlargement refer to the language of human rights as a medium of including more and more categories of persons into the realm of citizenship, frequently giving rise to practices of “insurgent citizenship” (Holsten 2008). But local struggles are deeply entangled with the economic logic of a globalising world. De-territorialisation and pluralisation of power make it increasingly more difficult to figure out a clear addressee for claims to equal citizenship.

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<sup>4</sup> Anderson 2015, 184-85; Morris 2003, 2009; Tanasoca 2018 (and the discussion at GLOBALCIT).

Regarding the *social situatedness* of 'movers' rather than 'stay at homes', cities are, no doubt, also of ultimate importance. Cities are primary goals of destination for those seeking a new beginning, not least due to the fact that metropolitan regions are economic centres which potentially give more opportunities for making a living. But one should be careful to avoid homogenisation. The idea of a globalisation cleavage of moving versus sedentary parts of the population suggests a cleavage between city and periphery. But the clash is also *within* the city. Not only should we take more care on how non-urban communities are portrayed, as Patti Lenard suggests, but also on how the contradictions of globalisation are mirrored in the diversity of urban population.

This links to the last dimension, the post-national *mindset*, which is allegedly fostered by urban citizenship. A '*ius domicilii*', derived from presence in locality and including all de facto residents, would be an important normative shift with regard to democratic inclusion. It would allow inhabitants with multiple affiliations and loyalties to identify with the city as the concrete locus of their everyday life and thus support multiple experiences of identity. But urban citizens cannot be expected to carry the burden of reintegrating democracy alone.

### **Connecting the local and the global**

Cities today are crucial places where the ambivalences of globalisation come to light. In the post-national constellation, the global city has become the locus for a reconstitution of citizenship, creating new forms of politics and practices of collective agency. The concentration of global economic and cultural dynamics in the city reinforces the search for innovative responses. Nevertheless, the contradictions of globalisation cannot be worked through on the local level alone. Although the city potentially creates concrete forms of solidarity based on local cooperation, these forms of solidarity must be linked to a transnational citizenship regime which supports the egalitarian promises of modern democratic citizenship. Restricting "*ius domicilii*" to the local level would intensify the conflicts it is supposed to mediate if not embedded in wider transformations. Contrary to what Bauböck suggests, the normative shift to a residence-based membership should therefore (graduated according to the minimum time of residence) be perceived as the appropriate foundation of membership in the post-national constellation in general, including at the national level.

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## From *De Facto* Urban Citizenship to Open Borders

Monica W. Varsanyi\*

[Rainer Bauböck](#) ends his thoughtful and provocative essay with the following prescription: “What we need is an urban citizenship that is derived from residence rather than nationality and that complements national citizenship instead of replacing it”. I will take his closing words as my point of departure and offer an answer that is less predictive and normative, and more empirical. I agree with his assertion that we need a robust urban citizenship. I would suggest that we already have some important examples of urban citizenship that challenge and complement national citizenship in crucial ways and it is important to shine a light on those examples to chart a course forward.

### Sanctuary cities as *de facto* urban citizenship

As [Bauböck](#) mentions in his essay, my prior scholarship has engaged with what I have called instances of urban citizenship, or the rights of membership derived from residence and physical presence in localities (Varsanyi 2006). In my work in the United States, I have been particularly concerned with the concept of urban citizenship as it applies to immigrants without legal authorisation to remain in the country. In a country that radically excludes unauthorised immigrants from political membership and national citizenship (but not necessarily economic participation), subnational jurisdictions including cities, counties, and states have been at the forefront of extending rights and privileges of membership to their residents who otherwise do not have legal authorisation to remain in the United States.

I present sanctuary cities as one example of robust urban citizenship. There is not a strict definition of what constitutes a sanctuary city, and there is a wide range of practices in cities that designate themselves as places of sanctuary for unauthorised immigrants. A common policy and practice include “don’t ask–don’t tell” mandates, where front-line bureaucrats—police, teachers, librarians, nurses, etc.—do not ask for information on immigrants’ legal status, and if in possession of that information, do not share it with federal immigration authorities.

Many sanctuary jurisdictions also accept multiple forms of photo identification, such as consular and municipal identification cards, in addition to state-issued driver’s licences. Holding a valid form of photo identification confers broader benefits of social and community membership and allows individuals to access a broad range of local services, facilities, and transactions such as opening a bank account, applying for marriage licences, obtaining a library card, enrolling children in school, and so forth.

Localities that accept multiple forms of identification also provide unauthorised immigrants with significant protection from deportation. In places where police do not accept alternative forms of photo ID, immigrants’ risks of being swept up in the deportation apparatus is severely heightened when they are stopped and questioned, as police will frequently arrest individuals who do not have valid identification, as opposed to simply issuing them a citation. Once arrested and booked, they are automatically screened for immigration violations in all county jails across the United States, so they have a much greater chance of coming to the attention of federal immigration authorities. In stark contrast, in jurisdictions that issue driver’s licences to unauthorised residents or accept alternate forms of identification, immigrants are able to prove their identity and a police stop does not expose them to federal immigration authorities and the potential of deportation (Provine *et al.* 2016, Armenta 2017). Currently, 13 states and the District of Columbia have passed legislation allowing unauthorised immigrants to obtain driver’s licences or their equivalent (National Conference of State Legislatures [NCSL] 2019a).

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## **Spaces of sanctuary in an increasingly nativist world**

Border walls are being built all over the world. After World War II, there were seven border walls in the world. By 1989, with the fall of the Berlin Wall, there were fifteen. Today, there are seventy-seven border walls and fences around the world and that number is increasing (Vallet 2016). As many scholars have documented, however, bordering practices no longer stop at national borders, as nation-states of the Global North implement border externalisation strategies, such as the United States' *Programa Frontera Sur*, which enlists the cooperation of Mexico in achieving U.S. border control goals, and the EU-Turkey Deal of 2016, which externalises the EU border into Turkey. Additionally, as physical walls grow more numerous and ever-higher, the walls surrounding access to national citizenship also grow higher in many jurisdictions, as legal permanent residents are deported for minor infractions and naturalisation fees rise.

In contrast, policies and practices of urban citizenship offer inclusion and the recognition of *de facto* membership of all residents during this time of growing nativism. With the rise of nationalistic, xenophobic politics exemplified by Brexit, and the expanding appeal of populist right-wing politicians such as Donald Trump in the United States, Marine Le Pen in France, and Brazilian President Jair Bolsonaro to national voters, such examples of 'urban citizenship' are crucial for envisioning a more inclusive, just, and progressive future.

## **From urban citizenship to open borders**

In his essay, [Bauböck](#) also urges us to grapple with an important problem in discussions of urban citizenship. As he writes, urban citizenship "cannot be limited to cities only. It applies just as much to rural municipalities and small towns as to large cities... Local citizenship is therefore not just urban; it is a basic status of local equality among co-residents in a country". In the United States, the majority of immigrants do live in large cities, with a significant portion living in cities and states that identify in some way or another as sanctuaries or "welcoming" communities. Currently, ten states and the District of Columbia have passed laws that provide some measure of sanctuary for their immigrant residents (NCSL 2019b). Additionally, there are 87 counties and cities beyond those states that have passed sanctuary policies. In total, nearly 120 million people (or just over one-third of the U.S. population) live in some type of sanctuary jurisdiction (Brookings 2019), and 60 per cent of unauthorised immigrants live in just twenty cities in the United States, many of which identify as sanctuaries of one type or another (Pew Research Center 2019).

That said, as the literature on immigrant new destinations has documented, immigrants are increasingly settling outside of the large traditional destination cities such as New York City, Chicago, and Los Angeles, favouring instead smaller cities, suburbs, and rural areas in areas of the country that haven't seen significant immigrant settlement before, for example, in the American South and Midwest (Zuñiga and Hernández-León 2005, Massey 2008, Marrow 2011). This is the important dynamic that [Lenard](#) discusses in her contribution to this forum. As she highlights, "...so far, accounts of urban citizenship ... do too little to consider the citizenship that is "left over" for those who do not, or cannot, move to cities".

How can we rethink *urban* citizenship, then—a concept that emerged, in part, from the global cities discourse—to fit into this shifting demographic landscape of rural and suburban residence? I wonder if the problem here lies mainly with the term itself as opposed to the practices I have described in the prior paragraphs. These practices do proliferate in cities, particularly large cities, but they are not exclusive to cities, with welcoming practices taking place in a variety of sub-national jurisdictions, including the state and county level.

Perhaps it is time to move away from the idea of urban citizenship, as it necessitates membership in a territorially-bounded jurisdiction. As [Bauder](#) warns us, "if we rely solely on concepts (such as territorial citizenship) and structures (such as the nation state) that dominate our political life today, then we will only reproduce and not overcome the problems these concepts and structures inherently



produce”. Perhaps it’s time then to move towards a concept that throws into question the existence of those territorial boundaries altogether. As a number of theorists have argued lately, perhaps “open borders” would be a more apt framing concept for our contemporary moment (see, for example, Jones 2019). Open borders imply not only what comes to mind when one hears the term: removing border controls at the territorial boundaries and edges of the nation-state. The concept also implies minimising the *bordering practices* that exist both beyond and within the nation-state, such as the involvement of local police in national immigration enforcement that I have discussed above. Removing local police involvement in immigration is reflective of upholding the value of local membership (urban citizenship), but it also challenges the internalisation and externalisation of bordering practices and applies wherever the border enforcement apparatus of the state operates throughout and beyond the nation-state.

Importantly, open borders may provide us with an answer to [Bauböck’s query](#): “Should urban citizenship be emancipated from nationality?” In his essay, he responds that both institutions are needed: nation-state citizenship is needed to provide national spaces of belonging and structures to manage relationships between sovereign states. Likewise, urban citizenship is needed as a space for exploring democratic innovations and novel configurations of membership. The concept of open borders embraces both of these imperatives. Importantly, open borders do not mean ‘no borders’. With open borders, we still have the nation-state, we still have communities of meaning and self-determination that are nationally-bounded. But with open borders, we’re able to pair that national political community with a robust membership regime based on residence, whether urban, rural, or suburban.

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## Mean Cities: the Dark Side of Urban Citizenship

Enrico Gargiulo\* and Lorenzo Piccoli\*\*

### Does urban citizenship make you free?

*Stadtluft macht frei*, or *city air makes you free*, was a proverb in the Middle Ages. It referred to a legal principle according to which runaway serfs were to become free after living one year in a city. Today, many scholars suggest that urban citizenship still has powerful emancipatory effects.

Alas, urban citizenship also has a dark side. Urban voters, city activists and municipal administrations do not always mean well. Direct democracy at the local level may simply reproduce the exclusion of non-citizens from political participation; social movements may appropriate local spaces to promote social housing while discriminating against migrants; and local administrators may erect bureaucratic barriers that make it more difficult for mobile and vulnerable citizens to access basic rights like healthcare. The point is that urban citizenship may sometimes provide the means to enhance, rather than reduce, populism, anti-immigrant sentiment, and exclusionary policies.

Our argument goes against the assumption of many participants in this debate, who seem to assume that the potential for inclusionary dynamics towards a residence-based local citizenship are stronger at city level than at the national level and in rural municipalities. With our sobering reflection on ‘mean cities’, we want to push for a more nuanced view of urban citizenship. We suggest that there is a gap between the progressive principles that are commonly associated with urban citizenship and the reality on the ground.

### The exclusionary potential of local direct democracy

In his opening essay, [Rainer Bauböck](#) explains that some Swiss cantons have introduced the local franchise for non-Swiss citizens or allow their municipalities to adopt such rules for themselves. This is indeed the case in the cantons of Neuchatel, Jura, Fribourg, Vaud, Geneva, as well as 20 cities in Grisons, three cities in Appenzell Auserroden, and two cities in Basel Stadt (Arrighi and Piccoli, 2018). However, in all but one of these cities, the extension of local voting rights to non-citizens was the result of a general revision of the cantonal constitution. In most places where the extension of voting rights became a matter of direct democracy local voters struck it down rather vigorously. Popular initiatives for a broader franchise survived the scrutiny of the electorate only in Geneva (2005 with 52.3%), while citizens voted against extending local electoral rights to non-citizens in the cities of Bern (2010 with 72%), Lucerne (2011 with 84%), Schaffhausen (2014 with 85%), Solothurn (1997 with 86%), and Zurich (1993 with 74.5%), to mention just a few examples. At the end of the day, urban dwellers are not necessarily more progressively-minded than rural folks. Democratic decisions on the boundaries of the local demos can simply reproduce the exclusion of non-nationals.

### Local activism, discrimination, and unequal rights

Scholars have shown that urban citizenship can be approached as a bottom-up process led by grassroots activists who aim at expanding immigrants’ rights (Coll, 2011; Ehrkamp and Leitner, 2003; Pincetl, 1994; Rocco, 1999; Siemiatycki and Isin, 1997). Many participants in this debate share such an optimistic view. Yet, we contend that urban citizenship can also be used as a tool for creeping segregation and overt discrimination. Indeed, local struggles may sometimes produce discrimination

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and unequal rights. In Italy, for example, neo-fascist movements like Casa Pound successfully nurtured the feeling of being left behind in less privileged urban neighbourhoods. Over the last few years, this movement has been successful thanks to its strategy of squatting empty houses and turning them over to homeless families – as long as these are considered ‘properly Italian’. In Germany, movements like Pegida have prospered in urban areas, especially in Dresden, and the far-right party Alternative for Germany (AfD) has found fertile ground in cities like Frankfurt. These dynamics will become more frequent as a result of protracted austerity policies and the gradual gentrification of urban spaces.

### City officials and the creation of administrative borders

The existing literature suggests that local authorities often use local residence as a tool to include non-citizens and expand their rights by developing a local membership policy (de Graauw, 2014; Gebhardt, 2016; Marrow, 2012; Varsanyi, 2006). However, residence can also be deployed as an instrument to create administrative barriers that exclude non-citizens and, sometimes, even less privileged citizens (Gargiulo, 2011).

The Italian example is instructive. According to the Italian legislation, enrolment at the local registry office is the precondition for accessing social assistance, public housing, public health, naturalisation and voting rights (Bolzoni, M., Gargiulo, E. and Manocchi, 2015). It follows that individuals without residence are virtually excluded from most aspects of public life. This would not be a problem if access to residence was straightforward, yet often it is not (Gargiulo, 2017). Some local authorities used administrative acts or provisions introducing complex requirements for enrolment at the registry office. They act illegally, since in Italy municipalities do not have the formal authority to decide the requirements for registration – they are just expected to apply national laws and regulations. Yet, in spite of the legal framework many local authorities add new requirements or shrink the existing ones. In doing so, they go far beyond the discretion they are entitled to exercise – with overtly discriminatory outcomes.

For example, order 258 issued in November 2007 by Massimo Bitonci, the mayor of Cittadella, a small town in Veneto, asked citizens of European states to prove that the source of their income was lawful. Some years later, in 2014, Bitonci, who had in the meantime become mayor of Padova, tried to prevent migrants lacking a certificate of good health issued by the local public health authorities from staying, even for a few days, in the municipal territory. In both cases, the initiatives of Bitonci, a member of the Northern League, were taken up by other mayors, some of whom belonged to other political parties. Another example of how residence can be used as a barrier is that of local administrations – mainly those of big cities like Rome and Milan – who, in violation of the law, refuse to register migrants with a regular permit to stay as local residents.

The logic behind these decisions is twofold. First, local administrators might want to reassure the local community by pledging to protect it from the ‘security threats’ of immigrants. In this case, local administrators use the exclusion from urban citizenship as a *rhetorical tool of propaganda*; their orders are widely publicised but not necessarily applied. These exclusionary strategies can spread negative representations of certain individuals and foster discriminatory categorisations.

Second, local administrators might want to decide who deserves to be a formal member of a municipal polity and enjoy rights. In this case, exclusion from residence is a tool of *polity-building* aimed at reshaping the boundaries of local communities to make the population conform to the municipal people ‘imagined’ by local authorities. While the most likely targets of these decisions are migrants, citizens who move frequently and do not have a strong attachment to one place (such as the Roma populations or homeless people) can also fall prey to these measures. Their exclusion is used by local authorities to contain social expenditures, strengthen relations with the electoral constituency, and put those who are refused enrolment in a state of legal and material disadvantage.

Mechanisms of exclusion from residence create *administrative borders* (Gargiulo, 2017). They work as non-physical barriers that aspire to ‘protect’ some spheres of community life from undesired people

and indirectly condition the possibility to access rights that exist on paper (Piccoli, 2019). Urban administrative borders resemble, to some extent, the ‘new walls’ described by Wendy Brown (2011), though operating in a non-territorial way. Instead of separating spatially, the exclusion from registration draws invisible lines that divide the population into ‘first-class’ and ‘second-class’ local citizens. Thus conceived, urban citizenship might be used to indirectly strengthen the system of civic stratification (Morris 2003). Those who are denied enrolment by local administrations are deprived of an administrative identity and are thereby reduced to the status of ‘administrative ghosts’ who are present yet invisible.

### **Multilevel checks on exclusion**

There is a dark side to urban citizenship. Sometimes, local voters, urban movements and municipal administrations act with the deliberate purpose of restricting, not expanding, the rights of undocumented immigrants, regular immigrants and even those of citizens. We suggest that there are three ways in which urban citizenship can be used to exclude, rather than include. First, direct democracy may serve the purpose of current urban citizens endorsing the exclusion of non-nationals. Second, urban activists may discriminate against immigrants. Third, local administrations may use their powers to prevent non-nationals from acquiring legal residence and thus exclude them from urban citizenship. There are great risks connected to the possibility that cities experiment vigorously with urban citizenship.

This should not result in a blanket rejection of urban citizenship. Instead, we would like to argue in favour of a closer connection of urban and national citizenship as part of legitimate multilevel architectures. Multilevel engagement can mitigate the most nefarious effects of exclusionary policies that sometimes stem from the decisions of local administrations and in other cases are the product of national governments. Progressive local administrations should influence, rather than retract from, nasty national governments; just like enlightened states should engage with, rather than ignore, mean cities.

We have shown that there are different ways of how urban citizenship can facilitate exclusion, both symbolically and materially. For that reason, scholars should pay greater attention to the effects of direct democracy at the local level, local activist movements and administrative practices regarding local residence. A theory of urban citizenship should not ignore the invisible administrative borders that local citizens, local activists and administrations can erect.

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## Local or Urban Citizenship?

Johanna Hase\*

Following [de Shalit](#)'s and [Barak](#)'s example, my contribution to this forum on urban citizenship also opens with an illustration from Berlin. In recent years, the German city-state has led a naturalisation campaign that showcased the individual life stories of new Germans on posters, brochures, teaching materials and short videos. It aims to convey their many reasons for naturalising and the (according to the campaign) rather straightforward process of doing so. The campaign slogan was: ““. In this way, the campaign invokes peoples’ “Berlin state of mind”, as [de Shalit](#) puts it, in order to encourage them to apply for German national citizenship. It seems that national citizenship is portrayed here as the vehicle to achieve full inclusion at the local Berlin level – not the other way around. Given that Berlin still has one of the lowest naturalisation rates in Germany – and Germany’s naturalisation rate of 1.3 % is far below the EU average of 2.1 %<sup>1</sup> – the campaign does not seem to have been successful in mobilising applicants. But if local citizenship were emancipated from nationality, as [Bauböck](#) proposes, such campaigns would be obsolete. One would become a citizen of Berlin based on residence (or *ius domicilii*), the detour via nationality to achieve local inclusion could be avoided, and the city-state could invest the money for such campaigns into other pressing issues, such as affordable housing. The debate on emancipating urban citizenship from nationality is thus timely and important.

My contribution will highlight two aspects that have not been clarified in the discussion so far. First, I will argue that the framing in terms of *urban* rather than *local* citizenship is not helpful, and possibly even counter-productive, for the purpose of constructing the new citizenship narrative that [Bauböck](#) calls for. In fact, many arguments brought forward to support the emancipation of urban citizenship from nationality could be analogously made for non-urban polities as well. Second, I will question the relation between emancipating urban citizenship from nationality, on the one hand, and the growing competences of local polities, on the other hand, arguing that the emancipation of local citizenship does not necessarily go hand in hand with more competences and political clout of cities and mayors. While the latter is possible and arguably also desirable, the legal recognition of local belonging itself would already be a step forward.

### Rephrasing the question

[Bauböck](#) extends the scope of his argument to all local citizens towards the end of his kick-off contribution, stating that what he says about urban citizenship “applies just as much to rural municipalities and small towns as to large cities“. Nevertheless, [Lenard](#) stresses in her contribution that there is done “too little to consider the citizenship that is ‘left over’ for those who do not, or cannot, move to cities“. Indeed, why is the question kicking off this debate phrased in terms of *urban* rather than *local* citizenship, to begin with? Are the arguments that support or oppose [Bauböck](#)'s proposal really intrinsically restricted to urban spaces (however, these are delimited, see [Magnusson](#)'s contribution)?

For most arguments, this does not seem to be the case. Instead, many apply to suburban or rural communities as well. For instance, analogous to what [Bauböck](#) asks of cities, rural polities also have great potential (and responsibility) when it comes to tackling global questions like climate change, particularly where agriculture is the driver of the local rural economy. The [European Innovation Partnership](#), for instance, funds such innovations for sustainable farming. Rural polities are also challenged to experiment with democratic innovations to counter the legitimacy crisis of the state – maybe even more so, considering the [rural-urban divides](#) in the vote for populist parties in the recent

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<sup>1</sup> See [https://ec.europa.eu/eurostat/statistics-explained/index.php/Migrant\\_integration\\_statistics\\_-\\_active\\_citizenship](https://ec.europa.eu/eurostat/statistics-explained/index.php/Migrant_integration_statistics_-_active_citizenship) and the most recent report by the German Commissioner for Integration from December 2019, p. 324.

European elections. An example is the German-speaking community in Belgium, which [recently started such an experiment](#) with an institutionalised citizens' council consisting of local citizens of any nationality who are drawn by lottery into a body that advises the local parliament. Furthermore, and similar to what [de Shalit](#) argues for cities, rural citizens tend to be more positive about integration and diversity in their local areas - when they 'think like a village' - than they are on a national level, when they 'think like a state'.<sup>2</sup> [Bauder's](#) argument on the tangibility of the urban community, which he sees as less dependent on imagination than the national community, applies maybe even more strongly to small local polities, as they lack the anonymity of global cities with millions of inhabitants (which are, to a certain degree, also imagined communities). What [Barak](#) argues for urban citizenship – that it is contingent on national citizenship and a state ensuring citizens' rights – applies to rural polities as well. Lastly, [van Zeven](#) highlights the need to clarify the rights and duties that would come with the legal status of any local citizen, whether urban, suburban or rural.

This is not to say that there are no meaningful differences between rural and urban areas. As [Lenard](#) rightly points out, they have some “radically distinct needs and priorities” that are related to the different challenges they face in issues such as infrastructure or labour markets. The scholarly discussion on citizenship, however, has focussed primarily on urban contexts. There are understandable reasons for this: The historical roots of citizenship lie in cities, it was also urban areas that have seen the steepest increases in diversity and have developed pragmatic and sanctuary approaches to it, such as the measures [Varsanyi](#) describes. Also, it has been cities that have in recent years formed networks other across national borders, such as [Eurocities](#), to influence politics. Cities are arguably the engines of many of the democratic innovations that [Bauböck](#) calls for. But in order to construct a new citizenship narrative that can tell “urban and rural, young and old, mobile and sedentary populations what they have in common”, framing the debate in terms of the emancipation of *urban* citizenship from nationality is the wrong starting point. It does not seem to be theoretically necessary, and may in fact be counter-productive and divisive in the ways that [Lenard](#) makes clear in her contribution. Therefore, re-focussing the debate on *local* rather than on *urban* citizenship should be the first step towards constructing this more convincing citizenship narrative.

### **Local citizenship = local competences?**

There is a second aspect of the debate that needs to be clarified. [Van Zeven's](#) contribution already highlights that, if local citizenship were emancipated from national citizenship, the rights and duties attached to it would have to be more clearly defined. But beyond this, some prior contributions also seem to assume that the emancipation of local citizenship from national citizenship would automatically lead to greater political influence and power of mayors. The establishment of local citizenship seems to be a factor enabling them to develop innovative approaches towards global challenges, such as climate change, where national states and the international community have been struggling to deliver effective policies for years.

More political influence of local polities on global questions might be indeed desirable. However, it is not a necessary consequence of establishing a legal status of local citizenship. In fact, it is a question to begin with whether local polities should be free to decide whether they want to grant local citizenship or not – and if not, who would decide for them. In order to maintain equality between locals across localities, all local polities would arguably have to be obliged by national or supranational law to grant local citizenship to all residents. Otherwise, as [Gargiulo and Piccoli](#) show, some local polities would surely deny local citizenship to non-(national)-citizen residents. This means that the additional competences of local polities might be rather small, and consist in determining *when* - after how many months of residence – not *if* a newcomer would become a local citizen. But beyond this, local citizenship does not necessarily imply further competences for local polities. How this would directly lead to a

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<sup>2</sup> See the Joint Research Centre's report, Migration in EU Rural Areas, based on the Eurobarometer on Integration, p. 50f.

greater political clout of local polities, particularly on the international level, and how it would enable them to tackle global challenges such as climate change more effectively, is not clear.

Does this mean that local citizenship would be without consequence? Not at all. Even in those cases where the local citizenry is sedentary and homogeneous, an emancipated local citizenship would be an essential recognition of the importance of the political community that citizens most directly experience in their every-day life and that they most directly shape. This, in itself, would be a step forward. The benefits are even more evident in the case of international migrants (and have been pointed out, among others, in [Bauder's](#) and [Varsanyi's](#) contributions). For them, it would no longer be necessary to acquire national citizenship if they want to be recognised as equal members of the local polity in which they live. To sum up: Notwithstanding the open questions outlined above, I very much agree that the legal recognition of Berlin as “Your City”, or better “Your Local Community”, should no longer require applying for “Your Passport” and adopting Germany as “Your Country”.

## The ‘Sunk Costs’ of Local Citizenship

Maarten Prak\*

### Urban Citizenship before the French Revolution

The urban citizenship discussed in this Forum is not at all new in the Western world; it has a history of at least a thousand years, and when we include Ancient Athens, even much more. This history is relevant because it suggests the scope, as well as the limitations of such alternatives. One such limitation also applies to the modern world: local citizenship was primarily an urban institution (compare Lenard’s and Hase’s contributions). Another was the potential for exclusionary policies, which affected migrants in general, religious minorities, and Jews in particular.

However, the institutions and practices of local citizenship in medieval and early modern Europe also gave broad groups in society an active say in how their societies operated. They therefore offer an ideal environment to explore various dimensions of urban citizenship, which I have recently surveyed in *Citizens without Nations* (Prak, 2018). In this book, I argue that local citizenship was disowned by the French revolutionaries of the late 18<sup>th</sup> century for quite obvious reasons: they wanted to discredit the regime of their predecessors and build a strong central state. For that purpose, what they branded as ‘feudal’ institutions had to make way (see also Rosanvallon 2004). However, when we look at both the formal and the practical performance of urban citizenship, as it emerges from countless local histories of medieval and early modern European towns and cities, its record does not look so bleak.

In the order of fifty per cent of pre-modern households had formal citizens status, but even those who were mere inhabitants had access to a range of rights and services. In many European towns, citizens had either the right to vote in local elections or they were consulted, be it in open meetings (very common in Spain: Herzog, 2003) or through their representatives in so-called broad councils. Citizens also regularly used petitions and oral means to communicate their wishes to the authorities. Next to these political channels, guilds and civic militias proved to be vehicles for citizen agency. Local welfare systems were sustained in most places with large voluntary contributions.

Much of this local network of civic institutions was demolished on the continent in the wake of the French Revolution and Napoleon’s occupation of Europe. For the first century after 1789, however, the national citizenship model that replaced this urban citizenship was much less ‘democratic’ than its predecessor. Local civic institutions had been abolished, very little was created in their places; the ‘democratic’ elections of the 19<sup>th</sup> century were restricted to a small class of wealthy men. National citizenship thus cannot be the natural end-point of the historical development of citizenship in Europe, but is a stage in that process. The book ends with the recommendation to seriously consider a revival of urban citizenship in Europe, within the sort of three-tiered model proposed by Rainer Bauböck – not as a substitute for national (or European) citizenship, but as a complementary element, to tie in the local level of governance.

### The established and the newcomers

I welcome the contributions of this Forum that look in a similar direction. However, we may be too easy on ourselves if we keep seeing this as primarily a question of ‘rights’. It seems to me that this overlooks a dimension that I did not discuss in these terms in my book, but that strikes me as fundamental for many opponents of migration and expanding the rights of migrants, which is an important aspect of local citizenship. Ultimately, I think, this is not even only an issue for migration but has implications for the entire conception of (local) citizenship. For want of a better term, I call it the ‘sunk costs of citizenship’

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(see also Isin and Lefebvre, 2005). I would claim this is especially relevant for local citizenship where such costs are most directly visible.

'Sunk costs' are defined by economists as the expenses that have to be made before any production starts and that cannot be recovered directly by a future strategy. These include the buildings and equipment, but also the technical knowledge that has been accumulated beforehand. Although technically sunk costs are a write-off, in practice people tend to be strongly attached to these investments and take decisions guided by the hope to recover as much as possible of the expenditure (see Kahneman 2011, ch. 27, about the 'endowment effect'). In the case of social funds, this is very strongly the case because stakeholders have claims on a limited amount of money. Expanding the number of claimants is likely to reduce each claimant's share in the proceeds. Let me give an historical example.

In 1650 the city of Amsterdam increased its citizenship dues from 40 to 50 guilders. Until 1624 these dues had been set at a mere eight guilders (Prak, 1995). The new level, therefore, represented a significant increase, but also a significant absolute amount of money, if we take into account that an average daily wage would have been in the order of one guilder at the time. Surely, Amsterdam wanted to stem the flow of migrants into what had become the world's economic capital. This is how the move was long interpreted, but that interpretation is undercut by the fact that other policies suggest that Amsterdam was in fact keen to welcome the immigrants it needed to get all the work done for its booming economy (Kuijpers, 2005: ch. 3 and Conclusion). The town governors used the extra revenue to support several welfare institutions, including the Civic Orphanage (*Burgerweeshuis*). This orphanage received children whose deceased parents had possessed formal citizenship status and had passed this status on to their children. The children who came to the Civic Orphanage were fed very well and received an education and skills training that prepared them for a middle-class future. This was in marked contrast with the other Amsterdam orphanage, where the food was poor and monotonous, and the education minimal. The children in this so-called Almoners' Orphanage (*Aalmoezeniersweeshuis*) were sent out to work or deported to the Dutch colonies in the East-Indies at an early age. Their future was one of proletarian jobs and poverty (McCants, 1997).

The Amsterdam Civic Orphanage, a welfare institution directly connected with local citizenship, was funded from several sources: citizenship dues, voluntary contributions from Amsterdam citizens, even wages earned by the orphans. However, the single most important source was the income generated by the capital assets owned by the institution, such as government bonds and – especially – real estate. These assets were the fruit of centuries of slow accumulation from citizens' gifts and legacies, as well as careful management. Their total value in 1668 was around half a million guilders (McCants, 1997: ch. 7). In today's terms, multiply by 100, therefore this amounts to 50 million euros. Such huge endowments were very common. The public welfare scheme in the city of 's-Hertogenbosch, or Bois-le-Duc, in the southern part of the Dutch Republic, was entirely funded by an endowment consisting mostly of farms located in the city's hinterland (Prak, 1994). In other places, welfare schemes were heavily dependent on voluntary contributions from the local population (Prak, 2018: ch. 4).

If we take the idea of 'social capital' seriously, we might add still another 'citizenship investment fund' in all the organisations that are usually included under the term 'civil society' (Putnam, 1993: ch. 6). In medieval and early modern Europe, every town or city had dozens and sometimes hundreds of such organisations, all essentially operating with volunteer work. Members of the boards of craft guilds, hospitals, neighbourhoods, and even town councils, might be rewarded with an annual meal, or free drinks during their meetings, but otherwise remained unpaid. No wonder we hear that people complained when they were called up for another such job. These complaints serve as a reminder that social institutions do not run by themselves; they require investments of time and often also money. Some clubs therefore demand, next to annual dues, an up-front payment from new members, who thus buy into the accumulated social and physical capital of the club. One might consider the 50 guilder citizenship dues in 17<sup>th</sup>-century Amsterdam as precisely serving this purpose.

## Investments in local civic society

Local communities can be considered as clubs with a wealth of social and physical capital. The ‘established’ are justified to see their own membership as a long-term commitment. But what about migrants and other newcomers? A debate has emerged in recent years about ‘welfare chauvinism’ (e.g. Mewes and Mau 2012). On the one hand, research on varying attitudes towards migrants among settled citizens demonstrates that levels of unemployment do not shape such attitudes. In other words, this is not a competition about scarce resources as such. On the other hand, opinions towards immigrants, i.e. new member of the ‘club’, are shaped by the type of distribution – liberal and conservative welfare regimes based on individual needs produce stronger sentiments against newcomers than a social-democratic, i.e. solidarity-based, welfare regime (Waal, Koster and Oorschot, 2013: 175-76). This might be interpreted as a sign that in the latter system established citizens have less reason for anxiety that generosity towards migrants might decrease their own access to welfare.

My proposal for an economic approach might be considered as a sophisticated (or crude, depending on one’s views) defence of exclusionary policies. My aim, however, is to make us think about these issues in a novel way – a way that is open to policy interventions. This is especially important when we advocate new forms of citizenship. When citizenship remains framed as ‘identity’, sometimes through the intermediate stage of ‘community’, this tends to leave us with very few policy opportunities. Whether we like it or not, identity and community are usually considered to be private cultural values and therefore given. As scholars, we can explain them as ‘constructed’, but that argument fails to persuade the majority of people outside the academic world. Framing citizenship as a question of ‘rights’ suggests that this is a moral issue. It is, but more is at stake. Reframing the problem in economic terms, as I propose here, could open up the issue of local citizenship to a conversation about ownership and access, including the compensation that the established feel they are entitled to from the new members of their community.

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## What the Bremen Town Musicians Tell Us about Citizenship's Potential

Luicy Pedroza\*

A proposal for multilevel citizenship that can flourish inside and beyond the citizenship framed by the nation-state is compelling, in part because it flourishes already inside federal states, confederations, and in different guises within some regional projects, especially the European Union. I follow Rainer Bauböck in [the proposal that enfranchising non-citizen residents in the communities where they live complements citizenship-as-nationality](#). Contrary to [what Warren Magnusson suggests](#), I find that non-citizen local enfranchisement is highly important. Magnusson is, however, right that this forum is about more than non-citizen enfranchisement: it is about urban citizenship as a new narrative to address global problems. So, before I say more about enfranchisement, I want to sharpen some of the blurry contours of the urban citizenship debate in this forum.

### A tale of two cities

Bauböck's charming phrase "Once upon a time, all citizenship was urban citizenship" reminded me of the *Bremer Stadtmusikanten* fairy tale about four domestic animals (a donkey, a dog, a cat and a rooster) who, after many years of service and company, are neglected or destined to be killed by their masters and so each of them decides to head to the free city of Bremen searching for a new beginning. Just like the *Bremer Stadtmusikanten* tale, several contributions to this forum are linked together by the idea that cities hold the promise of freedom and opportunities.

I, too, was a migrant in Bremen, and that city became my home in Germany. Later, becoming a German citizen meant something for me because it was the city-state of Bremen that naturalised me. My little local pride surely demonstrates [Avner de Sahlit's remark](#) that cities imply "a certain political and social consciousness". Yet, I was born in a city of 21 million inhabitants that we call, not unlovingly, a "monster". That is a realistic depiction: almost any corner of Mexico City has an overload of information too complex to decode unless it is *your* corner. Generally, cities like this are indomitable: some parts are fine, but others remain stuck in a war of all against all, poor and forgotten. What is worse, such cities are parasites. Beyond some participant government experiments and urban gardening here and there, they consume far more resources (e.g., energy and water) than they give back to the world.

The contrast between my two home cities helps me see that not all cities are or can aspire to be republics, just as not all people living in cities are lucky or wealthy enough to have moved there. The debate about urban citizenship must overcome the false binary of the well-off in the cities vs. the left-behind elsewhere because some cities are so big that they have space for both.

### Global potential or urban form?

In the arguments and counterarguments in this forum, there is some arbitrariness about how to define cities and blurriness with regard to their form, on the one hand, and function or potential, on the other. The mere form of the city is of little use for developing a new narrative of citizenship, in my view. The function attributed to cities is that they concentrate resources and are therefore more prone to offer closer and more intense, frequent personal contact than other areas. Yet there is nothing inherent to cities that makes them natural havens for cosmopolitanism, just as the rural world is not necessarily less progressive and open, as [Patti Lenard has argued](#). The proposal by Bauböck is mostly, I believe, about potential. Cities occupy more of the globalised imaginaries of opportunity and thus are the destinations

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of not only spatial but also social mobility (Saunders 2011).<sup>1</sup> Thanks to their critical mass of risk-takers (especially the conglomeration of internal and international migrants), cities might be more open to experimentation than rural areas. Yet, Bauböck's argument also gets blurry when he admits that urban citizenship cannot be limited to cities only. It is then not clear why urban is the adjective that should qualify the new integrative narrative about citizenship. If it is supposed to apply to rural municipalities as well as to small towns, then it is perhaps better to speak about *local* citizenship, as suggested by [Johanna Hase and others](#).

I would suggest that we focus in this debate on local citizenship for reasons other than the form of a city: what we are searching is a suitable unit for a contact, a community, and an effective collective organisation of energies to address concrete problems. The eulogies in this forum to the innovation by local polities illustrate a) cooperation to address or contest national or global issues, b) local communities' disobedience, which is in their power when they have some autonomy and can decide at least on policy regulation and implementation, c) democratic local-level practices, such as participatory budgeting. Clearly, these are neither exclusive to cities nor necessarily their attribute: they *can* happen in *some* democratic and governable cities.

For some current political challenges, Bauböck's hope seems appropriate; for instance, the recent alliance of capital city mayors of Visegrad countries shines a light that had almost been extinguished in Hungary and Poland.<sup>2</sup> However, for challenges such as climate change, even the (much cited in this forum) cities of the affluent North are too small to effect a change. We need a higher-level concerted action. Some days ago, a news piece reported that the amount of microplastic particles in the air of London is 20 times higher than in the Chinese city of Dongguan, which has been nicknamed the "world's factory".<sup>3</sup> The city-state of Singapore can be all the shades of green it wants; it still chokes under toxic clouds of smoke when forests burn in Sumatra.

### **The case for enfranchising all local residents**

Now is a good time to come back to why the non-citizen voting rights struggle illustrates the potential that we see in local citizenship.<sup>4</sup> Although enacting local non-citizen voting might seem a rather small thing to do, it is important because of what it represents for citizenship (a formal dissociation of local citizenship from nationality), and because the mere struggle for it changes the way citizenship is exercised and understood (Pedroza 2019). It is important for local polities because it allows them to reinvigorate their democratic commitments, upgrading residence over nationality and allowing for participation on terms that awaken some of the best in liberal and republican traditions. For citizens and non-citizens alike, fighting for the enfranchisement of the latter is, in fact, so important that many are ready to invest years of work in long, painstaking reform processes.

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<sup>1</sup> Doug Saunders, *Arrival City: How the Largest Migration in History Is Reshaping Our World*, New York, NY: Pantheon, 2011.

<sup>2</sup> Deutsche Welle, "Eastern European Mayors Forge Anti-Populism Pact 16.12.2019", 29 December 2019, <https://www.dw.com/en/eastern-european-mayors-forge-anti-populism-pact/a-51700933>.

<sup>3</sup> "Revealed: Microplastic Pollution is Raining Down on City Dwellers", *The Guardian*, 27 December 2019.

<sup>4</sup> As Magnusson suggests when he writes "people might be willing to cooperate in dealing with mundane issues like water supply and waste disposal even when they are in conflict about other things", local polities have the power to emphasise what is of immediate common concern among residents. Yet, I disagree that local issues are minimal. To assume that they are, reveals methodological nationalism and a biased thinking that anything other than national politics is boring. I fear that waste disposal is often used as an example to symbolically diminish the importance of local citizenship, when there is a range of local issues that are vastly more controversial for people, such as their right to send their children to certain schools, access to subsidies, or housing.

The brave attempt of Hamburg to enfranchise its non-national residents was not the only one in Germany and not the first one either. Bremen's effort came earlier<sup>5</sup> and has also been the most consistent one. Despite the lack of success in enacting enfranchisement (frustrated by higher levels every time), some effects for the politics of migrant integration in Bremen, and beyond, are visible. Alternatives to electoral participation have been sought, tried, and found. The city councils of the district of Bremerhaven gave unparalleled powers to immigrant consultative bodies. Efforts trespassed the borders of the city and served to empower similar initiatives inside and beyond Germany. For years, associations like *Freiburger Wahlkreis 100%* have coordinated across the country to organise symbolic elections and have been training similar groups in Italy, France and in other continents to help them start their own upward struggles.

Such trans-local efforts cross borders and enact an integrative form of citizenship through the fight for the right to define identity and membership. In this sense, even parts of cities (electoral districts) push the boundaries of what seems to be fixed. Except for some federal states, most local efforts across states have to amass patience and political clout for years before they can create the political momentum and clout to hit the hard wall of the nation state's legal powers, and be able to formally redefine local citizenship.

### **Not only local citizenship should be emancipated from nationality**

I do not see in Bauböck's proposal about restoring the local level of its citizen powers a panacea for global problems, but rather the search for a space and unit of social organisation that can define its ways and connect to others. And yet, there seems to be a tension in it because it proposes to keep that space nested in the nation-state, to allow for a larger social order and continuity. The tension comes from setting realistic limits to a narrative that we choose to use, time and again, because of its emancipatory power.

The hardest questions I have had to grapple with after studying non-citizen voting rights have to do with the injustice that some laudable enfranchisement reforms cover only the "legal residents". When we fantasise about virtuous cities in affluent places, we tend to forget that sovereignty and borders allow us to exclude the monstrous rest comfortably, we also bracket that many who are present already remain excluded by virtue of immigration controls. Today, immigration controls would likely impede the *Bremer Stadtmusikanten* to enter the city. [Harald Bauder's contribution](#) reveals the problem: "[T]he idea that a sovereign state can arbitrarily exclude people from its national community, even if they are already living in the country, has created the very problem that urban citizenship seeks to solve through including non-national residents".<sup>6</sup> I share his sceptic belief that recycling the same old concepts makes it unlikely that something new will pop up.

Still, we hold on to citizenship for a reason and I do believe in the alchemy of its language, which has transformed it into powerful narratives many times from antiquity until today. To me, some of the ideals contained in it seem a good Load Star to guide us in transcending the boundaries of nationality that trap citizenship nowadays. Since this forum is hosted by GLOBALCIT, I want to widen the challenge to the global/transnational: Why do we speak about local/urban citizenship as if cities and any formal citizenship offered the same opportunities? The most committed, experimental cities that we think of as models of urban/local citizenship rely on parasitic arrangements: a few enjoy privileges that are denied to natives on the margins, to the foreigners, armies of commuters, many migrants and to most people outside the borders. Political and economic interests backed by nation-state laws (by nationality

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<sup>5</sup> Berlin, bluffing as ever, came later.

<sup>6</sup> Monica Varsanyi's remarks on open borders follow a similar line.

and passports) divide people into categories with nested, but also widely different forms of belonging.<sup>7</sup> We are a far cry from realising the ideal of civic equality if we overlook those larger global relations.

What we are after in a new narrative of local citizenship is the *quality* of some 'urban struggles', such as *Seebrücke* in Berlin or the sanctuary cities in the United States. Our task is to translate their integrative language, energy, and perhaps even their format so that they can find their way across borders and upwards, to provide the base for higher level and broader governance structures.

### **Searching for translocal community**

To conclude: there is no reason why we should be partial to cities as suitable places for new emancipatory citizenship practices (as [Enrico Gargiulo and Lorenzo Piccoli also show](#)), other than to take it as a fact that these are the units where most of humanity's resources are concentrated. Cities that are similar in form are not necessarily equivalent in function or potential. I do think that the local level, which is different from the city as a form, presents the opportunity to create a community below, before and beyond nationality. In any case, however, local citizenship cannot be the answer to any serious problem of our time if it does not instigate translocal networking and frame a narrative that is ultimately emancipatory of nationality as our main frame for citizenship. It is that potential, not necessarily the form of the city, which we are looking for.

You may know how the Grimm brothers' tale of the *Bremer Stadtmusikanten* ends, but let me remind you of two things: the animals found their strength in creating a community, and did so well before they could reach the city.

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<sup>7</sup> This might be what Loren Landau (2019) means with "islands of membership."

## The Danger Zone: Charter Cities, Citizenship, and Social Justice

Margaret Kohn\*

Urbanisation has radically transformed the way that people live, but a corresponding legal and political shift has not taken place. In North America and most of Europe, the power of cities is derived from the sovereignty of the state. Many cities do not have access to the revenue needed to provide for the social welfare and infrastructure requirements of residents. In Toronto, a city of 2.6 million people with only two subway lines, the mayor proposed to finance the expansion of public transit by levying a modest toll on two city roads, but the Province vetoed the idea. Two years later, Provincial Premier Doug Ford decided to punish political opponents by restructuring the city government during the middle of an election campaign. Torontonians were outraged, but there was nothing they could do. In response, proponents of local democracy have called for a constitutional amendment to create ‘Charter Cities’ with more power.

The debate over Charter Cities provides a lens for thinking about cities and citizenship. Rainer Bauböck asks whether urbanisation requires a restructuring of political institutions, transforming cities into the dominant arenas of politics, democracy and citizenship. He admits some ambivalence, and I share this ambivalence. Like Gargiulo and Piccoli, I focus on distinctive concerns about the difficulty of realising social justice at the local level. In my response, I draw on the record of home rule in the United States, particularly California, where Charter Cities are protected in the state constitution.

Cities have long exercised power over land use and zoning, and they have frequently used this power to exclude needy outsiders (Davis and Morrow 2006). They do this by passing local ordinances that prevent the construction of public and low-income housing. Home-voters fear that the presence of low-income residents will diminish their quality of life and increase the crime rate (Fischel 2009). Home-voters are motivated by their economic interest in low tax rates, and they use the power of local government to exclude poorer people with costly needs. Local autonomy (‘home-rule’) can create an inverted version of the tragedy of the commons. Instead of over-exploitation of the commons, zoning laws ensure that land is under-utilised, keeping home prices high and poor residents out. We see this most vividly in Silicon Valley, where some towns have added ten new jobs for every new housing unit built in the last twenty years. The result is homelessness, brutal commutes, and a crisis of affordability. Other social problems are exacerbated by a mismatch between the needs of people segregated in low-income communities and the untapped resources of wealthy ones.

When cities embrace the logic of ‘not-in-my-backyard’ at the municipal level, decentralisation makes it more difficult to address structural problems such as affordable housing. Of course, not all cities use their authority to promote the economic interests of homeowners and business interests. In European cities with flourishing public housing and effective regulation of the rental market, the home-voter is less significant in local politics. Indeed, from Red Vienna in the 1920s to Berlin’s decision to freeze rents last year, cities have been at the vanguard of movements to decommodify housing.

When activists in places like Toronto propose a constitutional amendment to enable the creation of Charter Cities, the goal is to become more like Vienna and Berlin. Right now, Toronto is not able to pass rent control legislation, even though it is the epicentre of the housing crisis in Canada. The constitutional amendment is largely backed by progressive forces that think the city needs the power to levy new progressive taxes in order to invest in public infrastructure, including public housing. A Charter would recognise a city’s authority over a list of traditional municipal responsibilities, but it would also grant the power to determine the city’s governance structures. Furthermore, it would give cities control over the revenues and resources they need to meet their responsibilities.

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## **Sovereigntist, communitarian and liberal ideals**

Is this a good idea? Charter Cities exist around the world and take many different forms. The Charter of the City of London dates back to 1075 when William the Conqueror granted residents of London specific rights and powers. Today, the City of London is viewed as an anomaly because it is governed by a corporate charter that enfranchises business interests as well as residents of the central city (see Bauböck). The debate about London, however, is not simply a historical curiosity. Indeed, it helps us see the tension between two political ideals, the sovereigntist and the communitarian.

In 1682 Charles II challenged the autonomy granted to the city of London through its Charter (Frug 2001). The King insisted that centralised control was necessary to prevent social conflict. The logic of the argument is familiar from Thomas Hobbes. Cities like London and trading companies like the East India Company should not become “commonwealths by themselves” that were independent of, and potentially in defiance of, the Crown (Frug 2001). The political order imagined by Charles II was a sovereigntist one composed of individuals and the state.

The opposing view emphasised the primacy of natural rights and the need for a balance of forces to prevent centralised authority from becoming tyrannical. The opposition was communitarian because it encompassed pre-existing, self-governing societies such as cities, guilds and universities, but it also included trading companies organised to promote private gain. Under the influence of liberal theory, the distinction between quasi-public and private corporations hardened, and the former were incorporated into the state while the latter gained greater autonomy. In the United States, this shift happened in a partial and piecemeal fashion, but, as Maarten Prak demonstrates, the French Revolution and its aftermath not only destroyed feudal privileges, it also replaced communitarian forms of local self-government with national citizenship.

## **City-zenship and social justice**

The Charter City movement in Toronto, like the sanctuary city movement in the United States, is part of a war of position against right-wing populist power. Cities tend to be more progressive and social democratic than the surrounding suburbs and countryside. When the provincial or national government governs from the right, then it makes sense strategically for the left to claim greater powers at the local level. Decentralisation can work the way that the opponents of Charles II hoped it would, by counterbalancing the power of the central state.

At the same time, it is important to remember the dark side of local autonomy, as Gargiulo and Piccoli do. In the United States, especially in places in the south such as Birmingham and Little Rock, local control was a way of implementing segregation and white supremacy, by undermining constitutional principles of equal protection. More frequently, however, structural injustice is produced by local codes and choices that are not directly intended to exclude or subordinate. California, which has 121 Charter Cities, provides a striking illustration of these unintended consequences. The anti-growth movement was most successful in progressive cities such as Santa Cruz and San Francisco. Environmentalists allied with anti-corporate activists and groups that wanted to protect the ‘use-value’ of their neighbourhoods. This electoral coalition successfully replaced the ruling downtown business regime and secured strict limitations on real estate development (Gendron 2018).

These zoning laws, supported by economic interests, norms, and the existing built environment, proved very resistant to change, even as it became apparent that the NIMBY ethos of local politics made it difficult to deal with housing and regional transit. The state legislature recently passed a series of laws that prevent localities from outlawing accessory dwelling units and fine communities that fail to approve housing construction that is consistent with its existing land-use plan. These measures were necessary because of a toxic interaction between market mechanisms and local control. Local regulations transformed land into a monopoly and the market allocated access to this scarce good based on the

ability to pay. This benefitted owners, displaced low-income renters and excluded outsiders who desired access to jobs and amenities.

There is nothing necessarily exclusionary or elitist about the devolution of power to city governments. I support the Charter City movement and also the move towards enfranchising residents who do not have national citizenship. I agree with Avner de-Shalit and Warren Magnusson that the interdependence of daily life in a particular place is a practice that is itself a kind of citizenship, one that justifies political rights. At the same time, however, I also think we need to be very wary about conflating local power with social justice.

If the city is to become a site of social citizenship and social justice, we must defend local normative orders that are inclusive and solidaristic. The city should be imagined as both a particular site of shared value and also a nodal point in broader, cosmopolitan networks of exchange and obligation. The right to the city should not be construed as something akin to shareholder value in corporate law. This means that city-zens should not use local institutions exclusively to promote the interests of current residents, and local decisions should be reviewed by constitutional courts or supranational human rights courts for consistency with principles of rights and equity.

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## Climate Citizenship and the Rural/Urban Divide

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Proposals to extend citizenship to non-citizen residents are often defended at the local level and on the basis of democratic inclusion in a local community. Sometimes, the aim of these proposals, as the title of this Forum suggests, is to challenge the sovereign authority of states which otherwise have a monopoly to decide who may participate as a member in the democratic constituency. Often, proposals to extend citizenship target restrictions on non-citizen residents in cities to participate in local politics, access rights to mobility and settlement, and get benefits to health and education. In this way, proposals for democratic inclusion of non-citizens have grown alongside arguments for more urban political power ([see Magnusson](#)).

[Rainer Bauböck](#) makes an especially compelling case for a reimaged citizenship within a multileveled governance structure that includes the city and urban citizenship. Urban citizenship is important, Bauböck argues because, at the local level, democracy can be maximally inclusive and open to non-citizens residents. As he puts it, citizenship based on residence rather than membership in the nation-state is “uniquely appropriate for cities” and a good way to enhance democracy.

The virtues of expanding citizenship at the local level are many. Such an expansion promises to amplify the voices of those who live in large and ever-growing urban communities and who, together, share the unique experiences of urban life from which they develop a distinctive ‘urban perspective’ on the world (see [Barak](#)). Where else but in the city can one find the mix of high and street-level culture, the intermingling of vast ethnic and religious diversity, everyday access to the newest technology, the best educational institutions, the most extraordinary cultural events and human achievements in art, architecture, and engineering? Advocates for urban citizenship, such as [Avner de Shalit](#) and [Warren Magnusson](#), recognise in the city’s synergy a powerful and important kind of shared membership that may be underrepresented in national politics. They argue that this city-zenship requires that urban residents have better opportunities for effective democratic participation and better platforms to voice their perspectives nationally. Insofar as state sovereignty is hampering cooperative solutions to global problems such as climate change, urban democracy could provide a helpful corrective.

Bauböck is certainly correct to point to the failures of the state. But, along with several other contributors (see, e.g., [Hase](#) and [Lenard](#)), I am deeply sceptical that enhancing urban democracy will help meet the global challenges we confront today. At least in the short term, enhancing the power of cities could well worsen our current circumstances. This is because, today, climate change has deepened and entrenched a class-like division between urban and rural dwellers, and led to political struggles between these groups, which have become amongst the most significant obstacles to reaching cooperative and integrative solutions to climate change.

### The urban-rural struggle and climate change

The problem of urban citizenship is often framed in relation to two observations: 1) that municipalities do not have enough political or constitutional authority in many democracies despite their demographic heft (see [Kohn](#)) and, 2) that rural populations are often democratically overrepresented in national legislatures. Add to this, attitudinal or value differences between the urban and the rural: as Bauböck characterises it, between those who favour “more open or more closed states and societies; between those embracing cultural and gender diversity and those asserting conservative national and religious values; between those who worry about the climate crisis and those who worry about their traditional ways of life”. The subtext in many arguments for enhancing local democracy and urban power is that

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municipalities need greater powers in order to shield themselves from the democratic clout of traditional, conservative and, now, populist rural voters (see also [Lenard](#)).

In no small measure, these value differences, between rural and urban people, can be traced today to the impact of climate change on the typical livelihoods and lifestyles of each group. Throughout North America and Europe, rural communities are often tied to environmentally unsustainable economies (e.g., forestry, conventional farming, mining, oil and gas extraction, fishing and related industries) whereas their urban co-citizens enjoy access to lifestyles of eco-sustainability. It is important not to exaggerate this difference nor to overlook the exceptions to it (see [Hase](#); [Magnusson](#)). Nonetheless, one reason rural and urban dwellers do not see eye to eye at the ballot box is because their fates differ significantly in relation to current and impending climate change.

Life in urban centres increasingly revolves around programmes to enhance (or appear to enhance) sustainable living such as public transportation, recycling, organic foods, green buildings, and electric cars. Oftentimes, municipal governments are preoccupied with projects to make the urban lifestyle ecologically attractive. Consider, for instance, a recent comment by a municipal councilor in Vancouver about the city's budget allocation of 6.8 million Canadian Dollars to climate change initiatives: “[w]e’re in a new era. The era of doing just streets, sewers, roads, fire, policy – that is over” (Global Mail, BC edition, Dec19, 2019). The urban lifestyle has modelled itself on eco-entrepreneurship and the values of a class of eco-elites for whom esteem is rooted in leading a low impact, environmentally sustainable way of life.

By contrast, rural dwellers are, overall, climate ‘losers’, and losers in this new culture of eco-esteem. Whether they deny climate change or, more often, see it as inevitable and unstoppable, rural dwellers, and certainly rural towns and villages are tied to ways of life that are ecologically unsustainable. And many of them know it. Today, rural peoples are witness to their political, economic and cultural marginalisation (see also [Lenard](#)). They recognise the denigration of their own values in relation to the ascendance of an urban eco-elite. They see their livelihoods dwindle as the wealth of a new class of ‘climate entrepreneurs’ accumulates – a wealth built on turning their farm land into wind and solar farms, replacing their markets for meat with ‘beyond meat’ products, seeking the obsolescence of their jobs with cars and buses that run on electricity rather than oil and gas, and which they cannot repair without a computer console (see Carlson 2019). Whereas urban folk embrace these innovations and the entrepreneurs that develop them, rural folk are alienated and economically disadvantaged by them. Unsurprisingly, many are resentful about being left behind. Backlash at the polls is one outcome of this alienation and one source of the destructive ‘populism’ Bauböck discusses.

### **Facing the democratic challenges of climate change**

Insofar as this divide captures part of our politics today, the democratic challenges we face are significant and cannot be met merely by expanding democratic inclusion. One challenge is to control the culture of eco-esteem that has mobilised both populations in struggles to advance their divergent values. In this respect, attempts to shield urban dwellers from rural political clout may be counterproductive and could lead to a backlash. Attempts to rewrite the citizenship narrative must be sensitive to processes of eco-ascendance and marginalisation. Failure to recognise that amplifying the voices of one side comes at the cost of the other could prove disastrous.

A second challenge is to recognise that responding to climate change has become predominantly a project of capitalism. Global warming may be ‘a dire emergency but it is also an opportunity to make a killing’ (Vettese, 2019). This second challenge requires, in part, controlling the transfer of wealth from those engaged in traditional economic activities on the farm, in the mines, forests and oil fields to the eco-entrepreneurs whose technological fixes are favoured solutions to the climate catastrophe. Urban centres must be willing to take on part of the financial burden that climate change is imposing on rural communities.

A third (but, by no means final) challenge is to democratically include in conversations about how to meet the global challenge of climate change a large and disaffected group of rural-based marginalised people who see themselves as ‘climate losers’, whose values are disesteemed by the mainstream culturally dominant urban dweller, and whose ways of life are being phased out. These conversations rely on the development of solidarity and a sense that we share a destiny. For a start, they can be built through partnership programs between urban and rural centres established by public and private institutions such as universities, museums, libraries, and archives (see [Hase](#)).<sup>1</sup>

As Bauböck recognises, the nation state has the capacity to guarantee stability of citizenries across generations and can cultivate a sense of citizenship responsibility for the future. These capacities rely on overcoming the culture of esteem/disesteem that sets urban against rural. To enhance the power of cities to enjoy more power and more networks that are exclusive of those who live outside the city solves nothing. [Kohn](#) reminds us not to conflate urban power with social justice. To extend municipal participation rights to non-citizens is neither a curse nor cure for today’s global challenges unless this new narrative of citizenship helps to build bridges between the urban and rural and thereby helps to develop integrative solutions to the challenges we face.

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<sup>1</sup> See, for example, Cornell University’s Rural Humanities program run by the Society for the Humanities: <https://societyhumanities.as.cornell.edu/rural-humanities>.

## Local Citizenship Needs Local Sovereignty

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[Rainer Bauböck](#)'s typically thoughtful and illuminating commentary is sub-titled: "Should Urban Citizenship be Emancipated from Nationality?" A central motivation for the question (and the answers provided) is his recommendation that urban citizenship be established on the basis of residence, which, in turn, would provide a basis for the enfranchisement of voters who are not recognised as citizens by the national government. Bauböck also suggests that "an attractive vision of urban citizenship" must be central to a new narrative on citizenship because "it is in the big cities that mobile populations find their homes while their voices and votes remain all too often unheard and undercounted in national arenas". But rectifying this problem is not the main focus of his account.

### Citizenship or sovereignty?

What goes underexplored [in Bauböck's commentary](#) is the relationship of citizenship to sovereignty. My claim is this: urban citizenship is a useful concept only to the extent that urban areas possess legal authority—some form of sovereignty—to rule by and for themselves.

Citizenship is not a free-standing concept; it is not a good to possess simply in and of itself. We can call ourselves "citizens of the world" (or "citizens of Mars", for that matter) if we like, but such a moniker is only an honorific one; it has no pay-off in the real world. Citizenship takes on meaning when it connotes membership in a self-governing political entity.

This does not mean that only citizens may be governors. Politics may grant governing (voting and office-holding) rights to non-citizens.<sup>1</sup> In doing so, they might even call such enfranchised voters "local citizens", in contradistinction to national rules that call them "aliens". And as a result, the newly enfranchised persons may feel a greater stake in the localities in which they reside, and local decision-making and social cohesion may benefit. To some degree, expanding voting rights may alter our theories of citizenship—as did the enfranchisement of women—but not by changing the idea that citizenship is tied to self-governance, rather by changing our idea of who the governors should be.

What I am suggesting is that expansion of voting rights to non-national citizens is a rather thin account of what a robust urban citizenship could look like. A stronger case would be made if we pressed arguments about the importance of local sovereignty—that is, if we had some set of reasons about why local self-governance is itself a good that should be more widely respected (and thus shared with others residing in the locality).

### Bringing home rule closer to home

I would posit four functions of robust local self-government. First—and most obviously—cities should govern their own affairs. Schools, zoning laws, waste disposal, transportation, fire protection are but a few of the thousands of policy areas that cities, as self-governing entities, regulate. [As noted by Peggy Kohn](#), local governance may be subject to rules made at higher levels (state and national), but a number of cities operate under "home rule" provisions that grant them a fair degree of autonomy.

Second, as U.S. Supreme Court Justice Brandeis famously wrote nearly a century ago, local governments can serve as "laboratories of democracy" (he was talking about U.S. states, but the idea

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<sup>1</sup> As Bauder notes: "If urban citizenship is emancipated from national citizenship, then all inhabitants of a municipality *could* be recognised as members of the local communities in which they live" (emphasis supplied).

would include cities as well)<sup>2</sup>: non-national governments can develop and implement innovative programs that can be tested and then, if successful, adopted nation-wide. In the U.S. unemployment insurance and minimum wage legislation began as state initiatives. Today, numerous “green” policies adopted at the state level may provide examples for future federal programs.

Third, cities can provide a site of resistance to regressive national policies. In pre-Civil War America, northern states and cities refused to enforce the federal fugitive slave law that required them to assist in the return of slaves who fled north. Today, as discussed by [Monica Varsanyi](#), cities declare themselves sanctuaries and forbid their officials to assist federal immigration authorities in apprehending and removing undocumented migrants.<sup>3</sup>

Fourth, cities can seek recognition in international fora, attempting to influence the development of international law. The continued participation of states and cities in the Paris Accord despite the Trump Administration’s withdrawal is the obvious example here.

Local citizenship would be a status with a punch to the extent that localities take up these tasks and push for greater ‘home rule’ powers. Interestingly, the U.S. has, to some extent, already gone down this road as a matter of national policy in granting a form of sovereignty to Indian nations and the Commonwealth of Puerto Rico.

As I have noted above, the arguments I am making for greater autonomy at the local level—and correlatively for a stronger notion of local citizenship—do not speak to the issue of voting rights for immigrants nor do they entail a concept of local citizenship “derived from residence” (Bauböck). In support of the idea of local citizenship-as-residence, Bauböck asserts that “the distinction between nationals and non-nationals is irrelevant from the perspective of local democracy” and that “[l]ocal democracy is . . . undermined if large urban populations remain disenfranchised because they do not hold national citizenship”. I would agree that pursuing congruity between those who make the rules and those to whom the rules apply is, as a theoretical matter, democracy-enhancing. But to my mind, one must first develop a conception of what a ‘democracy-enhanced’ polity would have the authority and power to do. Otherwise one may end up with a system in which voting in local elections means no more than voting for the leadership of the mayor’s advisory council on public parks—in which case the franchise could be extended to all but would likely be exercised by few.

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<sup>2</sup> *New State Ice Co. v. Liebmann*, 285 U.S. 262 (1932) (Brandeis, J.) (“state may, if its citizens choose, serve as a laboratory; and try novel social and economic experiments without risk to the rest of the country”).

<sup>3</sup> “States rights” was also the slogan used by southern U.S. states and localities to resist federal school desegregation orders. So I in full agreement with other commentators, such as Gargiulo and Piccoli, who recognise that local policies may not always produce progressive results.



## The Next Step: Coupling City-zenship to Human Rights

Barbara Oomen\*

Reading through this fascinating collection of essays on city-zenship, it struck me that they seem to answer only one half of the question in the title of the forum: “Should urban citizenship be emancipated from national citizenship?” They focus on what city-zenship should decouple *from* (the nation state), but not on what it should then be buckled up *to*. Here, I would like to argue that part of the answer lies in the international human rights framework for three reasons: (1) This is where local authorities are already looking for inspiration; (2) the legal framework of human rights offers an added value in meeting some of the underlying objectives of city-zenship; and (3) it could mitigate concerns legitimately raised in earlier contributions. Of course, such ‘glocal city-zenship’ does not only form a double portmanteau, but also raises concerns that need to be addressed to attain the underlying objective: the recognition and realisation of the dignity and equal and inalienable rights of all people, in particular places.

### Why local authorities engage with human rights

The local interest in the global becomes apparent, for instance, in human rights cities. The notion of such cities might immediately conjure up images of the bright human rights theme hall in Gwangju’s metro station, Barcelona’s City of Rights programme or New York’s Human Rights Commission (Grigolo 2019) – the cosmopolitanism of global cities. However, when Sara Miellet searched the local council minutes of all Dutch municipalities for reference to human rights, she also ended up in the tiny ‘human rights hamlet’ of Tytsjerksteradiel that sought to combat expulsion of Afghani families by reference to their human rights (Miellet 2019). Similarly, when the mayor of Grande Synthe (just as tiny) decided to take issue with the French state for its neglect of migrants in the woods of Calais, he based his lawsuit on human rights. The boom in city networks might well fuel this trend towards local engagement with human rights. In seeking a normative basis to combat climate change, promote inclusion, and enhance participation, cities transnationally often turn towards international or regional (like European) legal frameworks (Oomen 2019). However, it also shows up in ‘small places’, without the resources to send civil servants to international conferences, although with the same type of commitment. In all cases, it is enthusiastically fuelled by international and supranational organisations like the UN, the Council of Europe, and the EU, which produce guidelines and reports on local authorities and human rights at an ever-accelerating pace.

Secondly, this increasing local interest in human rights makes sense because of the added value of this legal framework. In contrast to Prak’s understanding of rights as mere morality, what local authorities engage with is a full-fledged body of law in which states have formally committed to the recognition of universal, inalienable, and indivisible human rights. International human rights law has come a long way since the UDHR and its depiction as ‘nonsense on stilts’. Far from being a philosophical pipedream it now comprises well worked out civil, political, economic, social and cultural rights that women, children, the disabled and all other human beings can formally invoke against the authorities committed to protecting them. Such authorities often include local government. Just consider housing as an example with strong local relevance: where the UDHR only spoke of the right to an adequate standard of living, subsequent treaties and their interpretation have led to a refined framework of adequate, affordable, and available housing. This increasingly leads the Special Rapporteur on the matter to address local authorities directly. As such, human rights *law*, more than a homegrown discursive framework, offers local authorities a formal basis to develop inclusive policies, and all those present in a municipality a basis to call for them. In addition, the international character of the framework enables local authorities to draw from experiences elsewhere, even across national borders (Accardo

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2012, ICHRP 2005, UN 2015). It is not without reason that Dutch cities seeking to offer shelter to undocumented migrants, in violation of national law, called European and international human rights law to their aid (Baumgärtel 2019).

Thirdly, an engagement with human rights can also help address many of the legitimate concerns towards city-zenship raised in earlier contributions. Let us consider the three main ones: unequal rights for urban and rural citizens (Lenard), the rise of ‘mean cities’ (Gargiulo and Piccoli) and the fraught relation with the nation state (de Zanden, Aleinikoff). The moment when ‘pioneering’ local governments explicate their responsibilities to protect, respect, and fulfil human rights law, they also set the standard (or better, raise the bar) for other local authorities in the country and beyond. Making explicit the responsibilities of a local government for human rights means that those who live in ‘mean cities’ can also invoke the rights concerned when their local government threatens to, for instance, exclude foreigners from the social housing stock or prohibit the use of other languages on shop signs (Ambrosini: 146). Finally, using the language of human rights means invoking a legal framework that the states concerned have adopted themselves. There are instances of cities symbolically ratifying human rights treaties that the country concerned has not signed up to, as is the case with San Francisco and the Women’s Convention CEDAW, but these are relatively rare (Lozner 2008). This means that the nation state, if only on paper, has formally agreed to the normative framework which is subsequently mobilised in the local context.

### **Challenges for global city-zenship**

Before the picture becomes too rosy, it is important to point out some of the drawbacks of a glocal city-zenship (that is, one forged locally yet based on international human rights law). Many of these are the same as those raised in critical human rights studies and concern both the efficiency and the legitimacy of human rights. In reflecting upon this legitimacy, the Middelburg mayor whom I interviewed last year sighed: ‘it might be better to start to talk about freedom. Human rights seem so big, so alien, so distant to people’. Next, references to rights are not only a legal matter but also identity-based, and can quickly result in cosmopolitan city branding in conferences, festivals, art exhibitions with little tangible benefits for those in need of protection (Oomen 2020; Roodenburg 2019). A third concern is that human rights can be too vague and too broad for local policymaking. A fourth possible concern that the international framework is not well-suited to local needs is enthusiastically addressed by all those local authorities lobbying for the inclusion of the Right to the City in the international framework. For all these reasons, clear explication of local responsibilities under international human rights law is important, although even the most progressive local authorities are not always interested in this, as their obligations then become much stronger.

The contributions to this forum have raised important challenges for strengthening city-zenship – the need to address global challenges and secure equal rights of residents not merely in big cities, but in *all* municipalities, the fight against mean city policies, and the continued relevance of the nation state. When addressing these concerns, it seems compelling to make use of international human rights as one of the most logical, inclusive, established and worked out legal frameworks available. However, when doing so we, have to face some vexing issues. One is the risk of a constitutional deadlock if local and international authorities have one understanding of a city-zen’s rights, and the highest national authorities another. This, for instance, came up when some Spanish subnational authorities wanted to give all migrants access to health care and based this on international human rights law (the International Convention on Economic, Social and Cultural Rights). The Spanish Constitutional Court nullified this attempt, stating that it threatened the equality of all Spaniards (Peralta et al. 2018). The U.N. Committee on Economic, Social and Cultural Rights, in turn, condemned such emphasis on uniform national solutions “when they hinder” the progressive realisation of rights (CESCR, at 11). As local authorities, under international law, cannot ‘take their state to court’ the issue has to be resolved politically, at the national or international level (Oomen and Baumgärtel 2018).

In sum, to quote Bauböck, we need a new citizenship narrative that is about multilevel and transnational citizenship. Cities (and other local authorities) can play a key role in forging that narrative and ensuring that it works for each of us. In order to be successful, however, this narrative should not be centred around the nation-state alone. For that reason, our forum might benefit from another title. Instead of “Cities vs States: Should Urban Citizenship be Emancipated from Nationality?” I would propose “The Local and the Global: How international human rights law can strengthen city-zenship”.

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## Urban Agglomeration, Constitutional Silence

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Urban citizenship is a bold and intriguing idea, regardless of whether we envision it as an alternative or as a complement to extant models of state-based membership. However, this concept seems to me to be slightly off target in identifying the main issue of city under-representation, namely the constitutional non-existence of cities, and more generally, the great constitutional silence surrounding today's extensive urbanisation and the consequent rise of megacities. The problem with city under-representation is not the lack of citizenship rights of its individual dwellers, as Rainer Bauböck suggests, since the vast majority of whom are full and equal members of the sovereign national entity within which their home city is located, and as such enjoy the entire gamut of constitutional protections to which any other member of the polity is entitled. Rather, the problem is the non-existence of cities qua order of government in constitutions, constitutional jurisprudence, and constitutional thought more generally (Hirschl 2020).

The evidence on urban agglomeration worldwide is unequivocal. As of 2019, 56% of the world population already lives in cities. That figure is projected to rise to over 70% by 2050 (85% within OECD countries). Our constitutional institutions and imagination, however, have failed to keep up with this new reality. Though we live in the century of the city, we are still captives of constitutional structures, doctrines, perceptions, and expectations that were conceived along with the modern nation-state and germinated through the age of revolution, a historical process that saw the subjugation of the sovereign city (Prak, 2018). As extensive urbanisation marches on, an ever-widening gap emerges between what is expected of a modern metropolis, and what cities can actually deliver in the absence of adequate standing, representation, taxation powers or robust policy-making authority. At the very least, our current urban era exposes a critical discrepancy within constitutions between the rights they guarantee (social, economic and other equity-enhancing rights) and their power to make good on these guarantees. Any attempt to put local government at the centre of the constitutional order will therefore require against-the-grain constitutional thought combined with strong political will, a combination that has generally not yet emerged in either politics or scholarship.

Innovative thinking about urbanisation and cities is prevalent throughout the human sciences; Henri Lefebvre's *Le droit à la ville*, Saskia Sassen's work on global cities, Paul Krugman's theorisation of megacities as economies of scale, Richard Florida's ideas about cities as magnets for the creative classes, and Benjamin Barber's *If Mayors Ruled the World* are a few examples. This rich intellectual attention, by contrast, does not extend into the world of constitutional law. Here, the city remains a non-entity and a non-subject. Public law writing about cities occurs largely within the confines of administrative law or municipal law, but seldom in constitutional law. The existing conversation, be it academic or jurisprudential, about all matters subnational—regions, states, provinces, etc.—is limited to centuries-old ideas about the supposedly proper units of federalism and subsidiarity; the European examples of city-provinces mentioned by Bauböck are precious few exceptions to this reality, and virtually none is predicated on a deep, across-the-board constitutional recognition of the metropolis as an autonomous order of government.

But the problem runs much deeper than a scholarly void. My forthcoming book *City, State: Constitutionalism and the Megacity* (Hirschl 2020) shows that in many polities worldwide, hard-wired constitutional arrangements originating from outdated concepts of spatial governance—the constitutional division of competences adopted in a pre-megacity era are increasingly detached from 21<sup>st</sup> century realities. Consequently, those cities that are home to the majority of humanity, that are ubiquitous and crucial to every aspect of 21<sup>st</sup> century society, culture, economics and politics, do not exist constitutionally. Cities remain “creatures of the state”, subjugated by a Westphalian constitutional

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order as well as by the state's instinctive tendency to maintain jurisdictional primacy over its territory; again, we can find very few exceptions. This reflects what Ayelet Shachar and I have termed *Spatial Statism* (Hirschl and Shachar 2019). The key features of national constitutions as being both firmly entrenched and innately statist render the city systemically weak and to a large degree under-represented.

### **Cities – creatures of states and provinces**

Most constitutional orders that were adopted over a two-century span, between the late 18<sup>th</sup> century and the 1970s, whether federal (e.g. U.S., Canada, Australia, Mexico, Germany), unitary (e.g. France, Netherlands, Sweden), or somewhere in between (e.g. UK, Spain), covering North America, Western Europe, as well as many former colonies in Africa, Asia, and Latin America, treat cities, including some of the world's most significant urban centres, as creatures of the state, fully submerged within a Westphalian constitutional framework, and assigned limited administrative local governance authority. Their *constitutional* statuses range anywhere from secondary to non-existent. Whereas approximately 60% of the national constitutions currently in effect designate their respective country's "national capital", only a small handful of these constitutions (not to mention the other 40% of national constitutions) address these cities, let alone other large cities within their territorial jurisdiction, as metropolitan centres per se.

American cities, some of which are among the world's largest, lack constitutional personality, and are principally at the mercy of state governments, constitutionally speaking. Doctrines such as "Dillon's Rule" and home rule (the "Cooley Doctrine") were formulated in the mid-19<sup>th</sup> century and endorsed by the U.S. Supreme Court in the early 20<sup>th</sup> century; these continue to govern the constitutional status of American megacities today. The result is that American constitutional jurisprudence on city power represents a very small fraction of that country's federalism case law. Meanwhile, America's dated yet rigid constitutional structure equips states with the powers to draw electoral district boundaries in a way that frustrates urban representation, and, most importantly, allow state legislatures to "pre-empt" city legislation. Leading experts on American cities' constitutional status note that there are various ways in which states could frustrate cities' efforts to address the welfare of urban residents by implementing redistricting and rezoning to dilute local power to the suburbs. Instances of pre-emption have expanded considerably in the last decade: states have pre-empted or overridden city ordinances on issues as diverse as local living wage regulations, gun control, municipal civil rights law, tobacco regulations, LGBTQ anti-discrimination rights, posting nutritional information in restaurants, anti-plastic and environmental protection legislation, and sanctuary city policies. Several states have also enacted laws that prohibit cities from joining international city networks.

American proponents of enhanced city power—an uphill battle, as we have seen—may find solace in the fact that, disempowered as American cities are, Canadian cities easily win the title of constitutionally weakest in North America. Lacking any direct constitutional powers, cities and municipalities in Canada exist only as bodies of delegated provincial authority, entirely dependent on provincial legislation for their power and sources of revenue. Large Canadian cities, essentially the front-line delivery agents of Canadian multiculturalism and social integration, are governed by a constitutional order that dates back to 1867 (at which time metro Toronto's population was less than 50,000; today it is 7.5 million). In this reckoning, "municipal institutions" are creatures of provincial governments, controlled exclusively by provincial authority alongside "charities", "eleemosynary institutions", "shops", and "saloons and taverns". Given that 85% of Canada's population lives in cities, and that over 50% of the nation's population is concentrated in six metro areas, it would be something of an understatement to say that the constitutional non-status of cities in 21<sup>st</sup> century Canada—purportedly one of the world's leading constitutional democracies, featuring abundant scholarly awareness for and legal recognition of diversity and differentiated citizenship—reflects serious constitutional datedness. It

represents a major democracy deficit, possibly in violation of some of the country's major constitutional pillars, as defined by the Supreme Court of Canada.<sup>1</sup>

Australia's constitutional order too allows for near-complete state domination of cities and metropolitan governance more generally. Consequently, Australia's large cities—Sydney (metro population 5.2 million; approximately two-thirds of New South Wales' population); Melbourne (metro population 5 million; approximately three-quarters of the Victoria's population); and Brisbane (metro population 2.5 million; approximately half of Queensland's population)—are largely at the mercy of state governments, which effectively control a variety of key policy areas including education, health, and policing to planning, land use, infrastructure and major utilities.

Meanwhile, the Rhine-Ruhr metropolitan region (Germany's largest urban agglomeration with over 11 million people) lacks any autonomous constitutional standing or personality; in fact, it is not even mentioned in the state constitution of North Rhine-Westphalia, within the boundaries of which it exists. The same is true of Frankfurt, described in Saskia Sassen's seminal work as a "global city" alongside New York, London, and Tokyo—yet not even a whisper about Frankfurt in the Hessian state constitution. The dynamics of megacity constitutional empowerment in "new world" constitutional settings, mainly Asia and Latin America, is somewhat different, reflecting a confluence of varying demographic, political, and constitutional factors. However, even in those parts of the constitutional cosmos, the starting point and basic assumption of statist constitutional orders is that the city is just a component—and a largely dependent one at that—of the nation state and its statist constitutional framework.

This structural problem is further exacerbated by the intersection of demographic concentration in many urban areas with constitutionally protected malapportionment, which leads certain electoral systems to systematically under-represent large urban centres and their residents. In metropolises as diverse as Toronto, Chicago, Zurich, Mumbai, and São Paulo, poorly apportioned electoral systems are structured in a manner that prevents increasingly large sections of a democratic polity's population from having equitable representation in a legislative body. To put it bluntly, the voice of urban voters is worth less than that of others, creating a de facto "one person, half a vote" reality for urban dwellers. As recent studies have suggested (e.g. Rodden 2019), given this inefficient concentration of voters, nearly every single-member, first-past-the-post electoral system under-represents its urban voters.

### **The applicability of city-zenship to megacities of the Global South is questionable**

We could go on to question the efficacy, applicability, or indeed the very relevance, of a hypothetical "city-zenship" to the main sites of urbanization: low- or lower-middle-income countries in the Global South. In these settings, state capacity may be variously weak (and would be further weakened by "city-zenship");<sup>2</sup> strongly-held ethnic, religious, or linguistic collective identity bases are likely to preclude alternative membership basis; or it may be strongly statist, where at times authoritarian governance reigns (thus rendering devolutionary "city-zenship" an impractical "pie in the sky" idea).

The challenges facing Kinshasa, for example, are enormous—its population has increased from 400,000 to 13 million in the space of only half a century, a 32-fold increase in a city where the annual GDP per capita ranges between \$200 and \$500. Dhaka contains 20 million residents living with a city-wide density of 46,000 people/km<sup>2</sup> (119,140/mile<sup>2</sup>). Consider how much greater is the population density in Dhaka than it is in other cities: it is five times that of New York City, seven times San

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<sup>1</sup> As is well-known, in its decision in the *Quebec Secession Reference* case (1998), the Supreme Court of Canada stated that the Canadian Constitution is based on four equally significant underlying principles: (1) federalism, (2) democracy, (3) constitutionalism and the rule of law, and (4) the protection of minorities. None of these principles trumps any of the others. See *Reference re Secession of Quebec*, [1998] 2 S.C.R. 217.

<sup>2</sup> In her contribution to this symposium, Patti Lenard makes a similar claim, albeit in the markedly different Canadian context.

Francisco, 12 times Paris, 16 times Toronto, and nearly 30 times Melbourne. The challenges of Kinshasa, Dhaka, Mumbai, Lagos and other huge cities of the Global South will not be resolved by thought-provoking yet abstract political theory accounts that project a New York, Paris, or San Francisco political and demographic reality on fundamentally dissimilar urban settings in the Global South (these are three of the main cities that have experimented with city-based identity card programs).

Enough said. In *City, State*, I examine the origins and consequences of the constitutional (non)status of the city. For this forum, suffice it to say that what may well require urgent remedy is not the under-representation of city dwellers qua equal individual citizens, but rather the under-representation of the city itself qua major order of government in an increasingly urbanised world. While the daring arguments for city-based citizenship advanced by Bookchin (1987), de-Shalit (2018), or Bauböck (2003) challenge the largely uncontested “seeing like state” underpinnings of contemporary political membership regimes, they seem to offer little response to the root cause of cities’ under-representation: the great constitutional silence on cities and on the urban condition more generally.

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# Urban Citizenship – a Status or a Practice?

Helmut Philipp Aust\*

## Introduction

Kicked off by Rainer Bauböck's essay, the general pros and cons of urban citizenship – or city-zenship as Avner de Shalit and Nir Barak have termed it in their responses – have been weighed. The question of who might lose out has been put on the table, notably by Patti Tamara Lenard. Other contributions have touched upon the question of the role of the law. Historian Maarten Prak has wondered, for instance, whether the turn to the language of 'rights' is helpful due to its moralising undertones. Barbara Oomen has refuted this argument and has instead called for shifting the focus from citizenship more generally to human rights at the local level as a more tangible means for inclusion of those who are so far left out of the bond of citizenship. And Ran Hirschl has pointed to a more general deficit of constitutional theory that has avoided to tackle urban questions, possibly for the reason of its fixation on larger and arguably more important scales of government and governance.

In my contribution, I would like to reflect on the role of law in this discourse. The answer one might give to the question of decoupling citizenship from the state would arguably also depend on one's disciplinary perspective. It is easier to think outside of the box from the perspective of political theory, political philosophy, and history than it is from the perspective of the law. Even though 'law' is not monolithic – neither as an object of study nor as an academic field – lawyers have to start with the law that exists. Law can be changed – for better or worse. But changing the law requires following a certain process. The 'rules of change' of a given legal system are determinative for bringing about a change of the primary rules (Hart 1961). Scholarship can certainly influence these processes, point to existing lacuna, fill them with systemic thinking or suggest novel interpretations to courts and other decision-makers. But the starting point of a legal exercise remains bound up with the existing legal framework.

In the context of our symposium, this raises the broader question of the value of legalising urban citizenship, a point also already flagged by Josephine van Zeben in her contribution. She rightly has concerns about turning urban citizenship into some kind of copycat of national citizenship. She wonders how this promise would be filled with life. In other words, she is asking which sovereign attributes necessarily go hand in hand with calling a status 'citizenship'. To answer this question, it may be helpful to distinguish between status- and practice-based understandings of citizenship.

## Urban citizenship as a status

A distinction exists between citizenship as status and citizenship as practice (Bauböck 2003). Lawyers tend to think of citizenship primarily as a status – a bundle of rights and obligations, which is defined by the common bond of belonging to a nation state. Inclusion in this circle of rights-holders (and duty bearers!) is passed on through legally defined mechanism, either at birth or through processes of naturalisation. Nation-states jealously guard the power to decide over this question, even though federal systems like the one in Germany may leave it to the component units of the federation to administer the concrete decision-making process on who obtains citizenship through naturalisation.

International law also expects states to a certain extent to keep these processes under control, at least if they wish to protect their citizens in the international arena. The *Nottebohm* case of the ICJ famously required a 'genuine link' between a state and its naturalised citizen to make citizenship effective in the context of diplomatic protection.

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From this legal perspective, citizenship fulfils a certain world order function as the current inter-state system depends on the demarcation of citizenship across some defined or at least identifiable lines. In the words of Rogers W. Brubaker, it is an “international filing system, a mechanism for allocating persons to states” (Brubaker 1992). One can, of course, wish for the inter-state system to disappear and be replaced by an entirely different system (Barber 2013), but for the time being this looks unrealistic even to the most ardent supporter of the rise of cities as global actors. Yet, some scholars seem to take the leap. For instance, Alexander Aleinikoff argues that “urban citizenship is a useful concept only to the extent that urban areas possess legal authority”.

This alone is not a bold claim. Many domestic legal systems bestow legal authority upon cities and local governments; Germany and South Africa are two examples with strong constitutional protections for local governments (on Germany, see Aust 2017). Yet, Aleinikoff envisages more, “some form of sovereignty” where things arguably become difficult. What would such a turn to urban sovereignty entail? I cannot help thinking back to the ‘new tribalism’ evoked by the late Thomas Franck in the context of secessionist movements (Franck 1999). Arguing for urban sovereignty in the context of our current heated political debates seems to add fuel to the fire. Many contributions to current debates on urban futures share a romantic affection for the urban, which is coupled with a similar disdain for the supposedly rural backwaters. I am not sure whether arguing for urban sovereignty will help to close this gap (Aust 2019). As others in this symposium have also pointed out, which forms of urban life are shaping our thoughts when we reflect on a growing role of cities and along with that urban citizenship? This might be an attractive ideal for the urbanites of New York, Berlin, Melbourne and Tel Aviv – but not necessarily for urban areas that lack the appeal that these places radiate.

### **Urban citizenship as a practice**

If there may be good reasons not to think of urban citizenship in terms of status, one is left with the somewhat vaguer notion of citizenship as a practice. This mode of citizenship is not a legal notion but rather derived from local practices, which set out to redefine a certain form of political membership in a community to the extent that local governments and cities have the possibility and capacities to allow for such processes. Citizenship as practice can easily tap into direct democratic experiments like participatory budgeting, resonate with ideas of a ‘right to the city’, and generally help to stimulate a sense of community on a local level. There is much to be said for all this, and urban citizenship can well be an attractive label to encapsulate a variety of emancipatory practices on the local level.

Keeping this emancipatory potential alive would require, however, not to import the characteristics of the inter-state model of citizenship as status in a legally defined way into this realm of urban citizenship as practice. In other words: one can’t have your cake and eat it. It is difficult to aim for political emancipation and yet long for the trappings of citizenship in a legal sense at the same time. Legal form can be stifling. It provides legal security and stability. But if you aim for change, do not look for the law first.

Importing too much of the citizenship thinking from the inter-state context into the vibrant field of urban citizenship practices may stifle innovation. City networks in the climate change context seem to be faced with a similar dilemma: In order to carve out a niche in the global climate change regime, they have argued that cities are essentially different from nation-states and the established forms of international cooperation. As extrapolated in the works of Benjamin Barber, these networks want to be the new kids on the block, not held back by ancient conceptions of sovereignty and power politics, but rather aiming towards pragmatic problem-solving, grassroots democratic legitimacy and shaking up the international system from the bottom up. Apart from the often-unsolved riddle how the managerial and pragmatic problem-solving attitude relates to the democratic legitimacy argument, it is also noteworthy how these networks – like ICLEI and C40 – simultaneously long for acceptance from more established actors like states and IOs, and how their meetings resemble international summitry. In other words: there



is a somewhat puzzling disconnect between an attempt to be apart and new and the wish to break into the inner circle.

## **Conclusion**

I would like to end with the suggestion to realise urban citizenship as practice, but not as status. The emancipatory potential of citizenship is more likely to be fulfilled if there is no vain and potentially unrealistic urge to legalise it. If you wish to emancipate it, do not look to the law – at least not first.

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## **‘Urban Citizenship’ in a Multipolar World**

Stephen Minas\*

### **Citizenship and emergency**

On 23 January 2020, the government of the People’s Republic of China imposed a quarantine on the central Chinese city of Wuhan, population eleven million. The quarantine measures, designed to counter the spread of the coronavirus, which is believed to have originated in the city, include a ban on trains and flights leaving the city and health checks for anyone leaving Wuhan by private car. Residents were instructed to stay in Wuhan unless they could provide ‘special reasons’ for leaving. The announcement of these measures was followed by a rush of people to the main train station and airport, and to hospitals to be tested for the virus, long queues for petrol, shortages of medical equipment and price inflation of food staples as residents sought to build stockpiles. The *Financial Times* reported that the ‘atmosphere was of a city preparing for a siege rather than Spring Festival celebrations’. The following day, China expanded the travel shutdowns to cover twelve cities with a combined population of over 36 million people.

I mention this developing situation to reinforce the cautionary trend in this debate over the merits and prospects of ‘urban citizenship’. What the Wuhan story vividly demonstrates is that the state retains the ability to impose a ‘state of exception’ on cities as on other territories within its control (Grimm 2015). The ability of a city resident to oppose such sovereign acts through the assertion of rights derived from ‘urban citizenship’ is lacking in an authoritarian context, but also appears limited in the context of democratic political systems.

Rainer Bauböck opened this debate by asking whether the demographic rise of cities presages a corresponding ‘decline of nation-states and a rise of cities as the dominant arenas of politics, democracy and citizenship’. In this context, is it meaningful to speak of ‘urban citizenship’, and can it be ‘emancipated’ from nationality? The notion of emancipation is applied both narrowly (to mean delinking ‘urban citizenship’ from a requirement to possess the nationality of the host state) and broadly (‘the emancipation of cities from the chokehold of the nation-state’). I share Bauböck’s ambivalence regarding the possibilities of ‘urban citizenship’, yet I question whether ‘citizenship’ is an apt concept for describing or encouraging the important role of cities.

I would like to make four somewhat related observations. First, as the Wuhan case illustrates, domestically the state’s preponderance of – legal and actual – powers tightly constrains the ability of cities to offer legally meaningful ‘citizenship’ to their residents. As Ralf Dahrendorf observed, citizenship is, “to begin with, an idea which finds its expression in law” – it creates a “community under law” in which the privileged category of ‘citizen’ can exercise legal rights (Dahrendorf 1974). While city residents are often granted legal rights by virtue of their residency (e.g. the right to vote in municipal elections), such rights tend to be subordinate to the state’s legal order (city ordinances might be ruled unconstitutional), which is ultimately backed by the possibility of coercive enforcement. If, as the saying goes, a language is a dialect with an army and a navy, then ‘urban citizenship’ belongs decidedly to the category of ‘dialect’ rather than ‘language’.

### **Not quite the ‘end of power’**

Second, on the international plane, states remain key building blocks of global governance, both in general and as providers of citizenship (or nationality) to natural persons (as well as to corporations, ships, etc.) in particular. While the agency of contemporary governments is indeed challenged and

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constrained by powerful non-state actors, such as transnational corporations and rating agencies (see, e.g., Naím 2014), states retain the ability to negotiate and to implement international agreements. It is often – and correctly – noted that states are failing to ‘solve’ global problems and that cities and other non-state actors are trying to pick up the slack. And yet, climate change, extinctions, pandemics, terrorism, etc., remain collective action problems. If coordinating almost two hundred states is difficult, I am not convinced that negotiating among hundreds or perhaps thousands of cities will be easier. Moreover, states tend to have great control over the means of implementation of international agreements.

The issue of refugees and asylum seekers is instructive. Certainly, a progressive and well-resourced city administration can ameliorate the harsh edges or neglect of national policy (although a progressive balance of forces in city politics is far from guaranteed, as Enrico Gargiulo and Lorenzo Piccoli demonstrate in their discussion of ‘mean cities’). However, the most progressive city administration, offering both abundant services to refugees and campaigning leadership consistent with the politics of its educated and cosmopolitan electorate, will be unable to prevent a national government from flouting its obligations under the Refugee Convention, for example, by turning away asylum seekers or punishing them for their irregular arrival. Since the preponderance of power is at the national level, surely the focus should be on getting the national policy settings right, and then on trying to strengthen international cooperation (such as through the negotiation of a Global Compact for Migration). In a democracy, the citizens who need to be convinced for any of this to really happen are the citizens of the whole country.

Citizenship is also integral to the unique role of states in global governance. It matters internationally because it enables individuals to claim protections under international law. There is no prospect for cities (which generally are not subjects of international law) to replicate this role. To take one example: the flight of businessman Carlos Ghosn from pre-trial detention in Japan to the safe haven of his native Lebanon. This colourful episode illustrates what Alex Aleinikoff refers to as the “relationship of citizenship to sovereignty”. It is Ghosn’s good fortune that among his three disclosed citizenships is one of Lebanon, a state which has no extradition agreement with Japan and which, as a matter of sovereign prerogative, generally does not extradite its citizens. From the perspective of a fugitive from justice (or indeed from injustice), this is a citizenship worth having, one with (quoting Aleinikoff) a “pay-off in the real world”. Lebanon is widely regarded as a troubled and not especially powerful state, but the citizenship that even such a state can confer is worth far more to someone in Carlos Ghosn’s position than the notional ‘citizenship’ of any great metropolis. The reason is the general acceptance of the legal fiction of ‘state sovereignty’ and the corresponding dearth of acceptance of any notion of ‘city sovereignty’. This does not mean that ‘urban citizenship’ would be a bad thing, but it illustrates the distance between the concept and having anything like the impact that state citizenship has in the real world.

### **Cities as subjects of multipolarity**

Third, faced with essentially global challenges requiring coordination among large powers, it seems more apt to encourage the emergence of larger communities of political organisation and solidarity (such as through the development of EU citizenship) than to focus on the construction of local polities. Today there can be no city that ‘is sufficient for herself both in peace and war’, as Perikles once boasted of Athens. Rather, cities must secure their interests not just in partnership with each other, but through close cooperation with national and provincial governments, the private sector, international and supranational institutions, standard-setters, and a host of other influential actors.

While there are forces of both integration and disintegration at work in the world, there is a clear trend favouring the cohering of multiple poles of power. The European Union is unique in its breadth and depth as a legal order, but there are other significant examples, such as the Russia-dominated Eurasian Economic Union, the ASEAN Community, and initiatives to deepen market integration within

the African Union. Beyond regional ordering, there is competition to shape global standards and transnational value chains (see, for example, China's Belt and Road Initiative, or the contests over whose companies will dominate 5G and AI technologies). In sum, Yevgeny Primakov's prediction of multipolarity as "the main vector of the world's development" appears to have been borne out (Primakov, 2003).

In a multipolar world system, scale – measured in economic and geopolitical power more than in simple population size – is a key factor determining the ability of an entity to make truly independent choices. Regarding the EU, it has sometimes been said that there are only two kinds of EU Member States: small states, and states that have yet to figure out that they are small. On their own, even the largest EU Member States would be in inferior bargaining positions to greater powers. However, as the world's largest trading bloc, the EU can collectively defend its citizens' interests and preferences through measures such as the General Data Protection Regulation and the European Green Deal. A corollary of this dynamic is that cities are essentially on the receiving end of multipolarity, able to exploit the opportunities or cope with the fallout of tectonic movements and frictions – e.g. the impacts of the US-China 'trade war' on a place like Hong Kong.

In a world of collective action problems, we should be seeking the expansion of solidarities, not their concentration. In a multipolar system, those of us who are in favour of liberal democracy also have the challenge to make transnational blocs more democratic. For example, in the case of the EU, members of the European Parliament elected from transnational lists would help to connect the European polity to its legislative process more directly. (While the EU is the clearest example of the 'transnational' aspect of the new citizenship narrative outlined by Bauböck, there are also developments in transnational participation and accountability in other regions – although we should not expect them to correspond to the EU model.) None of this is to deny that cities and local democracy have important roles to play, but these are better seen as building blocks of larger entities that can have far greater impact and can more capably defend citizen interests.

### **Participation and engagement, not citizenship**

Fourth, and finally, even given the enduring domestic power of states, the ongoing significance of national citizenship and the emergence of a multipolar international system, there is no doubt that cities have untapped potential to contribute to tackling global challenges. However, I question whether 'urban citizenship' is the concept best-suited for unlocking this potential. Previous contributors to this debate have observed that 'urban citizenship' is not an alternative to national citizenship, and some have argued that the two can coexist (but see, *contra*, Josephine van Zeben's contribution). Even allowing for this coexistence, every choice has an opportunity cost. My view is that focusing on developing 'urban citizenship' risks missing the need to address the role that cities can play in tandem with other important actors. So, while I would not go as far as Avigail Eisenberg in doubting that 'enhancing urban democracy will help meet the global challenges we confront today', I do believe that a focus on internal city developments would miss more important dynamics. As Nir Barak observes, city networks such as the C40 have had real impacts on climate policy, but cities nevertheless 'lack the capacity' to solve the climate crisis in isolation from other actors. On the other hand, cities are key contributors to multi-stakeholder collaborations alongside national and provincial governments, the research sector, business and international organisations (Dodds, 2015). Multi-stakeholder partnerships aim to mobilise the distinct resources of each participant to meet a shared challenge, such as the various Sustainable Development Goals. Sustained focus on how cities can contribute to such partnerships would certainly be in keeping with the urgent challenges we face.

To conclude, while I support city residency rights that are not conditional on nationality, as suggested by Bauböck, I agree with Sandra Seubert that citizenship based on minimum residency requirements (or, alternatively, residency status based on maximal rights) is equally possible and desirable at the national level. Many countries already provide for this. I am also sceptical of the prospects and

desirability of emancipating 'urban citizenship' from the nation-state in the broader sense. Cities are irreplaceable centres of creativity, capital and policy experimentation, but they are not going to become unmoored from their national hinterlands anytime soon, any more than an independent London is going to remain in the EU. Rather, the challenge and opportunity are to harness the unique potential of cities within the context of national and, increasingly, supranational entities.

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## Does Urban Citizenship Promote Inclusion for the Poor, Sick, and Outcast?

Willem Maas\*

Much of the literature on urban citizenship focuses on the promise of inclusion; greater local autonomy might provide membership for refugees and other would-be immigrants whom “the nation state does not want to live in the country and thus the city” ([Harald Bauder](#)). The assumption is that nation-states often undervalue potential immigrants and that cities would better value their potential contributions. Because citizenship involves not only inclusion but also exclusion, however, there are dangers to proposals such as [Bauböck’s](#) that “cities should determine who their citizens are independently of how states do this”.

Some argue that migrants “have a right of entry to places that can afford them a better life. Once they have arrived, they should have the same rights as anyone else” ([Warren Magnusson](#)). Highlighting examples of welcoming practices “that challenge and complement national citizenship”, [Monica Varsanyi](#) argues that “with open borders, we’re able to pair that national political community with a robust membership regime based on residence”; she argues that open borders would facilitate [Bauböck’s vision](#) of a “citizenship based on *ius domicilii* [that] creates a status of equality that is uniquely appropriate for cities”. Yet very few cities voluntarily extend rights to people perceived, correctly or incorrectly, as a threat or burden.

### Cost-benefit analysis distinguishing the desirable from the undesirable

My work on multilevel citizenship demonstrates that governments of all kinds engage in a cost-benefit analysis to determine which migrants or residents to encourage and which to discourage (Maas 2008; 2009; 2013a; 2013d; 2017a; 2017b; 2020b). Governments at all levels seek to attract or retain desirable people; governments also generally discourage undesirable people to in-migrate and may encourage out-migration (Maas 2020a). This means that proposals such as [Maarten Prak’s](#) to view citizenship as a club with initiation dues can seem appealing: “Reframing the problem in economic terms [...] could open up the issue of local citizenship to a conversation about ownership and access, including the compensation that the established feel they are entitled to from the new members of their community”.

Such economic conversations are inherently exclusionary. Since the rise of national citizenship, one role for national governments has been to counter the discriminatory tendencies of “mean cities” discussed by [Enrico Gargiulo and Lorenzo Piccoli](#). This role is mirrored by EU citizenship, which provides that citizens of EU Member States may live anywhere within the territory of the Union – as long as they do not ‘burden’ the host society (the [Citizenship Directive](#) now provides permanent residence without preconditions after five years of legal residence). European cities have not been particularly welcoming towards Roma, for example, and some governments have similarly sought to limit access for retirees, students, or members of other marginalised groups (Gehring 2013; Lafleur and Mescoli 2018; Maas 2020b; Parker and López Catalán 2014; Schenk and Schmidt 2018). [Barbara Oomen](#) optimistically opines that people might invoke human rights “when their local government threatens to, for instance, exclude foreigners from the social housing stock or prohibit the use of other languages on shop signs”, but it is difficult to envisage uniform enforcement absent a strong national or international legal order.

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## **Privileging socio-economic ‘insiders’**

For those advocating a greater role for urban citizenship it seems natural to highlight a divide between urban and rural populations. Thus [Avigail Eisenberg](#) writes that “rural peoples are witness to their political, economic and cultural marginalisation”, while [Patti Lenard](#) cautions that, because national citizenship remains the main vehicle for fighting inequalities among citizens, “we should be circumspect about giving urban citizenship a more robust status, since doing so threatens to divide urbanites and non-urbanites” (not to mention Indigenous peoples; who despite their high levels of urbanisation are usually viewed as non-urbanites). [Bauböck views the division more in terms of attitudes](#). Divergent attitudes on open versus closed societies, cultural and gender diversity, and climate change divide people in “metropolitan regions and university towns” from those in “rural areas and declining industrial towns as well as working-class neighbourhoods of larger cities”.

Let me suggest that the most important divide is socio-economic – and that there is a high premium for people who are healthy, highly educated, and able to navigate the demands of a capitalist economy (compare [Sandra Seubert’s observation](#) that “the political culture of democracy stands in systemic tension with a social culture of capitalism with its values of competitiveness, merit and individualising of achievements”). [Margaret Kohn](#) argues that if cities are to promote social justice, they must “defend local normative orders that are inclusive and solidaristic” and that the “right to the city should not be construed as something akin to shareholder value in corporate law”; local citizens “should not use local institutions exclusively to promote the interests of current residents”. But even the most cosmopolitan cities privilege the interests of current residents, perhaps even more than do less ‘urbane’ settings.

For example, the New York City Housing Authority specifies that while non-residents may apply for subsidised housing, “due to NYCHA’s long waiting list, available apartments will be offered to applicants who live or work in New York City first” – effectively barring low-income non-residents. Furthermore, only people who live or work in NYC can qualify for priority assignment as victims of domestic violence, ‘working families’ who “do not live or work in New York City will not be assigned any working family priority”, and even homeless people must have previously resided in NYC to qualify for priority. So, only those with the means to afford market rates can move to NYC; other cities have similar policies.

## **Attracting desirable residents**

Poor people do move to cities in search of economic opportunity, but any public assistance they receive tends to come from national or regional governments rather than municipal authorities, and even liberal bastions such as San Francisco and New York deport poor and homeless people to other jurisdictions (Maas 2020a). This is nothing new. Indeed, as discussed also by [Prak](#), cities were engaging in cost-benefit analysis of migrants and residents even before there were states. For example, the Dutch Republic’s economic success depended on a constant stream of migrant workers, sailors, soldiers, servants, as well as transmigrants to the Dutch colonies in Asia and America (Maas 2013c). Cities such as Amsterdam, Haarlem, Leiden, Rotterdam, Gouda, and Middelburg attracted highly skilled and wealthy migrants by reimbursing moving costs, extending capital to (re)start businesses, making available manufacturing space, and offering tax rebates – benefits that often sparked the locals’ envy.

Late sixteenth-century society in the Netherlands was characterised by the tripartite division, dating from the Middle Ages, between citizens (with full rights), inhabitants (without such full rights), and foreign residents (with even fewer rights). Leading families monopolised political positions while individuals could be stripped of citizenship for irresponsible behaviour. Citizenship was usually acquired through birth or marriage but could also be purchased, which was attractive because of the municipal social welfare provisions reserved for citizens (Maas 2013c, 396).

When northern Dutch cities around 1585 felt threatened by the growing power of immigrants, they restricted political offices to the native-born. Justifying the impossibility of naturalisation, Hugo Grotius

explained that immigrants should ally themselves with the indigenous population so that their native-born children might later acquire citizenship. In 1624, however, Rotterdam further tightened its exclusions by targeting not only immigrants but also their native-born children, decreeing that “no persons shall be nominated to Vroedschap (Council) other than those born Hollanders and born of Hollander parents” (Maas 2013c, 397), which could anticipate contemporary nativist responses if cities were to regain authority over decisions about who to admit or expel.

## **Banning undesirables**

Anyone who doubts the proclivity of cities to ban undesirable people has not followed the news about low-level [sex offenders with decades-old convictions being banned from public areas](#) (and often being unable to work as a result); or about [people with mental health, addiction, or disability issues getting a criminal record for being homeless](#) (and hence becoming ineligible for public housing); or any of the numerous petitions to expel high-profile (or [low-profile](#)) criminals. [President Trump’s executive order requiring states and localities to both consent before refugees can be resettled](#) could be considered a move towards urban citizenship because it gives cities a role in determining who may reside, but it also sets [exclusion as the default](#).

As in the Dutch Republic, today’s ‘world cities’ seek to attract the ‘best and brightest’ – but they sort potential residents by socio-economic status either through the operation of market forces (which may appear neutral but are shaped by many factors that are far from neutral) or through active intervention. Echoing [Seubert](#) (cities are “increasingly less a home for ordinary people who want to live in the city”), a Toronto Region Board of Trade report notes that housing in Toronto is “increasingly unaffordable, unsuitable and unavailable”; existing homes “often do not meet the needs of lower- and moderate-income people. Employers are finding it harder to recruit and retain employees, and workers are facing tough choices between more expensive housing and longer commutes. Left unchecked, these forces will drive Toronto in the same direction as San Francisco, New York and other global cities where only a select class of professionals can afford to live” (Toronto Region Board of Trade 2020, 27).

The report cites as one model the University of British Columbia, which offers “more than 10% of its campus housing portfolio [...] to full-time faculty and staff for 25% below market rates”, is “piloting a rent geared to income (RGI) program for lower-income staff”, and offers low-interest-rate loans and grants for down payments. Another model is Whistler, which requires developers of new properties “to either build accommodation for their future workers or provide cash-in-lieu for the [Whistler Housing Authority] to build workforce housing. The WHA can also negotiate with private residential developers to grant higher density rights if that increase is used for affordable housing for the workforce”. The report notes: “Qualified occupants must work a minimum 30 hours per week at a local business and must occupy their unit full-time as their primary residence. WHA enforces these rules by an annual attestation and a complaints-based investigation and enforcement process”. Such models may seem like a remarkable instrumentalization of housing for workers, yet they are far from unique; qualification for local privileges varies based on socio-economic status.

## **Cities are increasing inequality**

Both public and private housing markets increase inequality in cities by excluding those who cannot afford the most attractive cities and urban neighbourhoods. Public housing authorities tend to increase exclusion through qualifying criteria that keep out newcomers or socially undesirable people. The WHA has a waiting list just like the NYCHA and like public housing authorities elsewhere, which all apply cost-benefit calculations. They may [evict residents for using illegal drugs or abusing alcohol; entire households may be evicted if any member of the household or even a guest engages in drug-related criminal activity](#). In the private market, the affordability crisis discussed in the Toronto report is not unique: young university graduates are flocking to cities, and [living in smaller and smaller spaces](#), but



less educated people are leaving. [Cities are increasingly populated by young, rich workers while older and poorer people or families who want children move out](#) – and [homeless people are forced out](#).

Bauböck is right to worry that “the integrity and inclusiveness of local democracy would be jeopardised if those born in the city or descending from parents established in the city enjoy special privileges – as they do under the Chinese hukou system” – but the above examples show similar privileges at work in liberal democracies (Maas 2013b; 2017b; 2020a). The ideal resident is well off, healthy, and hardworking rather than poor, sick, or needing assistance. An underpaid teacher or nurse may have a higher socio-economic status than an unemployed person or someone with a criminal background or mental illness – indeed just as in the Dutch Republic [many localities try to attract young workers by offering incentives](#) – but increasingly [wealth is the key criterion for urban residence](#). Perhaps Bauböck is right that “cities should determine who their citizens are independently of how states do this”. But how would this help efforts to address economic and political inequality?

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## Citizenship Federalism and the Ambiguous Promise of Local Citizenship

Kenneth Stahl\*

In his opening essay, Rainer Bauböck argues that the demographic changes of the last few decades, including the tremendous growth of cities and the simultaneous weakening of national borders, require a new approach to citizenship. Specifically, he calls for “an urban citizenship that is derived from residence rather than nationality and that complements national citizenship instead of replacing it”. As I argue in my forthcoming book (Stahl 2020), many countries such as the United States already have a form of “citizenship federalism”, in which local (not specifically urban) citizenship, based on residence, exists alongside national citizenship, rooted in nationality. The experience of citizenship federalism, unfortunately, shows that it is not likely to be a solution to the political crisis surrounding citizenship today. Rather than fiddling with issues of scale, we must re-evaluate the substantive content of citizenship.

### Citizenship federalism in practice

That citizenship federalism exists in practice is often illustrated through the example of voting rights. Nearly everywhere, the right to vote in national elections is based on nationality – in the form of territorial birth, descent or naturalisation – whereas the right to vote in local elections is based on residence, often without regard to nationality. A notable example in the United States is the recent decision of San Francisco to enfranchise all parents of local schoolchildren, including noncitizen immigrants and even undocumented or “illegal” immigrants, in school board elections.

The right to vote is neither the only nor the most meaningful example of citizenship federalism in practice. Perhaps a better one, to which the San Francisco example points, is the right to education. In a 1982 case called *Plyler v. Doe*, the U.S. Supreme Court held that all local children have the right to attend free public schools in the city in which they reside, regardless of their immigration status. The Court referred to education as “the very foundation of good citizenship”, echoing T.H. Marshall’s (1949/1965) classic claim that education is one of the key social rights of citizenship. Notably, however, insofar as education is an incident of citizenship, it is specifically an incident of *local* citizenship. In the United States, the provision of public education is almost universally a local responsibility, and the entrustment of education to local governments is widely perceived as an essential component of local citizenship. The Supreme Court has directly linked local control of education with citizenship: “[L]ocal control over the educational process affords citizens an opportunity to participate in decision-making, permits the structuring of school programs to fit local needs, and encourages ‘experimentation, innovation, and a healthy competition for educational excellence.’” (*Milliken v. Bradley*, 418 U.S. 717, 742 (1974)).

The example of education clearly illustrates our bifurcated approach to citizenship. Lacking the privilege of territorial birth, descent or naturalisation that marks a citizen of the nation-state, noncitizen residents have no right to vote at the state or federal level, no right to access many federal benefit programs, and are constantly vulnerable to the shifting priorities of immigration enforcement. Nevertheless, they simultaneously enjoy one of the most significant rights of local citizenship – the right of education – in whatever city they reside.

For that reason, I do not agree with those, such as Alienikoff and Hirschl, who claim that local citizenship is impotent in the absence of local sovereignty. Within the American constitutional order at least, local governments have little sovereignty, but they have the ability, and often the responsibility, to confer many of the rights that define citizenship in a liberal democracy.

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## How local citizenship entrenches inequality

Local citizenship, therefore, appears to be far more inclusive and egalitarian than national citizenship. It offers the benefits of citizenship to all residents, irrespective of blood or accident of birthplace, and thus recalls the role medieval cities played as sanctuaries from the oppressive feudal societies outside their walls. It is tempting to see local citizenship as an antidote to the reactionary nationalism championed by today's populist demagogues. The inclusionary spirit of local citizenship is captured in this charming quote from the mayor of Palermo, cited in Harald Bauder's earlier contribution: "If you are in Palermo, you are a Palermitan. I'm sorry, but you are a Palermitan. You can leave Palermo if you want. But as long as you are in Palermo, you are a Palermitan".

Despite its promise, however, citizenship derived from residence is no less stratifying than citizenship based on nationality. For to enjoy the rights of local citizenship, one must first *acquire* residence within the desired local community, and that can be a daunting proposition. In the United States, the quality of public education varies widely across local boundaries, and those (generally affluent) localities that enjoy excellent public schools often rely upon restrictive zoning practices to elevate home prices and thus to rigorously exclude less affluent people from acquiring residence. If you doubt the deadly seriousness with which these communities treat their local borders, consider that parents who have attempted to enrol their children in high-performing school districts outside the communities in which they reside have been criminally charged with "stealing" an education (Baldwin Clark 2019).

Hence, if local citizenship holds the promise of liberating people from the nation-state's divisions of ethnicity and nationality, it does so largely by substituting in its place the division of money and mobility. Indeed, it is this "neoliberal" idea of citizenship – a citizenship beholden to the forces of the marketplace – that is driving much of the political crisis surrounding citizenship today.

The increased global mobility of trade and immigration has weakened national borders and forced nation-states to adapt their ideas about citizenship to align with market principles. For example, many states have responded to the global demand for skilled immigrant labour and immigrant money by essentially putting citizenship up for sale. According to Aihwa Ong (1999), citizenship has become "flexible", adapted by nation-states as necessary to lure desirable immigrants and understood by migrants themselves as purely transactional. Internally, those with mobility are moving away from declining rural and manufacturing areas towards the urban areas that are the hubs of the new global knowledge-based economy. The ones left behind resent those who have benefitted from mobility, especially the immigrants who are the most visible symbols of a mobile society, and their reaction is to summon a primordial definition of citizenship rooted in blood and soil.

## The future of local citizenship

Unfortunately, local citizenship is not able to rescue national citizenship from its identity crisis, because local citizenship is itself part of the problem. The question of local citizenship is inescapable, however, because as nation-states are being weakened by global changes, localities are filling the vacuum. The political status of the local is thus one of the key questions of our time.

So, what can local citizenship become? For one thing, I enthusiastically agree with Margaret Kohn that if localities are to be worthy sites of citizenship, "city-zens should not use local institutions exclusively to promote the interests of current residents", and local decisions should be animated by "principles of right and equity". One way that local governments can advance these goals is to reform their zoning laws so that access to places with abundant jobs and good schools can be broadened, and the true promise of *Plyler v. Doe* realised. Although it is true that wealth inequalities have played an outsize role in shaping local citizenship, "principles of right and equality" have also been ever-present, as localities have always shouldered the task of making room for newcomers. In the past few years, brave legislators and grassroots organisations like the 'Yes in My Backyard' movement have made great

strides in the struggle to transform land use regulation and improve access to opportunity, though many obstacles remain (Stahl 2018).

But we should be clear about the difficulty in refashioning local citizenship to accord with our ideas about equality. In an important sense, citizenship is all about inequality. “Citizen” is not a meaningful category unless there is also a class of people who are not citizens. To be sure, there are those who have urged ‘world’ or ‘global’ citizenship, but what they are really proposing is not a theory of membership or community, but a theory of justice. (Nussbaum 2002). According to the legal scholar Robert Cover (1982), universalist values like justice are weak, “system-maintaining forces”, that exist to protect “worlds of strong normative meaning”, but cannot create or nourish them. It is only the bonds of a shared identity that have the power to create such worlds of normative meaning. However, it is a dangerous fantasy to assume that identity and community are fixed quantities immune to change. The crises of our present political moment – the nativist opposition to immigration at the national level and massive suburban resistance to zoning reform at the local level – both stem from the same anxious sensation that change is at the door. Indeed, in our age of globalisation, there is no way to turn back the tide of increasing population mobility. Paradoxically, as Jerry Frug notes, “giving up the idea that the world can be purified or controlled” can reduce one’s anxiety and enable one to live a fuller life as one develops “a confidence that one won’t be overwhelmed by complexity or disorder, a feeling that one can live with, even learn to enjoy, otherness” (Frug 2001: 120-21) That confidence to reject a static conception of community and embrace dynamism and change is, ultimately, what local citizenship can offer us in a global age.

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## A Political Promise or a Hollow Hope?

Liav Orgad\*

### The puzzle of urban citizenship

The 15th GLOBALCIT Forum, kicked-off by Rainer Bauböck, provides plenty of food for thought. *Conceptually*, is there a concept of ‘urban citizenship’ in law and political theory? What does ‘urban’ mean—only sub-national territorial units, defined by geography, or also sub-national functional units, determined by authority? Is the focus only on the city or also on other provincial, regional, and local entities? And what does ‘citizenship’ mean—a legal status or a practice (Helmut Aust); a set of rights (which ones, for whom, and why?) or also responsibilities; a residency-based or also identity-based notion? *Normatively*, what are the theoretical foundations and justifications for a concept of urban citizenship? What is the connection between urban and national citizenship functions? Is urban citizenship only an ethical idea or also a legal concept? *Legally*, what reforms should be taken to recognise a concept of urban citizenship in a juridical sense? Should it be merely about individual rights or also about cities’ rights? *Politically*, is urban citizenship bad (Enrico Gargiulo and Lorenzo Piccoli; Avigail Eisenberg) or good for human rights, social equality, and global justice? Bauböck has provoked so many questions on the essence and meaning of urban citizenship.

Reading the Forum’s contributions, it is clear that the answer to Bauböck’s question, “should urban citizenship be emancipated from nationality?” is more nuanced than a binary yes-or-no. For what *goals*: enfranchising non-citizens, enhancing global governance, or fighting populism? Different goals call for different solutions. And by which *means*: while Ran Hirschl seeks to give cities a constitutional status, as an answer to their constitutional “silencing” in most states, Barbara Oomen wants to buckle them up to international law, as an improvement to human rights conditions of city dwellers. It is precisely at this point where the debate seems to have lost track. Hirschl, for one, concludes that “this concept [urban citizenship] seems to me to be slightly off target in identifying the main issue of city under-representation”, yet this issue has not been Bauböck’s concern. Some authors agree on the goal yet dissent on the means; Gargiulo and Piccoli share Bauböck’s vision but differ on whether residency-based urban citizenship is a wise means to achieve it due to its exclusionary implications. It is no longer clear what are the problems and whether the debate is on concepts, justifications, applications, or implications.

### Making cities great again

“Once upon a time”, Bauböck reminds us, “all citizenship was urban”. And although “[t]alking about urban citizenship in this context [of nation-states] has seemed anachronistic”, urban citizenship, based on residence, which “complements national citizenship instead of replacing it”, seems to Bauböck a promising reform that could give new salience to the old idea. This is due to the role that cities can and should play “in addressing global problems, such as the climate crisis or international refugee protection”, the irrelevance of the distinction between national citizens and city dwellers to local democracy, and the potential of cities to better protect human rights. These reasons, alongside the changing demographic landscape of cities, call for a change in the status and role of cities to the point of creating a new narrative of citizenship.

I share the plea for rethinking the status and role of cities, yet three points should be stressed. *First*, for achieving Bauböck’s goals, one does not need to reinvent the concept of citizenship; Such goals can be achieved by incremental improvements in local democracy, such as the “expansion of voting rights

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to non-national citizens”, as Alexander Aleinikoff shows (in this regard, the concept of urban citizenship is too broad), or by globalising (rather than localising) citizenship, as Eisenberg and Stephen Minas imply (in this regard, the concept of urban citizenship is too narrow). *Second*, even if citizenship is the right framework, is it in the Arendtian sense of a “right to have rights” (in this case, legal rights cannot be entirely emancipated from nationality as the prerogative of cities is derived from the state)? Or is it in the Brubakerian sense (1992: 31) of an “international filing system, a mechanism for allocating persons to states”? There is hardly any added value of urban citizenship in these respects. Or is it citizenship in the Smithian sense (2001: 1857) of a “sort of membership in a political community”? In this case, perhaps residency alone is too thin for urban citizenship acquisition and one can think of cultural bonds and other essential traits of belonging to a city. *Third*, what should be the nexus between urban and national citizenship? Bauböck says that urban citizenship can complement national citizenship and identifies three accounts of the relation (diminutive, derivative, and postnational). Yet, as always, the devil is in the detail. For instance, he mentions that “cities should determine who their citizens are independently of how states do this”. Yet, this idea undermines national sovereignty fundamentally. And if residency is the criterion to urban citizenship, how is it defined: by a number of days, ties to a city, or other rules? And what about dual residence, or the connection between urban and national residency (e.g., I am no longer an Israeli resident even though I am still a resident of my city of birth in Israel)?

Before one celebrates the rebirth of urban citizenship, more details are essential about the substance of the concept and its goals. One should ask what will be achieved and for what price.

### **Populism and localism**

Here is one way to think about political gains and losses. Bauböck and others (e.g., Sandra Seubert, Harald Bauder, Warren Magnusson, and Avner de Shalit) believe that urban citizenship may reduce populism since cities are generally more inclusive than rural areas. Maybe. *Empirically*, Gargiulo and Piccoli challenge the “emancipatory effects” of cities and show how urban citizenship may “enhance, rather than reduce, populism, anti-immigrant sentiment, and exclusionary policies” (for a similar claim, see Patti Lenard). *Politically*, even if cities have a magic emancipatory touch that can bring about more inclusion of migrants, will this reduce or increase populism? Populism is rising because, among other reasons, states are losing control over the borders and boundaries of national membership. There is little point in trying to solve a problem by enhancing the same root cause that has contributed to its creation. And *conceptually*, if urban citizenship is interpreted broadly to include towns, villages, and other local entities—as Bauböck, Johnna Hase, and Luicy Pedroza suggest—it is likely to increase populism since minorities and migrants are more likely to be oppressed in small and homogeneous communities. The political price of a rebirth of urban citizenship may be high.

### **Toward legalisation of the status of cities**

If one accepts the proposition that control of the gates is a core feature of state-centred citizenship, what can be the *legal* implications of urban citizenship, in addition to the ones that already exist (as detailed, e.g., by Monica Varsanyi and Ken Stahl)? I suggest two meanings that urban citizenship is capable of delivering on a practical level—in the sense of what is politically feasible in the short-term given current political conditions. Other meanings may be desirable too, yet my point refers to politically feasible legal claims that can provide the concept with more concrete meaning—“a status with a punch”, to use Aleinikoff’s words. This is particularly essential to lawyers, who work with recognised legal concepts with which one can go to court—it is not by accident that the strongest sceptics in this Forum are legal scholars.

The first meaning relates to rights of *cities* in international law. On the international level, cities have no legal personality. Global activities—such as the involvement of the C40 organisation in the climate

change initiatives or the rise of sanctuary cities in North America and Europe—have emerged outside the formal legal realm. This reality may change as cities enjoy an ‘international moment’ and receive increased attention in international forums (e.g., the U.N. Sustainable Development Goals), statements, conferences, and reports (e.g., the U.N. Human Rights Council report on the role of cities in promoting human rights). It is not surprising that cities, once the focus of urban sociologists, have become a focus of international and constitutional law scholars, such as Alex Aleinikoff, Helmut Aust, Ran Hirschl, Gerald Frug, David Barron, and Janne Nijman. As the proliferation of cities continues to rise, they are no longer seen as sub-national units, but partners to international regulation. This can lead to a transformation in the legal status of cities in international law, beginning with a ‘consultative status’ at the U.N.

The second meaning relates to rights of *cities* in constitutional law. Hirschl has already explained the constitutional silence surrounding the legal status of cities and presented models to grant a constitutional status to cities that will enhance their power. I want to add another direction that urban citizenship can possibly achieve—a greater autonomy in constitutional interpretation of national laws. The overall idea is to grant local bodies, including courts, the power to deviate from mandatory national norms according to the composition of the local population, its social and cultural traditions, and its special interests and needs. In Israel, for example, the Supreme Court has adopted such a rule in different policy areas. The Court ruled in *Solodkin v. Beit Shemesh Municipality* that the scope of the prohibition on selling pork in shops should be determined at the local level; the balance between religious feelings, offended by selling pork, and freedom from religion depends on the specific nature of the municipality (and its neighbourhoods) and its unique characteristics. This logic of local functionality in implementing national rules can apply to other policy areas—for instance, voting rights to noncitizens—and be framed as a legal right of localities to decide, to some extent, the essence of urban citizenship.

In order to promote urban citizenship, whatever it means, it is essential to provide it with a concrete legal meaning; otherwise it may remain a hollow hope. One option, as suggested here, is to entrench the powers of *cities* and upgrade their status as a way to promote human rights, democratic participation, and involvement in global governance. Other options, among them the empowerment of *individuals* in cities and the extension of citizenship rights to noncitizens, are possible too, but they have a different logic, goal, and set of assumptions. These dilemmas will continue to occupy legal and political theorists (and policymakers) in the years to come.

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## In Defence of Multilevel Citizenship – A Rejoinder

Rainer Bauböck\*

The twenty-two responses to my proposal for strengthening urban citizenship suggest two general lessons. First, there is more common ground than I had expected. None of the authors defends a strong statist view that would not leave any space for a conversation about citizenship at the local level. Second, in spite of its long premodern pedigree, the idea of urban citizenship seems still so new that it needs to be fleshed out in more detail than I had considered thus far. Conceptual confusion makes it hard to distinguish misunderstanding from disagreement, so my most urgent task now seems to be clarification.

The contributions to our debate have helped me to clarify my ideas, but some have also thrown up questions that I am unable to answer. I cannot address all the insightful comments. I will regroup them around six general questions that are running through this debate: (1) What is the content of urban citizenship and does it warrant using the concept of citizenship? (2) Should local level polities enjoy the right to determine who their citizens are? (3) What is the connection between empowering cities and extending local citizenship to all residents? (4) Does local citizenship provide a transformative model for national citizenship? (5) Does a stronger urban citizenship increase the risks of exclusion from and marginalisation within the city? (6) Will enhanced local citizenship deepen or help to bridge the urban-rural divide?

### The franchise and beyond: fleshing out local citizenship rights

Most comments spend little time to discuss what signalled for me most clearly the rebirth of urban citizenship in a new guise when I started to write about this topic twenty years ago: the phenomenon of local voting rights for non-nationals, who are disenfranchised at the national level. If we understand citizenship as a status of equal membership and participation rights in a self-governing polity, then those who can vote in democratic elections must be considered as the polity's citizens. And if non-nationals, who are excluded from national elections, can vote in local elections, this implies that the citizenry at the local level is no longer the same as at the national one.

Alex Aleinikoff shares my conception of citizenship as “membership in a self-governing political entity”, but goes on to write that granting voting rights to non-citizens is not enough to speak about a distinct local *citizenship*. This is indeed what we see if we see like a state. It is in most cases the state that grants local voting rights to non-citizens. Yet doing so does not change whom the state regards as its citizens. However, under a ‘seeing-like-a-city’ view, the state's non-citizens become the local polity's citizens when they have the right to participate in its self-government through their votes.

So far, this may seem like mere terminological sophistry. But I share Lucy Pedroza's view that a residence-based franchise matters also politically. I live at the outskirts of Vienna, a city of nearly 2 million residents, fully 30% of whom are disenfranchised because they do not have Austrian passports.<sup>1</sup> The effect is that parties and candidates have strong incentives to talk up problems related to immigration but none to represent the interests of immigrants who cannot vote for them. Warren Magnusson thinks that this discrepancy could be resolved through more inclusive policies of national citizenship (easier naturalisation and *ius soli* for the second generation). This would certainly help. But many of those who could naturalise are unwilling to do so. Especially citizens of the European Union who enjoy free movement rights have very low naturalisation rates. In European cities extending local voting rights to all residents is the only way how to make local democracy sufficiently representative.

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<sup>1</sup> This number includes EU citizens who cannot vote for the city parliament because Vienna is also a federal province and EU citizens are only granted voting rights in local, but not in provincial elections.

The local franchise is, however, not the only right associated with urban citizenship. Early on in the debate, Avner de Shalit and Nir Barak have made two friendly amendments to my account that I am happy to adopt. Like national citizenship in T.H. Marshall's account, urban citizenship should include not only political rights but also social and civil ones.

De Shalit introduces an important distinction between two types of social citizenship – those based on material redistribution and those guaranteeing access to public goods and services. This distinction does not neatly map onto that between national and local levels of government, but, by and large, the former are more important for social citizenship at the national level and the latter at the local level. De Shalit reports that, when asked about inequality in the city, urban dwellers mention spatial concerns that have to do with access to public goods, like parks or services like kindergartens and public transport, whereas they would mention the distribution of income and wealth when asked about inequality in the country. This suggests that citizens have an intuitive understanding of the division of tasks between states and city governments when it comes to securing social citizenship.

In Marshall's account, the promise of civil and political equality of national citizenship remains hollow if states fail to guarantee a 'modicum of welfare' for everyone. The other side of the coin is that social citizenship becomes the 'architect of legitimate social inequality' produced through markets. A similar story can be told about cities. The promise of equal citizenship for all residents in the city is hollowed out through spatial segregation and social marginalisation along the lines of class and race that blocks some groups of city dwellers from access to the public goods and services that the city provides to its residents. And just as social citizenship at national level requires regulating labour markets and a certain amount of redistribution of income and wealth through taxation and welfare benefits, so urban citizenship requires regulating private housing markets if they risk crowding out city folks through unaffordable rents. A city that promotes equal access to its public goods and services does not thereby abolish social inequalities of class, but it enables its residents to see each other as equal citizens with a 'right to the city' that they claim through their daily uses of urban spaces, through their collective initiatives and protests, and their democratic votes.

There are also good reasons why city and national governments focus on different aspects of social citizenship. If cities were empowered to collect and redistribute income tax and determine the level of unemployment benefits, this would seriously undermine equality of social citizenship at the national level – not just because citizens in one municipality would then be worse off than those in another, but also because of the effects of free movement that could quickly undermine the capacity of socially progressive cities to maintain their higher levels of redistribution and welfare. Vice versa, if national governments were in charge of interventions in housing markets or provision of local transport systems, they would make a mess of the job because of their lack of local knowledge and political accountability to local residents.

Nir Barak places the emphasis on civil citizenship. People act as citizens when they claim the civil liberties of free speech and assembly that "enable civic engagement at the city level". Yet, as Barak argues, these liberties must be guaranteed at the national level so that they can also be invoked against city governments. By contrast, Barbara Oomen points to cities and small towns that proclaim themselves to be human rights spaces, which signals mostly a critical stance towards their national governments' policies. At the same time, she regards human rights as a crucial component of urban citizenship that can also be invoked inside the city against policies of urban segregation and exclusion. My view is that civil liberties, which by their very nature are universal rights, must be protected and implemented by all governments and serve as checks against abuse of government power at all levels. Yet in the current world, the universal *recognition* of human rights depends on their entrenchment in international law, which is generated through state consent to international agreements and customary state practice. Barak is therefore right to emphasise the pre-eminent role of states in codifying human rights, but we should add that states also have the greatest powers to violate human rights and must be constrained and checked both from above (through international courts) and below (through local actors). The power of

municipalities is unfortunately limited in this respect, as Oomen acknowledges, since they cannot take their states to international courts.

I would, however, resist Oomen's suggestion that international human rights law can do much to strengthen city-zenship. Human rights are universal, while citizenship narrative appeals to membership in a particular political community. Just as the claims of non-citizen immigrants towards the nation-state are stronger when they do not have to rely only on their human rights but can invoke their status as denizens and potential citizens, so the claims of marginalised residents within municipalities will resonate more powerfully if they are grounded in a conception of local membership.

My conclusion is that, while the tasks of governments at all levels are rather similar when it comes to protecting civil liberties as universal human rights, urban and national citizenship are distinct on the political dimension, where they are articulated through different constructions of the boundaries of the demos, and on social citizenship, where urban and national governments have different responsibilities.

### **Self-determination of local citizenship?**

This Marshallian account does not fully settle the questions raised by Liav Orgad. Are we talking about citizenship in the Arendtian sense of "the right to have rights" or in the sense of Roger Brubaker's description of citizenship as an international filing system that allocates individuals to states? We might call these "Westphalian" conceptions of citizenship that refer to its functions in the international system of states as it has emerged since the 17<sup>th</sup> century. Urban citizenship is much older than this and deserves its name because of its domestic feature as a status of equal membership in a self-governing territorial polity.

Yet the old manifestations of citizenship in free city republics and the modern one of state-based nationality have one feature in common that contemporary urban citizenship is lacking on my account: the right of polities to determine under their own laws who are their citizens. Let me clarify why I do not see such self-determination of membership as a crucial feature of local citizenship.

Several commentators referred to my initial and slightly misleading statement that "cities should determine who their citizens are independently of how states do this" and pointed out that this creates a potential for cities not just to include non-nationals but also to exclude unwelcome newcomers. As I explained in my kick-off, the rule for determining local citizenship should be *ius domicilii*, i.e. the *automatic* inclusion of all residents. And this rule should not apply just to large cities but to all municipalities throughout a national territory. Cities should thus not adopt their own citizenship laws; rather, their citizenship should be attributed by the operation of a different set of rules than those of *ius soli*, *ius sanguinis* and naturalisation that determine who is a national citizen.

The question I raised about determining local citizenship is not: who should have the power to decide? but: what is the right decision? By default, this means that the higher the level that takes the right decision, the more municipalities will determine their citizens in the right way. This suggests that we should be looking beyond national legislation that occasionally has beefed-up local citizenship by granting self-government powers to municipalities and by enfranchising non-nationals in local elections. If such norms can be anchored in international law, this would be even better. For example, a Convention on the Participation of Foreigners in Public Life at Local Level adopted by the Council of Europe in 1992 foresees that states grant local voting rights to non-nationals after five years of residence. From this perspective, it is also welcome that EU citizenship includes local voting rights for EU citizens in other Member States, although it is regrettable that EU law does not extend these rights to third-country nationals.

The political case for local self-determination becomes strong only where national authorities block efforts of cities to adopt a more inclusive local citizenship, as happened in France, Italy, Germany, Greece and Austria when constitutional courts or councils struck down proposals for a local franchise

for third-country nationals. The scattered examples of voting rights for non-nationals in some towns in Maryland and several Swiss municipalities are second-best solutions in national contexts where derivative conceptions of local citizenship prevail but leave some space for autonomous residence-based ones.

### **Empowering local self-government and extending local citizenship**

Stephen Minas observes that in my kick-off “the notion of emancipation is applied both narrowly (to mean delinking ‘urban citizenship’ from a requirement to possess the nationality of the host state) and broadly (‘the emancipation of cities from the chokehold of the nation-state’)”. In a similar vein, Johanna Hase “questions the relation between emancipating urban citizenship from nationality, on the one hand, and the growing competences of local polities, on the other hand”. Empirically, Hase has a point, since the extension of the local franchise to non-nationals seems to have happened more often in countries like the Nordic states where local governments have only weak power. Such a negative correlation could be explained by what I have called a diminutive conception of local citizenship that considers local self-government as of no great importance.

From a democratic and normative perspective, there are, however, good reasons for connecting the idea of local residence-based citizenship with that of local autonomy. If cities did not enjoy sufficient powers of self-government, then urban citizenship would not be a status of membership in a self-governing polity.

To turn local citizenship into a language in its own right, instead of just a dialect version of national citizenship, cities do not require a navy and an army (Minas). We also do not have to invoke the notion of sovereignty (Aleinikoff, Josephine van Zeben). Sovereignty is often understood as a binary – either the state has it or the city has it – or as a zero sum game – the more power is devolved to local levels, the more state sovereignty is diminished. This is unhelpful and disproved by any working federal system in which power is dispersed across levels of territorial self-government. As Ken Stahl points out: “Within the American constitutional order at least, local governments have little sovereignty, but they have the ability, and often the responsibility, to confer many of the rights that define citizenship in a liberal democracy”.

Instead of asking whether cities can be sovereign, we should ask why they have a claim to political autonomy and should not be treated as mere creatures of higher levels of government. One argument for granting a political autonomy relates to administrative efficiency; it refers to the city as a social formation whose density of agglomeration and material infrastructure creates special needs that are distinct from those of more sparsely populated areas. The second argument relates to democratic legitimacy and applies equally to rural townships and municipalities. Public administration in modern societies is so complex that central administrations are incapable of deciding all local matters. Higher level governments thus face a simple choice: to maintain central control over local administrations that take decisions on all local matters, or to devolve decision-making power to local governments that are elected by local citizens. From a democratic perspective, the latter solution is the only acceptable one. National governments are elected by and accountable to the national citizenry. If they are politically responsible for all local decisions, this means that local citizens become permanent minorities dominated by national majorities. Local self-government is thus not merely a matter of administrative efficiency, but of democratic legitimacy.

This democratic argument provides support for Ran Hirschl’s plea for constitutionally empowering cities. But Hirschl does not say what they need their power for and whether cities should have special powers that non-urban municipalities cannot claim. I suggest that all sufficiently large democratic states must create a layer of local level polities that enjoy the same basic powers of self-rule and that enfranchise all their residents as local citizens. Beyond this basic layer of local autonomy, cities have special needs and claims that may occasionally justify enhancing their powers, e.g. by upgrading them

to provincial status. When Hirschl calls for “deep, across-the-board constitutional recognition of the metropolis as an autonomous order of government”, I would like to know first what kind of powers this would entail and how it would impact on the equality of local citizenship across the country.

In my view, the most important issue is not special government powers but territorial boundaries. Historic borders and administrative ones drawn by central state administrators are generally perfectly fine for local self-government of rural municipalities, but metropolitan regions should be united under a single government that is accountable to all residents.

I am not sure how all these arguments apply to the megacities in the Global South that Hirschl flags in his contribution. The combination of rapid urban growth with an absence of effective public administration presents a daunting challenge for any institutional theory of urban citizenship. There are cities in which nearly everyone is a recent immigrant and where the state is at best (and worst) present through its forces of order but not as a provider of services and infrastructure. It is in these contexts where it makes sense to think of urban citizenship as a practice rather than a status (Helmut Aust). It is here that populations thrown together through rural to urban migration might become citizens through city-making from below enacted in their daily practices of negotiating the spaces they inhabit together. However, it is also here that dystopian opposites of urban citizenship as conviviality of co-residents are even more likely to emerge than in the neglected and segregated urban “ghettos” of Western metropolises.

There is another question about city empowerment to which I have only a tentative answer. When global cities create networks and enter international arenas in efforts to resolve global collective action problems, such as the climate crisis and international refugee protection, does this not “introduce additional veto players who can block global efforts” (Barak) and would involving cities in international agreements not exponentially increase coordination costs (Minas)? We need to turn this question around. If states have failed to address or resolve urgent global problems, might bringing in multiple stakeholders (cities and other non-state actors) not help to unblock stalemates and reset frozen agendas? The participation of cities in such arenas would not be based on universal representation, but on opt-ins and it would not entail the power to sign and ratify international treaties that could turn them into veto players. Global governance is anyhow no longer an exclusive domain of sovereign states, and cities willing to play a progressive role should be welcome in global institutions.

### **Is local citizenship a trailblazer for postnational citizenship?**

Several commentators see a progressive potential in a residence-based local citizenship. Harald Bauder argues that “the idea that a sovereign state can arbitrarily exclude people from its national community, even if they are already living in the country, has created the very problem that urban citizenship seeks to solve through including non-national residents”. Monica Varsanyi interprets sanctuary cities as engaging in “open border” policies in the sense of “minimising the bordering practices that exist both beyond and within the nation-state”. She suggests that an “open borders” model could eventually be adopted also by the nation-state and would allow to “pair that national community with a robust membership regime based on residence, whether urban, rural or suburban”. Sandra Seubert and Luicy Pedroza go one step further by proposing that the list of residence-based membership regimes should also include national citizenship itself. Should urban citizenship be upscaled to the level of the nation-state?

Varsanyi’s open border argument captures a central feature of local self-government in the period of modern statehood. It had to develop under conditions of internally open borders imposed by nation-states on cities. Local citizenship based on residence embraces this openness and can even turn it against the state when it challenges national bordering policies at the local level. Yet, we should not jump too quickly to the conclusion that nation-states can or ought to follow the same pathway to open borders for which cities have been trailblazers.

The Westphalian function of national citizenship entails that states are responsible for their citizens outside their borders and have to readmit them unconditionally to their territory. It also entails that they have the power to control immigration of foreign nationals for whom other states are similarly responsible. This is one reason why national citizenship, as long as it operates within the international state system, cannot be acquired and lost automatically on the basis of residence. As I have argued in my kick-off, the Westphalian function of national citizenship still allows for rights of free movement between states, but only on a basis of reciprocity. Next to enabling such nationality-based free movement, liberal democracies ought to open separate admission channels for refugees, labour migrants and family reunion. Such policies are utterly different from those of local municipalities that lack powers to control territorial admission in the first place. The reason why open local borders and *ius domicilii* cannot be upscaled to national levels is that states govern themselves inside a system of independent states without a higher-level government, whereas cities govern themselves within the territory of independent states.

The second reason why national citizenship should not be derived from residence alone is that relatively sedentary societies exposed to significant levels of mobility within and across state borders need two sources of solidarity: that among co-residents and that among co-nationals. The former have come together in cities based on their individual choices of staying, moving in or moving out. The latter have been born into a status of membership that they can carry abroad and keep for life. Residence-based local citizenship signals openness for newcomers and internal diversity, while birthright-based national citizenship signals the intergenerational continuity of a self-governing people and duties of its members towards future generations.

### **Does urban citizenship enhance risks of marginalisation and exclusion?**

Enrico Gargiulo and Lorenzo Piccoli have set the tone for several subsequent contributions that point out how local self-government powers can be used by “mean cities” to exclude newcomers and marginalise the homeless and others who lack resources. Margaret Kohn argues that local autonomy enjoyed by Charter cities in the US and Canada should be granted only if they defend “normative orders that are inclusive and solidaristic”. She vividly describes how zoning laws are dangerous tools that can lead to policies driven by NIMBYism among current residents: “The result is homelessness, brutal commutes, and a crisis of affordability”. Stahl points to the counterexample of the YIMBY movement that has “made great strides in the struggle to transform land use regulation and improve access to opportunity”.

My two tentative responses to these risks are, first, that when it comes to decisions on zoning, rent control and public housing, central governments are not likely to be better than local ones. Second, a conception of local citizenship that includes all residents and aims at equal access to public services and public goods is a powerful discursive tool in the fight against NIMBYism and policies of marginalisation.

Even if cities can keep in check the mobilisation of partial interests, this does not yet address the more difficult issue of how current residents can be convinced to keep the city open for newcomers. As Willem Maas points out, “even the most cosmopolitan cities privilege the interests of current residents”. Stahl similarly argues that “to enjoy the rights of local citizenship, one must first *acquire* residence within the desired local community, and that can be a daunting proposition”. The operation of housing markets enhances not only social inequality within cities but may also hide it to some extent by keeping out those who cannot afford the escalating prices in the most attractive cities and urban neighbourhoods. And where city governments intervene to regulate markets, they often create further exclusion through qualifying criteria that exclude newcomers or socially undesirable people.

One of the most interesting contributions in our conversation picks up this challenge from an economic perspective. Maarten Prak argues that building a local welfare system and a public

infrastructure requires long-term investments that are sunk costs for individual citizens. This prior investment gives natives and longer-term residents a stronger stake in the city, which may rationally explain their reluctance to provide the benefits of urban citizenship to those who have newly arrived. Prak helpfully points out that a negative attitude towards newcomers may be stronger in more stingy neoliberal or conservative welfare regimes where benefits are means-tested and depend on individual desert and effort. Natives may feel there that the inflow of undeserving newcomers does not merely potentially increase their tax and other contributory burdens but exposes themselves to risks of becoming welfare dependent. By contrast, more universalistic welfare systems, such as the Scandinavian ones, should make it easier to maintain a sense of equal citizenship with high levels of immigration.

I find this argument compelling. The structural openness of cities that lack instruments for formal closure at the gates of immigration and citizenship may indeed lead to resentment by those who have contributed in the past. This feeds what I have called nativist distortions of local citizenship that aim at turning public (non-excludable) goods into club goods that only natives or long-term residence get open access to whereas newcomers are excluded, put on waiting lists, or –maybe less invidiously – required to pay fees for. Access to public housing in Vienna provides a good example for a waiting period approach. As in the case of local NIMBYism, I believe that such policies erode an inclusive conception of urban citizenship that grants equal access to public goods for all residents. The apparent economic rationality of local nativism can sometimes be countered by facts that show the beneficial impact of economic immigration for sustaining welfare systems. Yet such effects are not guaranteed for all types of migration and may kick in only in the long run. Where cities are overburdened and lack resources to sustain open access, they ought to be compensated through fiscal redistribution at the national level.

### **The urban-rural divide**

The final question I want to address here has been running through many contributions. One could try to group authors into urbanists and localists. The former focus entirely on cities and ignore the question of whether citizenship rights and powers of self-government should apply throughout the country to all municipalities, while the latter fight for equal rights of residents in all municipalities and worry about the claims and attitudes of those “left behind” in rural-to-urban migrations. This classification breaks, however, quickly down when authors regard the distinction between urban and rural areas as increasingly blurred (Magnusson) or counter-productive (Hase) and point out that rural municipalities are also engaged in inclusive practices of sheltering undocumented migrants (Lenard, Varsanyi).

As I hope to have made clear, I support constitutionalising the distinction between local and national level citizenship, but not that between urban and non-urban citizenship. Yet this latter difference is still highly important as a matter of social justice and democratic politics, which is why we cannot simply replace the term urban citizenship with local citizenship in all contexts. The urban-rural divide throws up major questions about the social marginalisation of citizens living in regions that have been deserted by the young, mobile and talented. And in spite of the anecdotal counter-evidence mustered by some of our authors, it is a fact that socially and culturally progressive citizens tend to be ever more concentrated in metropolitan areas. It is not by coincidence that the strongest resistance against nationalist-populist governments in the Višegrad states comes today from the capital city mayors (Pedroza). This is not only a sign of urban resilience but also a political weakness, since the concentration of progressive votes in cities diminishes the chances of progressive parties and candidates to win in national elections.

Policy reforms should aim at overcoming the rural-urban divide. Local citizenship can help if the same principles of *ius domicilii* and equality of access apply to all municipalities of the country, which requires national efforts to rebuild infrastructure and public services outside urban areas and incentives that lure back the highly skilled, such as medical doctors, to half-deserted regions. In matters of electoral rights and representation, policy reforms should tilt towards the other side by correcting electoral system bias against cities and securing equal weights for urban and non-urban voters.

Here is one good example of how to bridge the divide. Emulating a successful Swiss scheme, the new Conservative-Green coalition government of Austria proposes to introduce a “1-2-3 annual ticket” for public transport. For the price of 1 Euro per day, one can travel on all buses and trains in one of the nine federal provinces, for 2 Euros in two neighbouring provinces, and for 3 Euros throughout the country. This scheme will require heavy public subsidies plus investments into the capacity of public transport. Its intended effect is to reduce carbon emissions from private car traffic and enable commuters from outside the cities to be mobile while maintaining their residence in the countryside.

We need such responses to address the dilemma that Avigail Eisenberg’s contribution focuses on: Rural populations are often tied to ecologically unsustainable economies (mining, forestry, industrialised agriculture). In order to wean them off, urban dwellers must take part of the burden on their shoulders and engage in urban-rural partnership programs. I agree with that part of Eisenberg’s diagnosis, but have doubts about her call to control the urban “culture of eco-esteem” in order to avoid democratic backlashes. Where the rural-urban divide overlaps with a cleavage on cultural issues such as gender justice or environmental ones like climate change, progressives must take sides. The culture of eco-esteem promoted by Fridays for Future, or the me-too and same sex rights movements are not the causes for the populist backlash and it is an illusion to think that voter resentment can be overcome by acknowledging imagined grievances. Yes, cities that thrive on diversity are better prepared for the rapid cultural changes of our age and the radical policy reforms that lie ahead of us. This is no reason for atonement but rather for making sure that non-urban populations are not left behind in these regards too.

## **Conclusion**

As our debate has shown, urban citizenship is not intrinsically good or bad. It is one piece in a comprehensive institutional architecture of democratic citizenship that needs to be strengthened in order to make the building as a whole more resilient and adaptable in times of global crises. The basic principles and rights of urban citizenship need to be extended to all polities at the local level, but they should be kept distinct from those of national-level citizenship. Instead of flattening the differences by seeing citizenship like a state or like a city, we need to see it as multilevel membership in both types of polities.



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