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*Joachim Blatter and Andrea Schlenker*

## **Between nationalism and globalism: Spaces and forms of democratic citizenship in and for a post-Westphalian world**



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With its working paper series “Glocal governance and democracy” the Institute of Political Science at the University of Lucerne provides the opportunity to present conceptual ideas, normative debates and empirical findings regarding current political transformations of the modern state system. The term “glocalization” addresses key transformations in respect to levels of governance and democracy – multiplication and hybridization. These features can also be observed in the processes of horizontal interpenetration and structural overlaps among territorial units (transnationalization), in new forms of steering with actors from the private, the public and the non-profit sector (governance), in the interferences among functional regimes and discourses and in emerging new communities and networks between metropolitan centres and peripheries on various scales. One of our core themes is migration and its consequences for development, transnational integration and democracy. A second field of research and discussion is governance and democracy in functionally differentiated and multi-level systems.

Prof. Dr. Joachim Blatter is Professor of Political Science at the University of Lucerne  
[joachim.blatter@unilu.ch](mailto:joachim.blatter@unilu.ch)

Dr. Andrea Schlenker is Senior Researcher and Lecturer of Political Science at the University of Lucerne; [andrea.schlenker@unilu.ch](mailto:andrea.schlenker@unilu.ch)

**Contact:**

University of Lucerne  
Faculty of Humanities and Social Sciences  
Department of Political Science  
Frohburgstrasse 3  
Postfach 4466  
6002 Lucerne

T +41 41 229 55 91

F +41 41 229 55 85

E-Mail: [polsem@unilu.ch](mailto:polsem@unilu.ch)

## Between nationalism and globalism: Spaces and forms of democratic citizenship in and for a post-Westphalian world

### Abstract

The search for new forms of citizenship in a post-Westphalian world is often characterized by one-dimensional and dichotomous thinking. We aim to overcome the one-dimensionality by differentiating between spaces or arenas of citizenship on the one hand and normative principles for assigning citizenship statuses and rights on the other hand. When we look for new spaces of citizenship, we overcome the dualism between global/supranational and domestic/national arenas by adding transnational arenas which emerge when national policies and memberships overlap and interact. In respect to normative principles, we argue that neither particularism nor universalism but pluralist thinking leads the way towards promising new forms of citizenship. A pluralist account builds on the concepts of partiality, proportionality and multiplicity in specifying and assessing emerging forms of citizenship.

While the discourse on democratising the *supranational arena* is torn between globalist and nationalist visions, we argue that supra-national institutions of governance should recognize individual people in addition to (national) peoples as principals/members and that the citizenship rights, practices and identities of individuals should develop in proportion to the governing competences of these institutions. The debate on the emerging forms of citizenship in the *domestic arena* is also characterized by radical alternatives: some diagnose the emergence of “post-national citizenship” based membership in the universal community of humankind while others fight for the exclusivity of citizenship for the established members of the national community. We argue that states should recognize sedentary individuals and migrants as distinct but equal members and that they should grant immigrants quasi-citizenship and emigrants external citizenship in proportion to their biographical subjection to their laws. Finally, we emphasize that the main demand for new forms of citizenship emerges in the *transnational realm*. We show that the principles of partiality and proportionality pave the way to pragmatic solutions for the inclusion of external others between the “all subjected” and the “all affected” principles. Finally, we point to dual citizenship as the most promising form of extensive citizenship that offers a realistic opportunity for including the interests/perspectives of external others in the democratic decision-making processes within nation states.

These reflections are summed up in the concluding chapter with a conceptual map that locates the emerging spaces and forms of citizenship in a post-Westphalian world. The map not only provides conceptual orientation and show how the pluralist principles can be applied in different arenas but it makes also clear that some of the most promising (both desirable and realistic) forms of citizenship fall in-between the clear-cut concepts that have dominated the theoretical discourse.

**Keywords:** Citizenship, universalism, particularism, pluralism, world citizenship, post-national citizenship, transnational citizenship, quasi-citizenship, external citizenship, dual citizenship, multiplicity, proportionality, partial citizenship

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## Introduction and Overview<sup>1</sup>

The Westphalian world order has been based (at least in principle) on the external and internal sovereignty of territorially delineated nation states. In the international realm, the nation state has been the only legitimate actor and internally it had a monopoly on the legitimate use of violence. Since the modern nation state came into being together with the “second coming of democracy” (Dunn 2005) the legitimacy of this order has rested on the assumption that the national citizenry as the *authors* of democratic rules are congruent with those who reside within the boundaries of the nation state as the *addressees* of these rules, and with the nation state as *arena* of rule-making and *agent* of rule-implementation. The exclusive appropriation of all territory on earth (at least of all land masses) to specific states provided the fundament for the congruence between authors, arenas, agents and addressees of democratic rule. Since the 1990s, however, there has been a debate about a Post-Westphalian world order, which is characterized not only by new forms of sovereignty in a multi-level system of governance but also by new emerging spaces and forms of citizenship (Linklater 1996).

In this essay, we develop a conceptual map for tracing the spaces and forms of citizenship that are emerging in a post-Westphalian world and we discuss normative principles that help to build and evaluate these new forms of citizenship. The conceptual map is based on two dimensions. The first dimension focuses on the arena<sup>2</sup> of political governance. We distinguish between three kinds of arenas: a) the national/domestic, b) the transnational, and c) the supranational. The second dimension of our map concerns the principles for assigning citizenship – or some elements of it – to actors (not necessarily only individuals): a) particularism, b) pluralism, and c) universalism.

The resulting two-dimensional map (see Table 1 on p. 50) reveals eight different spaces and forms of citizenship that go beyond the ideal-typical Westphalian form. The latter is characterized by the fact that only those individuals who are formal members of the national

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<sup>1</sup> We are very grateful to Andrea Blättler and to Samuel Schmid for their dedicated help in finalizing and formatting this Working Paper. Furthermore, Andrea Blättler provided insightful comments which improved the content of the paper.

<sup>2</sup> We use the term “arena” in contrast to “level” – which is more often used in the literature on multi-level governance – because the implied image of a vertical “layering” of spaces of governance does not really capture the transnational flows, (inter)dependencies and (inter)actions which trigger transnational forms of citizenship.

community and who are residents within the territory of a state have citizenship entitlements; this exclusive group of individuals has all entitlements (civil, political and social rights as well as meaningful and consequential opportunities to participate) within the territorial confines of a specific state and it is expected, in turn, that for those endowed with national citizenship the national identity prevails over other identities and that they actively participate in national politics.<sup>3</sup>

The main message that we want to highlight with our conceptual map is the fact that spaces and forms of citizenship, which lie “in-between” the Westphalian form and its most radical alternatives, are the most promising avenues for citizenship rights and practices in a post-Westphalian world order. First, the conceptual map indicates the importance of the transnational arena that we locate in-between the national and supranational arenas. Secondly, the message refers even more to the principles, which guide the understanding and assignment of citizenship in all three arenas. We will argue that both, adequate norms and realistic means for new forms of citizenship should be based on pluralist thinking which overcomes the dominant dichotomy between particularism and universalism.

The core principles within a pluralist account are partiality, proportionality and multiplicity. The term partiality implies that citizenship is not an all-or-nothing affair and reflects our plea to overcome dichotomous thinking and to accept fuzzy boundaries. Proportionality is the corresponding principle to partiality and indicates that as soon as we accept that citizenship can and should come in different degrees we need criteria that help us to answer the question which degrees of citizenship are normatively adequate in which contexts. Furthermore, the concept of proportionality and the accompanying question of “in proportion to what?” highlights the fact that in a post-Westphalian world the nation and the nation states in which people reside are not seen any more as the only (“natural”) communities and polities which grant citizenship statuses and rights and which represent the direction for participation and identification.

The notion of multiplicity implies two things: First, in post-Westphalian arenas there exist always two kinds of principals/members. In the domestic arenas these are sedentary people and migrants; in the supra-national arena these are statespeoples and individual people; and

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<sup>3</sup> Like the principle of sovereignty, this ideal-typical form of citizenship has never been fully implemented. Still, for analytic purposes it is useful as a bench-mark for describing and evaluating diverging forms of citizenship.



in the transnational arena there are mono-citizens and dual citizens. Furthermore, the second and new kinds of principals in each arena (should) have always two/multiple memberships at the same time: migrants should have quasi-citizenships granted by the country of residency and external citizenship granted by the country of decent; individuals should have national and supranational citizenships if they are members of supra-national forms of governance; and people who are affiliated with two countries should be granted dual citizenship.

We proceed as follows: First, we briefly scrutinize the main triggers that have spurred the demand for and the emerging reality of new forms of citizenship. We distinguish between flows of capital, information, goods and “bads” across the boundaries of nation states and flows of people. The former undermine the sovereignty/autonomy of national policy-making and the exclusivity of nation states as arenas of political decision making if, as a response to these flows, supranational institutions of governance are built. The latter flow undermines the congruence between the formal members of national political communities and the residents within territorial states as well as the exclusivity of nationals as bearers of citizenship rights if states accept the spread of universal human rights.

The growth of supranational institutions of governance has stimulated thinking about normatively adequate forms of *supranational citizenship*. We will turn to this discourse in the second section of the paper. We briefly introduce the most clear-cut normative concepts (nationalism and globalism), and point to their deficiencies. We propose instead an approach that not only draws on current realities but that is also normatively more adequate. Given the fact that both, governance competences and citizenship rights can be disaggregated into parts, we argue that the latter should be allocated to different levels of governance in proportion to the competences that have been delegated to political institutions on these levels. We also argue that an important step on the way to realizing this normative principle is that supranational institutions of governance recognize two kinds of members: statespeople and individual people whose membership rights should be constantly re-adjusted in accordance with the proportionality principle.

In the third section we turn towards the second trigger for new forms of citizenship: international migration or the flow of people across the territorial boundaries of nation states has led to debates on how many citizenship rights should be or are already granted to immigrants in the *domestic arenas* of these states. Against the backdrop that in an ideal-type Westphalian order citizenship rights are limited to national residents, it has been claimed that

we are witnessing the emergence of a “post-national citizenship” based on personhood as a universal principle of inclusion. Yet, this has been disputed analytically and normatively. With reference to Rainer Bauböck, we will argue that domestic politics can be democratised by granting individuals citizenship rights in proportion to their biographical subjection to the state. An important step for realizing this principle is that states recognize not only native/sedentary residents, but also immigrants and emigrants and grant the former certain levels of “quasi-citizenship” and the latter some elements of “external citizenship”. Vertical and horizontal “democratic iterations” (Benhabib) are necessary for adjusting the extents of quasi- and external citizenship to the normative principle of proportionality.

In the fourth section we turn to the *transnational arena* and address the question how new forms of citizenship can contribute to the democratization of the asymmetric power relations that characterize these spaces. We will briefly discuss the attempts to redefine the democratic principle of inclusion in accordance with the notion of “all affected” and argue that the proportionality principle helps to overcome principled and practical problems. Thus, we propose that states should grant non-residents citizenship rights in proportion to their level of affectedness. This norm can be made applicable by two kinds of differentiation: First, by separating civil rights from political rights, and secondly, by providing specific and weighted representations for residents, non-resident nationals and non-resident non-nationals. Finally, we identify the rise of “dual citizenship” as the most promising development to approximate the normative goal and we scrutinize the pathways and dynamics through which the recognition of multiple citizens can lead to the representation of affiliated/affected externals.

In the final section we draw the lines of argumentation together and provide the already mentioned conceptual map for locating the old and new spaces and forms of citizenship in a post-Westphalian world order. The map highlights our core message about the importance of multiple citizenship by placing this form of citizenship into the centre of the map. Furthermore, it reveals the similarity of our proposed normative principles and means in all arenas. Overall, our normative reasoning builds on pragmatism and strives for normative guidelines that help to reduce the most pressing problems. In consequence, the normative merits of the emerging or proposed forms of citizenship have to be judged not on the basis of some abstract ideal but in respect to the question whether they reduce the currently most pressing deficits without generating even more problematic side-effects.



## 1 Flows across borders and the emergence of new spaces of governance and citizenship

Two kinds of flows across the territorial boundaries of nation states are undermining the (assumed) congruence between authors, arenas, agents and addressees of political rule-making which formed the basis of democratic self-determination in the Westphalian world order and which was furthest advanced in Western industrialized nation states: a) flows of information, financial capital, goods and “bads” (e.g. emissions and crime); and b) flows of people.

### 1.1 Flows of information, financial capital, goods and “bads”

The first kind of flow leads to growing policy (inter)dependencies among nation states and these flows undermine de-facto the policy autonomy of these states. States stimulated these flows by liberalizing and harmonizing their national regulations. In parallel, they tried to regain political control through the creation of international organizations and supranational institutions of governance. Nevertheless, the resulting shift of political decision making to a level “above” nation states weakens the link between citizens as principals of democratic governance and politicians as agents. In consequence, there is a need for new forms of citizenship that correspond to these new spaces or arenas of political decision-making.

Since the growth of supranational institutions of governance has been at the centre of the debate about new forms of citizenship, we will turn towards the supranational arena first. Nevertheless, supranational forms of governance have not been the major reaction to the increased (inter)dependencies between nation states. Instead, increased competition and bi- or multilateral agreements between nation states, often supported by transgovernmental networks, international regimes and/or regulatory agencies prevail in most policy fields. The focus on supranational forms of governance has led to a preoccupation with the external restrictions of national sovereignty and democratic citizenship and to a concentration on the alleged “democratic deficit” of supranational organizations like the EU or the WTO. In contrast, realizing the fact that bi-/international treaties or intergovernmental regulations, but especially fiercer competition among nation states are the main reactions to growing socio-economic flows across boundaries puts the external effects of autonomous national policy-making and

the power relations between nation states into the focus of attention. This, in turn, shifts the debate towards the question how new forms of citizenship can contribute to the democratization of the asymmetric power relationships that de-facto characterize transnational arenas. These forms of expanded citizenship have to transcend the territorial boundaries of single national/domestic arenas. Nevertheless, they do not have to be linked vertically to supranational arenas but directed horizontally to those national arenas of governance where policies are decided that have strong cross-border effects and consequences. In consequence, we are looking for transnational instead of supranational forms of citizenship later on.

## 1.2 Flows of people

Migration represents a distinct but also growing flow across the boundaries of nation states. Only twenty years ago the UN counted just half the amount of today's 214 million international migrants, and an increase to up to 405 million by 2050 is expected (United Nations 2009)<sup>4</sup>. This flow across state boundaries leads to different challenges and transformations of citizenship. The flow of people is reducing the congruence between the two boundary markers of the modern world order: territoriality and nationality. This is the case because membership in a political community (nationality as formal citizenship status) is not granted according to the current residency of individuals, but follows other rules of inclusion and exclusion. Immigration leads to the fact that nationals are not the only residents anymore who live on the territory of a nation state and are thus subjected to its government and laws. Emigration, in turn, has the consequence that the national community encompasses those who reside on the territory of nation states and others who reside outside. The citizenship debates that resulted as a consequence of migration flows have focussed primarily on immigrants and empirical and normative debates emerged about the "rights of others" (Benhabib 2004) within the domestic realms of nation states. More recently, emigrants and expatriates and their "external citizenships" have been discovered as new forms of citizenship, as well. Nevertheless, both expansions of citizenship have been discussed primarily within the framework of the Westphalian world order and focussed on the rights that states grant non-

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<sup>4</sup> These numbers do not include the foreign population born in countries of immigration. Including 2<sup>nd</sup> and 3<sup>rd</sup> generation migrants, they would multiply by about 35 times (ibid.).

citizen residents and non-resident citizens within their domestic arenas of decision-making. Therefore we will address these debates first. But the debate on external citizenship can be expanded and connected to the first discussion on the externalities of national policy-making. In consequence, we talk about new forms of transnational citizenship when the flow of people is connected to the flow of influence across territorial boundaries of nation states. We will present proposals for the democratization of the post-Westphalian world order through the horizontal expansion of citizenship in the transnational realm in the third part of our paper.

In order to systematize the discussions and normative proposals about new forms of citizenship we distinguish between the supranational, the national/domestic and the transnational arena although we acknowledge that in reality the line is often not easy to draw. We talk about supranational arenas of governance when states have delegated competences to an international organization (e.g. WTO or ICC) or an organ (e.g. the European Commission) so that the organization is becoming an actor on its own and does not only serve as a platform for deliberation and negotiation among nation states. A further important indicator is that the interaction among nation states is strongly legalized or judicialized (see e.g. Zangl 2008). New forms of citizenship emerge when individuals are granted recognition and rights in these supranational institutions of governance. In contrast, we talk about new forms of citizenship in the domestic arena when we discuss the recognition of sedentary and mobile individuals as members of the political community of territorially delimited states and about the rights that these states grant or should grant them in their national decision-making process. Finally, we reserve the term transnational arena for those instances when external (but not necessarily global) effects of national policy-making are recognized and new forms of citizenship emerge or are proposed which aim to democratize a world order that is characterized by strong horizontal flows of influence between nation states.

## 2 Democratic citizenship in and for supranational arenas

### 2.1 From statespeoples to world citizenship?

#### 2.1.1 Global governance between national sovereignty and global democracy

Growing flows of information, financial capital, goods and “bads” across territorial boundaries have triggered the growth of supranational institutions of governance, so that the nation state is losing its exclusivity as focal point of political rule-making. The “post-national constellation” (Habermas 2001) has stimulated thinking about normatively adequate forms of citizenship for a world in which supranational institutions play an increasing role in political governance. Within this discourse, we can sort out two extreme poles: on the one hand, there are influential scholars who point to the continuing primacy of national sovereignty and citizenship. On the other hand, there are those who propose more or less radical versions of global democracy and world citizenship. We briefly illustrate with reference to prominent scholars what the two diverse visions imply in respect to recognized memberships in supranational arenas. Next, we delve deeper into the normative arguments and empirical realities in order to show that adequate understandings of citizenship in supranational arenas must be located in-between the most clear-cut concepts.

Rawls (1999) is convinced that it is normatively and empirically appropriate to recognize peoples – liberal or “decent” nations – as the only members of the international community. As members of an idealized “Society of Peoples” they should mutually recognize their sovereignty, freedom and independence which should only be limited by the duty of non-intervention and by the duty to honour human rights (Rawls 1999: 37). Most peoples are organized in the form of states but Rawls underlines that his ideal units differ from traditional states since their sovereignty is restricted in two respects: they do not have the right to go to war to further their interests, only the right to self-defence; and internally they must meet certain minimal standards of human rights (ibid. 25-27). Still, given these restrictions, clearly particular collectivities, not individual persons, are the units of representation (ibid. 34), conceived as moral agents in their own right, with interests of their own and a corporate capacity for exercising responsibility over time. Rawls’ choice to take peoples rather than individuals as ethically primary seems pragmatic, compelled by considerations of political realism (e.g. Rawls 1999: 17, 83).

Others recommend to overcome national sovereignty and to imagine political governance and citizenship on a global level by empowering individuals as primer principals within a global democracy. We find such *globalist* tendencies in the work of scholars who are often subsumed under the label 'cosmopolitans'. They advance the gradual institution of a cosmopolitan polity that would eventually cover the globe (Held 1995, 2004; Archibugi 1993). A cosmopolitan democratic law would provide a common structure of action and demand "the subordination of regional, national and local sovereignties to an overarching legal framework" (Held 1995: 154).<sup>5</sup> This line of thinking is further pushed by scholars of global justice who emphasize the universal rights of individuals as persons (Bader 1995; Pogge 1992; O'Neill 1996). These rights and the moral principle of equal worth of all persons would ultimately render claims to special rights and privileges of any group or members over non-members illiberal and unjust. Consequent globalism accords no moral privilege to domestic societies. The political authority currently located in nation-states should be "widely dispersed in the vertical dimension" (Pogge 1992: 112), it should be both centralized globally and decentralized more locally.

Along this line it can be argued that the seeds of a universal conception of citizenship have already been planted in the post-war regime of international institutions and the Universal Declaration of Human Rights (see e.g. Benhabib 2008). The task would be to develop them further, to follow them through their logical fulfilment. Starting with a reform of the UN system, Held for example envisions the establishment of a Global Parliament and a globally interconnected legal system.<sup>6</sup> The sovereignty of the nation state would in due course "wither away" (Held 1995: 233) and the main principals of democratic rule were all human beings in the sense of world citizens. Thus at the deepest level, the social world is regarded as composed of persons, not collectivities like peoples or states (Beitz 2000: 677).

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<sup>5</sup> An elaborated cosmopolitan political order is complex, proposing the implementation of a democratic society within, among and beyond states (Archibugi 2004: 438). Far from endorsing any kind of world state, most cosmopolitans recognize the legitimacy of modern nation states; yet, they emphasize that these are not the only legitimate democratic polities, but rather that they should overlap with other sub-national, trans-national, and supranational democratic polities.

<sup>6</sup> This is an ancient and utopian proposition which has repeatedly re-emerged (see Archibugi 1993; Heater 1996).

### 2.1.2 Normative counterarguments and empirical limits

Critics raise doubts about the desirability of global democracy and citizenship and point to the empirical limits of these visions. Counterarguments can be found in different strands of democratic theory. Especially communitarians insist that 'humanity' is too thin an identity to motivate mobilization, participation or solidarity on its behalf. Referring to the fundamental aim of justice, David Miller (1995), for example, argues that justice can only be achieved within national boundaries. Only national political communities would be communities of obligation because of common meanings and mutual trust entailed in national solidarities (see for a discussion MacDonald 2003). Equally, Cohen points to "the abstractness of cosmopolitan individualism, its failure to take particular identities, (political and cultural) contexts, and traditions into account, as well as its quixotic effort to conjure away the discreteness of the political and to replace it with universalistic juridical relations based on the most abstract identity of all: humanity" (Cohen 1999: 247). Another counterargument refers to the republican ideal of collective autonomy and "the active citizen who takes part along with others in shaping the future direction of his or her society through political debate" (Miller 1999: 61f). Also the enactment of this ideal could be best achieved within national communities in which citizens share a common nationality, solidarity and trust sustaining deliberative procedures and enabling the expression of collective autonomy. Focussing above all on the non-domination of political communities, (neo-)republicans fear – in line with Kant's warning that a world state would lead to a "soulless despotism" – that security through any kind of global hegemony would quickly become imperial domination (Bohman 2010).

Empirical information about the current realities provides a differentiated picture. The internal and external dimensions of state policies have been progressively connected, as has been highlighted already in the 1990s in the literature on international regimes (Rosenau 1997). Domestic political choices are getting more and more restricted by international agreements and international law. Although states might still be the major players, they are not the only ones anymore. The supranational level is gradually emerging as an important political arena, and individuals are not anymore represented only by their states (Koehler 1998; Bohman 1999). "The UN and other international organizations, in spite of their inter-governmental character, often go beyond their original mandate and they also increasingly opened their floor to non-governmental players" (Archibugi 2004: 451).

Still, we have seen only a very limited transfer of formal governance competences to the supranational level. Whereas supranational governance is mostly restricted to agenda setting and state-binding decision-making, citizen-binding law making as well as implementation and enforcement remain squarely under the helm of the nation state. With the sole exception of the International Criminal Court, no major institutional reform has occurred since the end of the Cold War (Archibugi 2004: 438). In other words, currently most of the decision-making power remains in the hands of nation states. Furthermore, until now individuals have not been granted a formal role as world citizens with individual political rights on the global scale. Instances of political participation by international NGOs in global governance have been increasing in recent years (Tarrow 2005), but they have been limited to a mere advocacy role deprived of any decision-making power. Therefore, many argue that the notion of a global civil society should not be exaggerated (e.g. Brown 2000).

The transfer of political competences and power and the emergence of a supranational form of citizenship have gone furthest within the European Union. The proposed goal to create a common market triggered far reaching transfer of competences to European institutions in the field of economic and trade policy. The introduction of a common currency further pushed integration into the direction of a fiscal union. In parallel, harmonisation has proceeded in previously purely national domains such as labour regulations, visa and asylum policies and common foreign and security policy. EU citizens have more supranational citizenship rights than citizens in any other world region or than third country nationals within the EU which are only granted basic civil rights. In addition to the right to free movement and residence (with related guarantees of social security claims and the right to freedom of discrimination on the ground of nationality), EU citizens also enjoy political rights: the right to vote and stand in local and European elections in any member state as well as the right to petition the European parliament and Ombudsman. Thus EU citizens are, as individuals, directly represented at the Union level in the European parliament which in recent decades considerably gained in influence. These social and political rights, along with the right to consular protection abroad are formally guaranteed by the status of European citizenship, an explicit supranational form of citizenship derived from membership in a member state introduced in 1992 (see e.g. Bellamy and Warleigh 2001).

The European Union indicates that important new spaces of citizenship are emerging in-between the national and the global level. Looking "in-between" the most clear-cut



alternatives might also be fruitful when we are searching for new forms of citizenship. In the following we will develop normative principles and feasible means for the democratization of supranational arenas through new forms of citizenship which lie in-between the scrutinized globalist and nationalist lines of thinking.

## 2.2 Normative principles and feasible means in-between

In this section, we lay out a general norm for the assignment of citizenship rights on a supranational level that takes the normative arguments and empirical insights scrutinized above into account. This norm is based on the acceptance of "partial citizenship" and draws on the principle of "proportionality".

Partial citizenship entails a set of rights and participatory entitlements that are weaker than those associated with full citizenship. Following a fuzzy-set logic, this implies that there is full membership and full non-membership, but also degrees of membership between these two extremes. Citizenship thus "ceases to be an all-or-nothing affair. Individuals can be full citizens or full non-citizens, but also partial citizens" (Koenig-Archibugi 2011: 6). While Koenig-Archibugi applies this conception to the domestic arena and to transnational relations, we believe that it is as important for conceptualizing citizenship in the supranational arena.

Proportionality (re-)gained recognition in democratic theory as an alternative to the principle of numerical equality (e.g. Näsström 2010, although she remains sceptical). As a basic principle it demands that the power that individuals have in decision-making processes should be proportional to their stakes (Brighouse and Fleurbaey 2010: 138). Proponents claim that the proportionality principle is a better implementation of the idea of equal respect than egalitarian rules since it takes into account that individuals are differently affected by decisions. Whereas it is usually applied in order to justify differentiated voting rights among the members of a demos, we think that it can also be applied for determining the power that individual citizens should have in controlling and steering institutions of governance given that these institutions have divergent levels of competences and resources and therefore differ in respect to how much they can affect those individuals.

Furthermore, we will argue that the recognition of individual people in addition to statespeople as the principled members of supranational institutions of governance and the

constant re-adjustment of rights and representations of these two kinds of members are important steps towards realizing the normative goals.

### 2.2.1 Democratizing supranational institutions by granting partial citizenship in proportion to their limited governance competences

In order to arrive at normatively adequate principles and feasible means for establishing new forms of citizenship in the supranational arena, the normative and empirical shortcomings of the above scrutinized nationalist approach, but also of the universalist globalist approach highlight the necessity to rethink familiar conceptualisations. They especially highlight the necessity to overcome a monolithic and all-or-nothing conception of citizenship which implies that all individuals should have a full set of citizenship rights on all levels of governance, accompanied by an extensive participation of all individuals and a high level of identification with the community that corresponds to the geographic scope of the institution of governance. In contrast, we argue that not only can divergent citizenship rights be granted separately and to a limited extent on various levels of governance, but that limited forms of participation and identification are sufficient as long as the institutions of governance in these arenas have limited competences. In other words, we plea for the recognition of “partial citizenship” as adequate form of citizenship in the supranational arena. Furthermore, we argue that the extent of partial citizenship should correspond to the formal competences and political power of the governance institutions at each level of governance. We hence propose the following normative principle for the inclusion of individuals in the supranational arena: *supranational institutions of governance should grant individuals citizenship rights in proportion to the governance competences of these institutions.*

In the following we briefly indicate what partial citizenship on supranational levels means and argue that emerging forms often approximate the proposed norm, without ignoring that deficits remain. Next, we scrutinize how the dynamic adjustment between governance competences, citizenship rights and citizenship practices should take place according to liberal, republican and communitarian theories of citizenship and democracy.

The notion of “partial citizenship” expresses the idea that normatively adequate forms of citizenship can exist which are less developed and comprehensive than the citizenship standard that has been developed in the liberal nation states of the Westphalian world order (and that we laid out in the introduction). The limitations can apply to all four dimensions of

citizenship: status, rights, participation and identification. With regard to *status* or formal membership, a limited form of citizenship means, for example, that membership in a supranational political community is contingent on membership in a national community of a member state, as it is the case with European citizenship (see e.g. Preuss 1995). Such a symbiotic relationship between supranational and national citizenship can be appropriate for a polity which is at the same time characterized by supranational and intergovernmental forms of decision-making (Bellamy and Warleigh 2001: 4).

In respect to *rights*, the limitations first refer to the range of citizenship rights that the governing institution is supposed to guarantee, and second to the range of rights that the individuals are granted in order to steer and control the very same institution of governance. On a global level, we have witnessed the emergence of such a limited set of individual rights, so that the sovereignty and the rights of nation states are not the only normative guidelines for supranational institutions anymore. When the nation states have recognized that the United Nations have the "responsibility to protect," the supranational arena was strengthened as an important level for securing human rights (e.g. Bellamy 2009). Nevertheless, in comparison to the set of rights that nation states are supposed to guarantee to their citizens, the range of human rights that the UN is supposed to protect is very small. Therefore, a very limited set of rights that individuals can use in order to defend their personal autonomy and to control the United Nations seems sufficient. This means that individual rights on a global level should be primarily civil rights: Individuals should have the right to initiate an intervention of the UN by proving that their basic human rights are violated and they should have the right to stop UN activities if they are able to prove that the UN activities violate their basic human rights. Furthermore, individuals should be granted political rights and electoral representation in proportion to the competences and political power of supranational institutions. In line with our principle of proportionality, we would argue that the establishment of a non-elected citizens assembly on a global level that has the right to be heard, but no formal voting power, would currently be the adequate form of political representation of citizens on the global level (see the proposal by Dryzek et al. 2011). Since no such citizen assembly exists so far, the current situation is deficient.

On a continental level, the goals and competences of the European Union have been developed much further, so have the citizen rights and the power of the European Parliament, representing the European citizenry. A detailed answer to the question whether the citizenship

rights within the EU are sufficiently advanced in order to fulfil the proportionality principle with respect to the competences that have been delegated to supranational institutions, is beyond the scope of this article. Nevertheless, we can assert that both have been growing within the EU and that the citizenship rights would have to be massively expanded if the European Union delegates fiscal and economic competences in order to fight the Euro crisis.

When we turn to the republican concerns with *participation*, the idea of partial citizenship translates into the insight that less extensive and less intensive forms of participation are sufficient if they are in proportion to the competences of supranational institutions. First, accepting less extensive forms of participation means that we should not consider it as deficient if only an even smaller proportion of the population than in the national arena can directly participate in supranational forums. Secondly, when we think about citizen participation on a supranational level, we should be modest in our expectations and see the role that individuals play as members of a global civil society in the process of agenda-setting, in the contestation of dominant discourses and the monitoring of activities of powerful governments and private corporations, in principle, as adequate (for empirical evidence see e.g. Tarrow 2005). Of course, this statement does not imply that the current state of affairs is already satisfactory; especially the unequal opportunities to influence global discourses are a major source of concern (Bohman 2000; World Bank 2006).

Finally, partial citizenship implies that a strong collective *identity* on a global level is not a necessary condition for legitimizing the limited power of supranational governance institutions; all that is needed is that individuals show some levels of identification and solidarity with global or continental communities, but these levels can be less intense than on the national level. The necessary level of solidarity, which, for example, would be sufficient for backing up UN interventions following the responsibility to protect, might be "consonance in reactions of moral outrage toward egregious human rights violations and manifest acts of aggression" (Habermas 2006: 143). This level of common moral values is far from a "level of implicit consensus on thick political value-orientations" (ibid.). Empirical evidence indeed shows that in Europe a majority at least somewhat feels as world citizens; however this sense of belonging is far less intense than it's attachment to more localised communities, such as the nation or the region (see e.g. Schlenker forthc.; Pichler 2009).

Until now we have shown that the concept of partial citizenship allows to align the diverse dimensions of citizenship proportionally to the level of competences and power that are transferred to supranational institutions of governance. This transforms the search for boundaries of democratic peoples in a globalizing world (MacDonald 2003): No longer is this undertaking based on a question of either-or, but rather on a conceptualisation of the boundaries of citizenship and democracy in terms of more-or-less. But how should the gaps be closed which remain between the level of competences and the level of citizenship rights and practices? And what are the principles and pathways for further expansions of competences and citizenships on a supranational level? Similar to MacDonald (2003), we distinguish two primer lines of thinking. The first line or argument, applied by communitarian and classic republican thinkers, starts with the assumption that a functioning democracy needs "thick" forms of citizenship; in consequence, tasks and competences of institutions of governance should be adjusted to existing social identities and citizenship practices. This approach sets tight limits to the expansion of supranational institutions of governance and might even demand a reduction of competences. The alternative line of thinking, common among liberal and neo-republican scholars, assumes that constitutional rights and institutions of governance should be allowed to take the lead in order to fulfil social goals such as the fight against unjustified domination, the enhancement of welfare or global justice, and that the expansion of political rights, participation and identification will follow.

Overall, we maintain that both the concept of partial citizenship and the proportionality principle can be combined with all major lines of democratic theory. Our proposed concepts provide conceptual ideas and normative guidelines for assessing existing forms of governance and citizenship on a supranational level, but the theories of democracy are necessary complements in order to draw conclusions in respect to how to address identified deficits.

### 2.2.2 Democratising supranational institutions by recognising individuals in addition to statespeople as principals/members and constantly readjusting their rights and representation

A further important step on the way to normatively adequate and feasible forms of citizenship in supranational arenas is to overcome the monism of nationalist and globalist approaches in respect to the recognized types of members. Whereas the former approach only accepts collective entities (peoples), the latter implies that only individuals (people) are legitimate

members of supranational institutions of governance. A pluralistic approach is nothing really new in the history of constitutional thinking; it can draw on federalist traditions. In recent years, scholars have transferred federalist ideas to the supranational arena and specified the normative principles of a multinational democracy under the heading of “demoicracy” (Nicolaidis 2004; Cheneval 2008), whereby the European Union clearly serves as the major empirical source of inspiration. The major difference between a federal system and a demoicracy is that in the latter system the line to statehood is not crossed and the existence of a thick common identity on the collective level is not a necessary precondition for the legitimacy and functioning of the multilevel polity. The normative concept of a demoicracy aims to combine the classical republican goal to protect national demoi and their citizens from external domination (above all legal domination in the EU case) and the communitarian aim to protect deep-rooted political communities from too much outside interference with the globalists’ or cosmopolitans’ focus on transnational individual rights and deliberative democracy (Cheneval and Schimmelfennig 2011: 9).

The pluralist stance that we want to emphasize as an important element of emerging forms of citizenship in supranational arenas becomes most obvious in Cheneval’s conceptualization of demoicracy as a multilateral democracy (Cheneval 2011; 2008). He develops his normative concept by merging Rawls’ separated citizens-based and peoples-based original positions into one demoicratic “original position.” This leads to seven principles, two of which are clearly tailored to ensure the rights and goods of statespeoples, namely principle 1 (sovereignty of the statespeoples’ *pouvoir constituant* regarding entry, exit, and basic rules of the political order of multilateral democracy) and principle 7 (difference-principle for member statespeoples). Principle 5 (supremacy of multilateral law and jurisdiction) and principle 3 (reciprocity of transnational rights) mainly protect individuals’ rights. Each of these principles gives priority to specific kinds of members in a demoicracy. In contrast, two further principles address both kinds of members equally, namely principle 2 (non-discrimination of statespeoples and citizens), and principle 6 (two principles of linguistic justice). Finally, principle 4 (equal legislative rights of citizens and statespeoples) contains a norm that addresses the balance between the two kinds of members in a demoicracy. However, here we depart from Cheneval’s conceptualisation because our normative proposal based on the principle of proportionality leads to different implications for the democratization of supranational institutions of governance.

When Cheneval's fourth principle of equal legislative rights of individual citizens and statespeoples is applied to the European Union, we find suggestions that try to secure the equal weight of both kinds of members through general regulations; for example, by proposing equal power for the European Parliament and the European Council or by introducing voting rules that demand dual majorities, the majority of Europeans and the majority of statespeople (see Scherz/ Welge 2012). If we do the same on the basis of the principle of proportionality instead of numerical equality, we end up with more differentiated and flexible suggestions. We would argue that statespeople and individual people should not have equal legislative rights, but that their rights and representation should be weighted in correspondence to the extent to which supranational actors and norms gain autonomy and supremacy vis-à-vis national actors and norms. This leads to a differentiation in respect to policy fields. In policy fields in which EU legislation overrides national laws, such as in common market regulations, the balance between statespeoples' and people's representation should tip in favour of the latter, thus the European parliament should be given more political weight vis-à-vis the Council. Proportionality would also make it imperative to have a European referendum on a European constitution which would further delegate competences to the supranational level. With respect to less integrated policy fields, such as foreign policy, the balance could legitimately tip in favour of the Council.

Applying the principle of proportionality instead of numerical equality to the constitutional architecture of a supranational institution does not only lead to more differentiated solutions, but it is also more open to dynamic adjustments in accordance with different theories of democracy. As described in the foregoing section, for liberals dynamic adjustments can be driven by the justified growth of tasks and competences, whereas communitarians would argue that the existing levels of identification and participation set the limits not only for the transfer of governance competences to supranational institutions but also for the shift in political rights and in representational weight from statespeople to individual people.



### 3 Democratic citizenship in and for domestic arenas

#### 3.1 From national citizenship to postnational citizenship?

##### 3.1.1 Normative and empirical debates about post-national citizenship for immigrants

With the increase of international migration the boundary of the demos and the rules for inclusion and exclusion in national communities have (again) gained centre stage in philosophical debates and political struggles. In parallel to the debate on supranational citizenship, we can distinguish between those who diagnose or propose the overcoming of strict boundaries separating nationals from aliens within the territorially demarcated domestic arenas and those who defend this boundary. Several political philosophers forcefully argue that rules for immigration and naturalization have to be seen as a matter of global justice and individual rights. This is based on the conviction that the ultimate units of concern are human beings or persons rather than any kind of community, and “the status of ultimate unit of concern attaches to every living human being equally” (Pogge 1992: 48). Therefore boundary regimes should be radically revised towards more openness in order to concur with the universalistic principles of liberalism (see also Beitz 2000; Carens 1995; Nussbaum 1996).

Other scholars – based on communitarian, civic republican or liberal nationalist reasoning – fear the devaluation and decline of citizenship as institution and practice because migration might undermine the cultural distinctiveness of and solidarity within national communities, and they perceive the acceptance or non-acceptance of foreigners as members of the political community as a core element of national self-determination (Sandel 1996; Jacobson 1997; Walzer 1983, 2001). They argue that rights cannot be deduced from our common humanity, but that they are developed “from shared conceptions of social goods; they are local and particular in character” (Walzer 1983: xv). Membership within and attachment to bounded communities are regarded as necessary for any democracy, a crucial aspect of a community’s self-understanding and self-determination. Yet, membership would only be meaningful when accompanied by rituals of entry, access, belonging, and privilege. Therefore, in practice, the control of migration is conceived to be crucial to state sovereignty and boundary drawing towards immigrants is judged as legitimate (Rawls 1999: 39).

In parallel to this normative debate among political philosophers, a debate among social scientists emerged about the empirical question whether and if so, to what extent we are witnessing the emergence of a “post-national citizenship” within national arenas. Since the 1990s, this idea has become fashionable among scholars who argue that rights which were once derived from formal membership in a particular national community have become increasingly abstract, defined and legitimated at the transnational level with reference to universal membership in the community of wo/mankind (Soysal 1994: 18; see also 1998; Bosniak 2000, 2008; Sassen 2002). Soysal, for example, emphasizes that the increasing codification and elaboration of human rights as global principles were especially pertinent to the membership and rights of post-war immigrants in Europe (Soysal 1994: 20). According to her analysis, this led to a situation in which the status of permanent resident immigrants today is not easily distinguishable from formal citizenship status in terms of the rights and privileges it confers. This applies foremost to civic and social rights: “Permanent residents of European host polities are entitled to full civil rights and have access to a set of social services and economic rights almost identical to those available to national citizens, including public education, health benefits, various welfare schemes and free access to labour markets” (Soysal 1994: 21). This would be a sign of postnational citizenship, a new model of membership anchored in deterritorialized notions of personal rights and universal personhood. Consequently, “the limits of nationness, or of national citizenship, for that matter, become inevitably irrelevant” (Soysal 1998: 208).

Recently the conception of postnational citizenship has been strongly criticized as misrepresenting reality. First, from a normative point of view the forms of quasi-citizenship that are granted to permanent residents are seen as deficient. Whereas socio-economic rights are granted to alien residents, political rights are usually not (Hammar 1990). Only a few states provide electoral rights on a local level and even less give non-citizen residents the opportunity to vote in national elections (Earnest 2006; Munro 2008; Rodriguez 2010). Empirical evidence additionally suggests that non-citizens use much less even those restricted political rights which all residents have (Koopmans and Statham 1999). Therefore, critics speak about “denizenship” in order to indicate the reduced set of citizenship rights that permanent residents exhibit and exercise in contrast to nationals (Favell 2006; Joppke 1998; Koopmans and Statham 1999; Waldinger and Fitzgerald 2004). Secondly, in respect to causal analysis, the term post-national seems misleading. Hansen (2009) argues that the force of human rights

and treaties would depend largely on domestic courts. They would only be effective when incorporated into domestic legislation and into domestic courts' jurisprudential frame of reference. He therefore claims that postnationalists would confuse a transfer among the institutions of the state, e.g. from the executive to the judiciary, with a transfer from the national to the transnational arena.

In addition, there is evidence that the state clearly reasserts its power to uphold restrictive immigration rules and access to membership (see Jacobson 1997). Almost everywhere in Europe have immigration policies and naturalization rules been tightened instead of liberalized in recent years, with more stringent requirements for citizenship – participation in citizenship ceremonies and the passing of language and civics tests –, a widespread tendency which Joppke (2003) calls "repressive liberalism". Therefore, many scholars criticize that denizenship is far from equal membership and full political inclusion (Kostakopoulou 2002). They may even perpetuate inequalities in political influence by satisfying socio-economic concerns while at the same time depriving non-citizen residents from political self-determination and effective participation. Furthermore, as soon as they leave their country of residence, they do not have the right to claim diplomatic protection. And even within the country of residence they are never free of the threat of expulsion as long as they are not full citizens.

A final argument against the notion of post-national citizenship is the fact that not all non-national permanent residents are treated equally. Instead many forms of differentiation or discrimination along the lines of particular communities of nation states prevail; in other words, the rights for aliens are stratified and reversible (Mau 2010; Joppke 2010: 82-96). The distribution of rights among various immigrant groups and citizens is not even, certain groups of migrants are more privileged than others: legal permanent residents, political refugees, and the nationals from common-market countries or from countries with special ties (like the EU or the British Commonwealth) have more rights than others. The differences between groups of migrants reveal that the basic principle for granting citizenship rights to non-national residents is not universal personhood. Instead, their scope of citizenship rights depends on a plurality of memberships: the de-facto membership in the country of residence and the de-jure membership in the country of descent.

### 3.1.2 Empirical and normative debates about external citizenship for emigrants

The debate on the consequences of migration for citizenship has been preoccupied by the challenges of immigration (at least in the Western world). The boundaries between aliens and citizens being perforated within the domestic arenas of migrant-receiving nation states, the adjustments occurred are heavily disputed and have led to very uneven bundles of rights and duties for different kinds of immigrants. Politically much less controversial has been the expansion of what has been called "external citizenship" (Bauböck 2007, 2009). This notion denotes the phenomenon that the congruence between residents and nationals has been reduced not only by the inflow of people into territorially demarcated nation states but also by the outflow of people and the fact that emigrants are not stripped off their citizenship status and rights as soon as they are leaving their country. Two major empirical trends have led to an increasing importance of external citizenship today.

First, emigrants and their descendants are allowed to keep the nationality of the country of descent. In contrast to earlier times (and still present in many non-democratic countries) the current trend is not the result of the authoritarian concept of "perpetual allegiance" that implies that subjects of a state are bound to that state forever (Spiro 2007). Instead, more and more states try to keep their emigrants as citizens abroad by accepting or tolerating dual citizenship (Brondsted Sejersen 2008; Blatter et al. 2009; Rhodes and Harutyunyan 2010). Secondly, states do not only accept but facilitate political participation, especially voting, of their external citizens. In 2007, more than half of all countries and almost all democracies allowed their nationals abroad to cast their vote (Fierro et al. 2007). Many countries have recently facilitated the practice of external voting and even grant their external nationals special representation in their parliaments (Bauböck 2007).

The acceptance of external citizenship follows an ethnic-nationalistic understanding of citizenship, based on "natural affiliations" (Bauböck 2007: 2400). In addition, the new appreciation of emigrants in migrant-sending countries is primarily driven by an attempt to secure expatriates' economic contribution. For in many parts of the world, the flow of people is seen as a crucial means to cope with the challenges of international economic competition, the most important consequence of liberated socio-economic flows across national boundaries. Migrants are seen as highly valuable socio-economic agents in a "world of flows" (Castells 1996). This, in turn, allowed expatriates and emigrants to successfully lobby in their

countries of descent for the expansion of their citizenship statuses and rights (e.g. Jones-Correa 2001). The expansion of "external citizenship" takes place either by enlarging the group of individuals who is eligible for receiving or for keeping the citizenship status, by providing some citizenship rights to specific external kin-groups, or by strengthening the practices of external citizenship, especially by facilitating voting by non-resident nationals.

Still, although in most countries the expansion of political rights to external nationals is much less disputed than granting full political rights to immigrants (Joppke 2010: 63), this is different in the normative theoretical literature. Scholars raised doubts and questioned the fact that more and more countries facilitate the political participation of individuals who are not residents anymore and therefore not subjected to the government and the laws of their country of descent. From the point of view of liberal democracy, there seems to be no justification for granting citizenship status and rights to non-residents; even worse, external citizenship seems to tilt citizenship towards claiming rights without fulfilling obligations (e.g. Lopez-Guerra 2005; Fitzgerald 2006). Nevertheless, Rainer Bauböck (2009: 476) has argued that such a clear-cut rejection of external citizenship is a result of the methodological nationalism of political theory and that it "ignores the multiplicity and malleability of individual affiliations to political communities." Based on his "stakeholder principle" he develops a criterion of "biographical subjection" in order to determine who has a legitimate claim to citizenship in a state (Bauböck 2009: 479/480).

We will take up and explain this criterion in the next section where we lay out our normative approach for assigning citizenship status and rights for the domestic arenas of nation states. But first we have to point to another important innovation that Bauböck proposes. He argues that we should take into account "citizenship constellations" as structures "in which individuals are simultaneously linked to several political entities, so that their legal rights and duties are determined not only by one political authority, but by several" (Bauböck 2010: 484). In other words, he advocates that in our normative and causal analysis of emerging forms of citizenship, we should take into account that for migrants and mobile individuals their citizenship package resembles a patchwork influenced by the quasi-citizenship that the country of (primer) residence grants and the external citizenship provided by the country of descent.

We think that Bauböck's normative concepts and insights lead the way to a better understanding and a normatively adequate conceptualization of emerging forms of citizenship

between the monistic nationalism that characterizes the Westphalian world order and the universalistic ideals that are implied by the notion of post-national citizenship. This way is characterized by pluralism instead of particularism or universalism. Furthermore, it is compatible with the concepts that we introduced in our reflections about adequate forms of citizenship for the supranational arena: partial citizenship and proportionality.

Nevertheless, we would like to stress that Bauböck firmly and explicitly remains within the conceptual boundaries of a world order that is characterized by territorially delineated and distinct polities (Bauböck 2009: 482, Bauböck 2010: 855). Bauböck is concerned with individuals who have ties to multiple national communities but not with other flows across state boundaries or interdependencies among nation states. His normative reasoning is characterized by the recognition of multiplicity, which is not the same as recognition of transnationality. According to him, individuals are subjected to the rule of law of multiple states during their life-time and therefore, they should have citizenship rights. A fully transnational perspective would also take into account the fact that people beyond the territorial boundaries of nation states are affected by their political decisions and laws.<sup>7</sup> In consequence, we build on Bauböck's concepts in the following when we discuss normatively adequate forms of citizenship for the domestic arenas of nation states. In contrast, those forms of citizenship which are proposed in reaction to the growing externalities of national policy-making are presented in a further section as promising forms of citizenship for the transnational arena.

## 3.2 Normative principles and feasible means in-between

### 3.2.1 Democratising domestic politics by granting citizenship rights in proportion to biographical subjection

A normative framework for assessing citizenship claims within the domestic realms of territorially demarcated states must take two features of the current world into account: First, the population of these states is comprised of sedentary and mobile individuals; and second, migrants have affiliations to more than one country. In consequence, it is neither acceptable to

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<sup>7</sup> In his causal reasoning, he acknowledges that policies of one state might have an influence on the policies or policy options of another state, but this recognition is limited to the mutual interdependencies in respect to citizenship policies (Bauböck 2010: 851-853).

fully exclude immigrants forever or until they have been transformed into sedentary individuals, nor is it appropriate to ignore or to disapprove that some elements of citizenship are granted by the country of descent. A convincing proposition that takes these conditions into account is offered by Bauböck (2009) who introduces a stakeholder principle as a general norm for assessing claims for inclusion and “biographical subjection” as an indicator. The latter is especially suited to address the fact that migrants are subjected to laws in more than one country during their life-time.

Bauböck describes his stakeholder approach as follows: “self-governing political communities should include as citizens those individuals whose circumstances of life link their individual autonomy or well-being to the common good of the political community” (Bauböck 2009: 479, see also Bauböck 2008). Claims to membership are not justified by subjective preferences – instrumental interests, ideological affinities, or a subjective sense of belonging – but rather by objective ties. Stakeholders are those who have a stake in the polity’s future because their own destiny depends on the further development of that polity. Because of these stakes, they should be entitled to participate in the polity’s governance, but they should have a choice and therefore, they should not be naturalized automatically. A positive decision indicates the willingness to link their future to that of the polity and to share the responsibilities and burdens of self-government.

The crucial difference between Bauböck’s stakeholder approach and other approaches to specify the principle of inclusion like the “all affected” or the “all subjected” principles (see section IV) is his emphasis on temporality. First, he justifies his principle of inclusion with the fact that self-governing communities need stable boundaries and members over time (Bauböck 1998, 2011). Secondly, he highlights that we should take a long-term perspective when we think about subjection to law. “Since citizenship is a life-long status for native residents, an external claim to citizenship must also be established by considering the whole of a person’s course of life and the strength of her ties to the political community that can be derived from it” (Bauböck 2009: 480). Although he formulates the resulting “biographical subjection criterion” primarily with a view on emigrants, it can be applied to immigrants as well: “Those persons and only those persons have a claim to citizenship in a particular political community who [...] have been subjected to that community’s political authorities for a



significant period over the course of their lives" (ibid.).<sup>8</sup> This means that for migrants who have been subjected to the laws of more than one country over their life-time, the biographical subjection criterion demands that all these countries grant citizenship status and rights to them. Furthermore, it leads to differentiated obligations in respect to granting citizenship to various generations. Countries of descent might – but don't have to – grant external citizenship to second-generation emigrants but should not grant them to further generations (Bauböck 2009: 485). Finally and most importantly, the biographical subjection criterion can be combined with the concept of partial citizenship. In respect to the country of origin Bauböck argues that "beyond core rights of diplomatic protection and readmission, external citizenship rights [...] may be legitimately graded and differentiated according to the duration of individual residence abroad" (Bauböck 2009: 487). The same gradation and differentiation of citizenship rights should be allowed for the country of residence in their treatment of immigrants.

We hence propose as a normative principle for the inclusion of individuals in the domestic arenas of territorial states: *states should grant all individuals citizenship rights in proportion to their biographical subjection*. For sedentary individuals, this principle demands that one state is granting membership with the full set of citizenship rights. For migrants or mobile individuals, the conclusion is that all those countries in which they have been subjected to law for a significant period of time should grant partial citizenships.

If migration follows the classical image of a transitional process from one country to the other, over time migrants should be granted more and more citizenship rights in the country of residence and less and less in the country of descent. Nevertheless, there is another possibility connected to a phenomenon that is called "circular migration." Individuals who move back and forth from one country to another will continuously be subjected to the law of two or more countries; in consequence they should gain and keep the adequate citizenship rights in all these countries. In the end, they should be granted full citizenship status in multiple countries. We will justify the acceptance of dual/multiple citizenship in a later section based on a different rationale, but at this point it serves to highlight an important insight. The

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<sup>8</sup> Please note that Bauböck's stakeholder principle is based on the argument that the future destiny of individuals and political communities are interdependent. In contrast, his biographical subjection criterion refers to the past. He argues that indicators in the past and present are the only feasible means to predict the likelihood that the two destinies are linked in the future (Bauböck 2009: 479).

principle of assigning citizenship rights in proportion to biographical subjection might lead to different “amounts” of citizenship rights between sedentary and mobile individuals. Migrants might have a formal citizenship status and civil, social and political rights in two states whereas sedentary individuals are granted these entitlements in one country only. This is justified since citizenship rights should not be seen as resources which can be accumulated but as the asset that balances the duties which come with the subjection to a political authority (Bauböck 2007: 2428, Blatter 2009: 776). Nevertheless, the fact that sedentary and mobile individuals, who live together within the same polity, have different citizenship packages stimulates political debates about the fair amount of citizenship rights that the country of residence grants to migrants. The fact that the country of descent is granting some citizenship rights to its emigrants might be used by sedentary individuals as an argument that migrants are not fully subjected to the authority in the country of immigration and therefore should not be granted full citizenship. In consequence, the political discourses in two countries about the fair amount of citizenship that is granted to immigrants and emigrants are getting linked and add another – horizontal – dimension to the processes of adjusting partial citizenships in migrant-sending and migrant-receiving countries. This will be elaborated further in the next section.

### 3.2.2 Democratizing domestic politics by recognizing quasi- and external citizenship and constantly readjusting the attached rights

The first and most important step for realizing the proposed normative principle that states should grant all individuals citizenship rights in proportion to their biographical subjection is that it is recognized that the citizenship package of migrants is comprised of two parts: A first part should be granted by the country of (primer) residence, so that immigrants exhibit some form of quasi-citizenship and this part should grow with the time of residence (and subjection to law). The second part should be granted by the country of descent, so that emigrants display elements of external citizenship. The latter should decline over time if the migrant does not move back at least for some time.

The recognition that the citizenship package of migrants is comprised of two partial citizenships influences the normative assessment of quasi-citizenship and external citizenship. The limited forms of citizenship that immigrants receive in the migrant-receiving country might be judged less critically, if the migrant-sending country is granting extensive forms of external citizenship. For example, if diplomatic protection in a third country is provided by the

country of descent, it seems acceptable that the country of residence is not granting this right to its immigrants. If the country of residence is granting voting rights for non-naturalized immigrants, this might reduce the demand for voting in the country of descent. Nevertheless, granting emigrants the franchise might have an influence on their citizenship practices in the country of residence, but it should not influence its rules about granting voting rights for immigrants. These rules should follow the principle of proportionality as laid out before.

Recognizing the plurality of citizenships that migrants exhibit makes the process of adjusting their partial citizenships at the same time more complex but also more dynamic. Processes of vertical “democratic iterations” (Benhabib 2004), which are supposed to mitigate between particularistic and universalistic principles, are getting complemented by horizontal processes of adjustment which result from the recognition that migrants exhibit quasi- and external citizenships and from the realization that territorial states include sedentary and mobile inhabitants.

Benhabib has introduced the concept of “democratic iterations” as deliberative processes within liberal democratic states that mediate between particularistic and universalistic principles and forms of membership. Her proposal aims to abate the tension between universal human rights and popular sovereignty, or the norms of private and public autonomy, which are both indispensable foundations of the democratic constitutional state (Habermas 1996: 84-104). Democratic iterations are defined as “complex processes of public argument, deliberation, and learning through which universalist right claims are contested and contextualized, invoked and revoked, throughout legal and political institutions as well as in the public sphere of liberal democracies” (Benhabib 2004: 19). Benhabib has introduced this procedural concept as a means to constantly readjust the boundaries between citizens and aliens within existing nation states and argues that “there are some practices of democratic closure which are more justifiable than others but (...) potentially all practices of democratic closure are open to challenge, resignification, and deinstitutionalization” (ibid. 17). Our concept of proportionality is such a universalistic principle that should be applied and specified in these democratic iterations, not only when democratic states decide about the extent of quasi-citizenship they grant to immigrants but also when they specify their rules for external citizenship.

Arguing that we should recognize that the citizenship package of migrants is comprised in part by forms of quasi-citizenship and in part by forms of external citizenship points into

another – horizontal – direction in which there is a need for mutual adjustment and constant realignment. The rights and duties of migrants should not only be specified by taking into account their memberships in one particular (national) community and in the universal community of humankind, but by taking into account their multiple (partial) memberships in a plurality of particular communities, as well. Furthermore, our reflections point to another horizontal constellation in which the recognition of plurality leads to a demand for constantly adjusting citizenship rights and practices: the population of territorially demarcated states is comprised of sedentary and mobile individuals. In consequence, deliberative processes in which universal and particular principles, but also the plural attachments of migrants are taken into account are necessary in order to make sure that these two kinds of individuals have equivalent citizenship rights and duties. Thus, vertical and horizontal democratic iterations are proposed to mediate between universal human rights, the right to self-determination of particular political communities and the recognition that other political communities do not only have the same rights but that their rights and citizenship regulations interact. This pays explicit tribute to the fact that defining the membership criteria of a democratic people is an ongoing process of constitutional self-creation within an interconnected world.

As has been the case with the dynamic processes of readjustment that we scrutinized for the supranational arena, the proposed principle and processes for the domestic arena are compatible with different theories of citizenship and democracy. Hence, the results of the democratic iterations might be different, depending on whether they are shaped by liberal or communitarian ways of thinking. In general, liberals would put more emphasis on vertical iterations in comparison to horizontal ones because this makes it more likely that the partial citizenships of migrants are shaped by universal norms and human rights. In contrast, communitarians question whether the individualistic rights that liberals propose are indeed universalistic and would grant particular communities more leeway to determine the overlapping boundaries in processes of mutual adjustment. The resulting broader plurality of citizenship packages for migrants might be seen as a pragmatic and adequate adjustment to specific situations or they might be perceived as problematic since it neither guarantees a fair distribution of rights and duties among different kinds of migrants nor equality between migrants and sedentary individuals.

When we envision the process of horizontal iteration further, we would expect that liberals would tend to interpret the indicator of “biographical subjection” by emphasising the current

and future situations of migrants. Therefore, they would opt for a relatively fast transformation of quasi-citizenship into full citizenship rights in the country of (primer) residence while external citizenship would only be tolerated for a very limited amount of time. Communitarians are more hesitant in respect to such status changes, emphasizing traditional ties and grown solidarities as guidelines for inclusion which means a slower transformation of quasi-citizenship into full citizenship, but a longer legitimisation of external citizenship.

## 4 Democratic citizenship in and for transnational arenas

In this section we focus on forms of citizenship that (should) emerge at the intersection of the two flows that we described at the beginning of this essay: a) socio-economic flows and b) flows of people across the territorial boundaries of nation states. We will lay out how multiple/dual citizenship can contribute to fulfil the “all affected” principle, which has been introduced into the normative literature in order to adjust the democratic principle of inclusion to a world of flows and massive external effects. Like in the other sections, we briefly scrutinize important normative proposals for and emerging realities of the horizontal expansion of citizenship in the transnational realm. Then we show how the concepts of “partial citizenship” and “proportionality” can contribute to a pragmatic specification of the “all affected” principle. Finally, we discuss whether and under which conditions multiple citizenship as the currently strongest expression of an expansive citizenship has the potential for democratizing the transnational realm and how far it can contribute to fulfil the demands that emerge from the “all affected” specification of the democratic principle of inclusion.

### 4.1 From the “all subjected” to the “all affected” principle?

#### 4.1.1 The universalistic specification of the democratic principle of inclusion

In the normative literature, a lively debate has started on the question whether the most fundamental principle of democracy and citizenship – usually called the “principle of inclusion” (Dahl 1989), but in a post-Westphalian world it is more adequate to call it the “principle of congruence” between the addressees and the authors of political rule (Blatter 2011: 774) – should be redefined in accordance to the emerging world of cross-border (inter)dependences

and spill-overs (e.g. MacDonald 2003; Goodin 2007; Näsström 2007 and 2011; Owen 2009; Nootens 2010; Schaffer 2010).

Robert Dahl (1989: 127) has specified the principle of inclusion by demanding that “every adult *subject* to a government and its laws” should be a member of the demos and should have political rights and equal opportunities to participate. In the Westphalian world of territorial states and sovereign national governments, this means that all (legal<sup>9</sup>) residents, except children and transients, should be included. Nevertheless, in an earlier publication Dahl (1970[1990]: 49) stated also that “[e]veryone who is affected by the decision of a government should have the right to participate in that government” and famously asked “whether there is not some wisdom in the half serious comment of a friend in Latin America who said that his people should be allowed to participate in our elections, for what happens in the politics of the United States is bound to have profound consequences for his country” (Dahl 1970[1990]: 51).

In recent years, many theorists have started to take this comment more seriously and have discussed and proposed divergent ways for the inclusion or representation of affected externals in national politics. The debate on the “all-affected principle” goes far beyond the expansion of citizenship rights to all legal residents within territorial states – it questions the adequacy of the Westphalian definition of the boundary of the demos that is either based on formal membership or on territorial residency. In the context of a world characterized by strong flows and (inter)dependencies across territorial and membership boundaries, a redefinition in accordance with the “all affected principle” is certainly more in line with the universalistic aspirations of liberal democracy. But it also seems to have deeper roots than a Westphalian “all subjected to law” specification. Many scholars refer to the phrase “*Quod omnes tangit ab omnibus approbetur*” (what affects all should be approved by all) that is found in Justinian’s Code (Bauböck 2003: 26; Koenig-Archibugi 2011: 10). David Held (1995: 237) has argued “that decisions about public affairs should rest with those *significantly* affected by them” (emphasis added). He introduced three “tests” in order to assign policy issues, decision-making capacities and rights to participate to various levels of governance:

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<sup>9</sup> Dahl does not discuss the problem of irregular immigrants, but his argumentation seems to imply that people who are not recognized by law are neither subjected to law nor a legitimate subject in the democratic process of lawmaking. Nevertheless, his principles of equal intrinsic worth and personal autonomy would allow for a less legalistic interpretation.

extensity of effects, intensity of affectedness and comparative effectiveness of the policy and the governance level (Held 1995: 236). For Mark Warren (2006: 386) a “robust norm of democracy” even demands that “every individual *potentially* affected by a collective decision should have an equal opportunity to influence the decision proportionally to his or her stake in the outcome” (emphasis added).

Nevertheless, the slight differences in these quotes (significantly affected versus potentially affected) already indicate that there is no consensus on the exact specification of the “all affected” principle and many principled and practical arguments have been mounted against an expanded understanding of the demos and citizenship. In the following, we will present and discuss the major arguments and point to the fact that we indeed see a trend towards the inclusion of individuals who do not live within the territory of the nation state, but that the existing forms of “external citizenship” are not in line with the “all affected” principle but are based on traditional affiliations.

#### 4.1.2 Normative counterarguments and empirical realities

The main argument against the “all affected” principle has been on the table since Whelan (1983) has formulated the “boundary problem” of democratic theory as one of an infinite regress. Those who try to find a universal and logically consistent criteria for defining who exactly is affected and should have the right to be included or represented usually start their reasoning with a focus on a single, specific decision and end up with the insight that “the all actually affected interests” principle is “unable to tell us who is entitled to vote on a decision until after that very decision has been decided” (Goodin 2007: 52). This is because the affectedness not only depends on the options that are chosen, but also on the issues and options that are set on the agenda. Both, agenda-setting and choice, in turn, depend on the people who are allowed to influence these two steps in the decision-making process.

When the term “actually affected” is substituted by “potentially affected” or by “probably affected” the reasoning ends up with the insight that these specifications of the all affected principle would lead to a ballooning franchise. In the colourful parlance of Robert Goodin: “Virtually (maybe literally) everyone in the world – and indeed everyone in all possible future worlds – should be entitled to vote on any proposal or any proposal for proposals” (Goodin 2007: 55). Since the logical conclusion that all decisions should be made on a global level based on a global demos seems neither feasible nor desirable, Goodin offers two ways out of

the problem: the instalment of supranational levels of governance that affected externals could use as court of appeals or exchanging the right to be included by the right to be compensated (Goodin 2007: 65-67). Others use similar arguments against any causal understanding of affectedness and conclude that the all affected principle should be best specified as "all affected by law," which is understood by these authors restrictively as equal to the notion of "all subjected to government and its law." This reasoning leads back to a Westphalian, territorial definition of the legitimate demos (e.g. Beckman 2009: 47-49, Schaffer 2010).<sup>10</sup>

We conclude that attempts to specify the principle of inclusion/congruence by focusing on specific decisions run into many principled and practical problems. A first step towards a pragmatic solution for the problem of including affected externals is to start by focusing on specific "deciders," not on specific decisions (Koenig-Archibugi 2011: 15). Scholars who have approached the problem from this side primarily ask: Who (which nation states) should give externals a say (vote/voice) in their decision-making process? Philipp Schmitter (1997) suggested that states that are highly interdependent accord each other a number of seats in their respective national legislative chambers. Schmitter's proposal is based on "reciprocal representation" and he envisions that representatives of other states gain the right to vote in the national assemblies. In contrast, David Miller (2009) formulated an idea of "external representation" that is not based on reciprocity. Instead, it demands that in cases, in which states consider policies with strong external impacts, they should invite representatives of those states that would feel the impact and these representatives would have the opportunity to voice their concerns (but not to vote).

Mathias Koenig-Archibugi (2011: 3) has recently come up with the notion of "fuzzy citizenship" and scrutinized a concrete institutional solution: "[T]he legislature of each state

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<sup>10</sup> Another proposition to define who is affected and at the same time entitled to vote is to distinguish between different effects. Agné (2006) argues that political decisions can have positive effects on those who had no right or opportunity to participate. If they enhance the autonomy of the non-included externals, they should not be seen as democratically deficient. In consequence, he wants to exchange the all affected principle with the following proposal: "a sound principle of democratic community would seem to require that people be included in political procedures to the extent that their inclusion yields the greatest amount of autonomy to the greatest number of people, while accounting for both those who are included and those who are excluded, and accounting for actions performed both individually and collectively" (Agné 2006: 453). Although he does not refer to utility but to autonomy, he faces the same problem as utilitarian thinkers do. They have to assume that individual utility/autonomy can be compared intersubjectively according to an objective standard.



should grant voting power to representatives elected by all non-residents in proportion to the share of world income under the control of the state." He developed his proposal as a normatively justified means to democratize the global order. The concept of "fuzzy citizenship" contains the following elements: a) it is based on territorial jurisdictions with authority over a broad set of issues; b) it proposes to provide participatory entitlements in those jurisdictions to all those who are likely to be causally affected by any possible decision under any possible agenda; c) the participatory entitlements should vary depending on the likelihood that decisions will have a significant impact on the interests of individuals; and d) since the likelihood of significant impact can only be determined on the basis of the resources controlled, jurisdictions should grant externals participatory entitlements in proportion to their resources (Koenig-Archibugi 2011: 2-3). His proposal is a well-founded answer to the question of how many political entitlements states should grant non-residents. Nevertheless, he does not spell out which externals should elect these representatives and how the external votes should be aggregated and represented. Furthermore, he acknowledges that it will be an uphill battle to persuade powerful states (Koenig-Archibugi 2011: 24).

As we set forth in the foregone section, external citizenship is not only a normative vision of academics but an emerging reality. First, emigrants and their descendants are allowed to keep the nationality of the country of descent. Secondly, states do not only accept but facilitate political participation, especially voting, of their external citizens. However, the expansion of external citizenship is not driven by any attempt to democratize transnational relations but primarily to secure expatriates' economic contribution. Furthermore, it follows an ethnic-nationalistic understanding of citizenship, based on traditional or "natural" affiliations instead of the principle of being affected (Bauböck 2007: 2400). This means that in reality "external citizenship" is at the same time "overinclusive" – by granting individuals citizenship rights even if they are not significantly affected – and "underinclusive" – by denying affected individuals political entitlements, because they are not formal members. In the following section we present ways to reduce this gap between normative aspiration and empirical reality.

## 4.2 Normative principles and feasible means in-between

There seems to be a strong disjuncture between normative ideals that are based on core features of liberalism (rationalism/consequentialism, individualism and universalism) and conservative practices that emphasize traditional bonds of particular communities as criteria for delineating the boundary of the demos and for granting citizenship. Nevertheless, in the following we will argue that we can reduce this gap. First, as we have done for the supranational and the domestic realm, we will argue that an appropriate specification of the democratic principle of inclusion/congruence in the transnational realm should be based on the principle of proportionality, which means that we accept partial citizenship and grant levels of citizenship in proportion to the extent that people are affected. Second, we will turn to multiple citizenship, which is partly a non-intended side-effect of external citizenship and highlight the potential of multiple citizenship as a helpful means for democratizing a transnationalizing world and for fulfilling a delineated normative principle of inclusion. As in the foregone sections, the first step represents the specification of a normative principle in-between universalistic and particularistic ideals. The second step highlights the most promising means to realize the normative principle; or better: to reduce the discrepancy between current state of affairs and the normative ideal. As is the case for the delineated means in the supranational and domestic arenas, awareness and acceptance of multiplicity are the core characteristics of this means.

### 4.2.1 Democratizing transnational relations by granting levels of citizenship in proportion to the level of affectedness

In order to specify the all affected principle in such a way that it is normatively adequate and practically feasible, we develop Koenig-Archibugi's approach further. This means that we combine the concepts of "partial citizenship" and "proportionality" with a decider-oriented starting point. Nevertheless, we go beyond Koenig-Archibugi's focus on political rights and complement a decider-oriented approach with a decision-oriented one. We think that Marshall's distinction between civil rights, political rights and social rights, a distinction that he introduced in order to describe the historical expansion of the content of citizenship in the (British) nation state (Marshall 1950), is useful for thinking of what "partial citizenship" means in an emerging transnational arena. Furthermore, "proportionality" in contrast to "numerical

equality" should be the principle for assigning not only political entitlements (Koenig-Archibugi 2011) but all kinds of citizenship rights. Finally, we need to complement a decider-oriented concept with a decision-oriented one, whereby the former applies to granting political rights and the latter is relevant if we consider how civil rights can be used to democratize transnational relations. These insights lead to the following specification of the democratic principle of inclusion in a world of transnational flows: *states should grant all individuals citizenship rights in proportion to their subjectedness and to their affectedness by the laws/policies of the state.*

In the following we will explain what this means in more detail. We can only briefly touch upon the civil and social rights but will focus on the political rights, since our primary concern here is the democratization of transnational relations, for which the latter is of pivotal importance.

First, our normative proposal means that multifunctional and territorially delineated jurisdictions (states) grant all legal (adult and non-transient) *residents* who are subjected to the authority and to the law of the state *all citizenship rights* independent of their nationality. Furthermore, states grant non-residents also citizenship rights, but less than residents, because they are not subjected to the law of the states.

Second, states grant *civil rights* both to residents and to non-residents. Civil rights should be granted equally, neither residency nor nationality is a legitimate reason for differentiation/discrimination. In line with Marshall (1950: 10) we stress the fact that civil rights are necessary for securing individual freedom and include the right to justice. The latter is crucial "because it is the right to defend and assert all one's rights on terms of equality with others and by due process of law" (Marshall 1950: 10/11). In our context the right to justice means that everybody should have the right to sue a government for the violation of basic human rights. All humans should have the opportunity to challenge a governmental decision or policy in a national court of that state. But they have to prove that a specific decision or policy actually has strong negative effects for them. In other words, when it comes to civil rights, we should combine the principle of an unlimited universalistic access to civil rights with the practically demanding condition of *being actually affected* and the limiting condition of *being negatively affected*. This is because the expansion of civil rights is a defensive means that aims to reduce the most obvious cases of unjustified state interference into the autonomy of external individuals. Through civil rights, negatively affected externals do not get the right

to participate in political decision-making and cannot demand any specific policy from a state. But each individual can demand from each government that it ends a specific policy or provides compensation if he/she can prove that this policy has had unjustified strong and negative effects. Since we are specifying the normative contours of transnational citizenship, national and not supranational courts would be in charge for deciding whether national policies have violated basic human rights of externals. Nevertheless, at this point it becomes clear that the normative principles that we lay out in this paper for the various domains are interconnected, since the specification of what counts as violation of human rights by national policies has to take place in a process of “democratic iteration” between the national and the supranational level (see section III).<sup>11</sup>

Third, states grant *political rights* to all residents, to non-resident nationals and to non-resident non-nationals, but the level of political entitlements and the forms of representation differ among these groups. Non-resident *nationals* should have similar political rights as residents, albeit we would follow Bauböck, who introduces specific conditions and (primarily temporal) limitations both in respect to keeping the nationality status and in respect to political entitlements according to his stakeholder principle and to his biographic subjection criterion (Bauböck 2007, 2009; see section III). In principle, we would also follow Bauböck when he argues that their vote should be counted together with those of domestic voters, as long as they cannot claim to have suffered historically from unjust treatment.<sup>12</sup> In contrast, non-resident *non-nationals* should be represented separately. It is very important for the recognition of affected externals that there are specific representatives who present the views and interests of those who have been neglected in liberal democracies for so long. Because the likelihood that non-national externals are affected by national policy-making is lower than the likelihood for residents or non-resident nationals, they should have less political entitlements. Separate representation (through specific seats for non-national externals in the

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<sup>11</sup> In this already overly rich article we cannot address the third element of citizenship rights, the complex aspects of *social rights* in an adequate manner. Nevertheless, since the fulfilment of social rights depends on solidarity within a community which in turn depends on social bonds, we would argue that social rights should be granted to those who have strong social affiliations to a community – permanent residents and external nationals.

<sup>12</sup> We can also accept a separate representation of national non-residents, especially as long as there is no representation of non-national non-residents within these parliaments. Pragmatically and from the perspective of transnational democracy, a special representation of non-residents (even if it is restricted to nationals) is much better than no specific and therefore explicit representation.

parliament or through the establishment of a specific council or committee) allows for differentiating the influence of internals and externals. Furthermore, it makes it easy to ensure that residents and nationals cannot be dominated by externals (Koenig-Archibugi 2011: 7).

Fourth, states grant *political rights* to *externals* in proportion to their capacity to affect those externals. The principles of partiality and proportionality do not only apply to (potentially) affected individuals but also to those who affect. We would follow Koenig-Archibugi's suggestion that "extraterritorial participatory entitlements should be proportional to the resources controlled by the state" (Koenig-Archibugi 2011: 8).<sup>13</sup>

Fifth, the specification of which non-residents receive political entitlements and representation in a state should be the result of a process of vertical and horizontal democratic *iterations* whereby the horizontal dimension is pivotal. Here is a brief scenario how such a process could take place: A global initiative (ideally a UN convention) would stimulate or demand that all states ask the parliaments of all other states whether their people have a justified claim to be represented within its political decision-making process.<sup>14</sup> The request of getting represented and the justifications for the request would have to be formulated by the parliaments of the external states. The parliaments of the demand-receiving states would discuss all requests and their justifications and would decide whether to accept them. The decisions would have to be justified towards the demanding parliaments. The result of these transnational processes would certainly depend on the institutionalization and support that they receive on the global level. But in contrast to cosmopolitans like Koenig-Archibugi (2011: 9), who envision a global assembly for "constitutional decisions," our proposal is truly transnational and emphasizes the horizontal dynamics of mutual adjustment: we assume that it would need a certain amount of countries that react positively and grant externals participatory entitlements in order to start a positive dynamic and we assume that reciprocity would play an important facilitating role for such a dynamic. But reciprocity does not imply numerical equality. For a powerful state it would certainly be easier to grant political entitlements to external people if their state does the same in respect to its people, even if the

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<sup>13</sup> Whether the GDP of a nation is really the most appropriate indicator for these resources is disputable since it measures rather the capacity of a nation to affect others than the capacity of the state.

<sup>14</sup> We see the parliaments and not the governments as the main actors in the transnational process of granting externals political entitlements. An even more transnational proposal would ask not only state parliaments to request representation but would provide societal groups in other countries with the same opportunity.

amount of participatory entitlements that the less powerful state grants would be lower or the form of representation less influential.

Finally, we would like to emphasize the fact that the proposed principle of granting political rights to externals in proportion to the capacity to affect and in proportion to reasoned and recognized levels of affectedness is compatible with both aggregative and deliberative understandings of democracy. The former would translate political entitlements primarily as rights to vote: the non-national non-residents should select their representatives through competitive elections and the representatives should have the right to vote in the national assembly (Koenig-Archibugi 2011). The latter would focus more on voice and would try to make sure that all relevant discourses are represented in the publics and parliaments of powerful states (Dryzek and Niemeyer 2009).

#### 4.2.2 Democratizing transnational relations by recognizing multiple citizenships and constantly readjusting the access conditions

As already put forward in earlier publications (Blatter 2008, 2011), we propose that dual/multiple citizenship should be recognized as a promising means to democratize a transnationalizing world order. This is based on the observation that the world order de facto resembles a system of "imperial" relationships among nation states that are characterized by asymmetric flows of (military, political, economic and cultural) influence from powerful "core states" to less powerful "peripheral states" (Blatter 2008: 78-84; 2011: 790/791). This starting point, with its emphasis on the structural (in the sense of on-going and multifaceted) affectedness of peripheries by core states, resembles Koenig-Archibugi's approach. Nevertheless, instead of proposing that powerful states should invite representatives of those who live abroad and are affected, we argue that with migrants there are already individuals within the territorial confines of influential nation states who might represent the affected externals.

Migration can be understood as a corresponding "counter flow" from peripheries to core countries that is to a large extent caused by the uneven development resulting from the asymmetries of influence between cores and peripheries. In an approach to democratize these imperial relationships, migrants could function as representatives of the peripheries within core states. In order to do so effectively, they should be granted the citizenship status of the core state with the full set of citizenship rights and duties attached to it, and they should also

be allowed to keep the status of being a member of the peripheral state, because this strengthens and signifies on-going ties to the external community.

The main argument for the recognition of dual/multiple citizenship as a means for representing affected externals within powerful states in a world of flows is that dual citizenship and the official tolerance or acceptance of dual citizenship is a growing reality all over the world and that this phenomenon actually links the developing and the developed world (Faist and Kivisto 2007; Brondsted Sejerson 2008; Blatter et al. 2009). Furthermore, in empirical studies it has been shown that the acceptance of dual citizenship stimulates migrants to naturalize in the country of residence (e.g. Jones-Correra 2001; Escobar 2004; Schröter and Jäger 2005: 16). As long as migrant-receiving countries do not grant non-national residents the right to vote, naturalization (and the willingness to naturalize) is an important condition for making it possible that migrants represent the affected externals in the country of residence.

In the following we lay out in more detail the mechanisms by which the representation of affected externals can take place and discuss whether multiple citizenship should be accepted only by core states or also by peripheral states for migrants from core states. Right from the beginning we would like to emphasize that we endorse multiple citizenship in the spirit of a non-ideal normative theory, which means that multiple citizenship is not the ideal and non-contradictory form to implement the normative principle that we set forth in the section before. Nevertheless, it is a pragmatic tool that addresses one of the most salient democratic deficits in a world of cross-border flows. Therefore, it has to be evaluated primarily in respect to the question whether it can reduce the current deficits without producing even more problematic side-effects.

Like the proposed new forms of citizenship for the domestic and supranational arena, the endorsement of multiple citizenship as an instrument to democratize the transnational arena can be connected to liberal-aggregative and republican-deliberative understandings of democracy. From an aggregative perspective, the spread of dual citizens means that the preferences of those who have a second national affiliation is taken into account in the electoral process within nation states. It is very likely that this does not only affect the position of the "median voter" within the expanded population of voters, but that the "supply-side" of the political market (interest organizations, programs of political parties and candidates) is also less parochial in comparison to the situation in which only mono-nationals are eligible to vote.

Deliberative democrats embrace processes of individual and national will-formation that are "other-regarding" (Offe and Preuss 1991). The presence and recognition of individuals who are "also-others" will certainly enhance the quality of the public discourse in this respect. If policies have transnational causes and consequences, the inclusion of the perspectives of multiple citizens makes the deliberative process also more "fact-regarding," which is another quality criterion for deliberative democracy (Offe and Preuss 1991).

Until now, we do not have any empirical information on the question whether multiple citizens really take their second national affiliation into account when they participate in their country of residence. It seems very likely that this depends a lot on their biographical ties to the second country. For example, dual citizens who received their status as children of binational couples without ever having lived in the country of their second nationality probably take their second affiliation much less into account than first generation migrants who naturalized in the country of residence and kept the citizenship status of the country of descent. Nevertheless, the rapidly rising numbers of dual citizens might provide the necessary numerical background for the mobilization of dual citizens and for the politicization of dual citizenship in public discourse. Until now, dual citizenship is in most countries rather tolerated than embraced (the first notable exception was Sweden). Its spread is mainly a non-intended side-effect of growing gender equality and the new appreciation of emigrants by countries of descent (Joppke 2010: 47-59). As soon as it gets politicized, there is the danger of a backlash as has been the case in Germany and the Netherlands (Faist 2007). On the other hand, in Switzerland, where there are already many dual citizens (about 19% of all Swiss), the conservative Swiss Peoples Party did not really dare to take up this issue, although this party usually does not miss any opportunity to tighten the already very strict naturalization requirements. Sheer numbers might allow political activists to mobilize dual citizens and to address them openly as representatives of the external others. Together with open-minded mono-nationals who accept that affected externals should be included in national decision-making, dual citizens could openly demand to get recognized as representing those external others.<sup>15</sup>

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<sup>15</sup> Of course, we would advise that those who campaign for such a recognition should not only draw on the democratic obligation to include all significantly affected, but should highlight the – mainly epistemic – advantages for the quality of political decisions, when external effects are systematically taken into consideration.



Why should migrants be granted dual citizenship and not just political entitlements? Whereas the expansion of the franchise from all citizens to all legal residents can be seen as an adequate step for the democratization of the domestic arena (see section III), the goal to democratize transnational relations demands that migrants are recognized not only as being equally subjected to law, but as being the internal representatives of external others. Providing immigrants with the status of citizenship instead of granting them only the franchise is strengthening the standing of this group (Bauböck 2003; Faist 2009). First and foremost, it increases their security; they do not have to fear to get expelled anymore. Second, it symbolizes the recognition of being an equal member of the national community. This, in turn, stimulates the immigrant to identify with and participate within the country of residence. And these reactions are probably even stronger if the country of residence does not only grant citizenship but also accepts their membership in another national community.

The main argument for proposing that migrants keep the citizenship status in the country of descent is not that they should have citizenship rights in that country. Instead, the crucial reasons are that such an external citizenship stimulates migrants to represent the interests of the people in their country of descent within the country of residence and that the recognition of "also-others" as equal members in the country of residence signals and stimulates an awareness of transnational interdependencies and external effects. Nevertheless, this does not imply that the political rights of multiple citizens should be restricted in the country in which they currently do not reside. There are diverse arguments for this stance: First, in respect to potential dangers for democratic self-determination we would like to recall what we have set forth in the section before: special representation of "external citizens" – whether they are mono- or dual citizens – in the parliament effectively curbs the danger of being dominated by externals. Second, we would forgo the positive effects of external political participation, both in the country of residence and in the country of non-residence. Political rights can induce participation and participation in turn stimulates identification with the other community – which, in turn, makes it more likely that dual citizens act as representatives of external others in the country of residence. Furthermore, migrants might transfer their political interest and capabilities from one country to another country (see Tsuda 2012 for an overview). We would undercut this learning and transfer processes if political participation would only be accepted in one country. This leads us directly to the question whether we should endorse multiple citizenship universally and symmetrically? Or does the goal to democratise an imperial world

order demand that core states accept dual citizenship for immigrants and peripheral states promote dual citizenship for emigrants?

There are many arguments why multiple citizenship should be recognized by all states and that immigrants and emigrants should be treated equally.<sup>16</sup> First, many states might in fact function as cores in relation to some countries and as peripheries in respect to other countries and the constellation of influence might change over time. Any differentiated regulation of the recognition of dual citizenship is not only very difficult to implement, it is also highly unlikely that such a differentiated regulation would really represent the real relationship of influence. The flows of migrants, in contrast, is a dynamic indicator that reflects (not only but strongly) the power relationships among countries. In consequence, we can expect that less developed and less powerful states will primarily have dual citizens as emigrants, whereas dual citizens of the more developed and powerful states will be immigrants or their descendants. Second, inasmuch as core states are more democratic than peripheral states, the influence of multiple citizens in peripheral states might be justified, because they can serve as transmitters of democratic values and skills. Furthermore, from an epistemic view, it is also useful for peripheral states to take the perspective of the external other systematically into account; although their inclusion and influence might not be justified by the principle of being significantly affected, as we have defined it before. Nevertheless, as long as there are not huge numbers of dual nationals in peripheral states who are primarily committed to the interests of core states, the epistemic advantages will probably outweigh the unjustified effect of strengthening instead of counterbalancing the influence of the core on the periphery.

Most countries who accept multiple citizenship do this symmetrically – for emigrants and immigrants – and accept both paths to multiple citizenship: by birth and by naturalization (Blatter et al. 2009: 21). Nevertheless, in many countries conservative groups fight for the discrimination of immigrants over emigrants. In consequence, multiple citizenship is always in danger of representing an element of what Joppke calls the “re-ethnicization” of citizenship

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<sup>16</sup> Please note, that here we focus only on arguments that relate to the goal of democratizing a transnational world order. There are further arguments why dual citizenship, including the right to vote, should be granted universally and symmetrically. The most important one is that many (circular) migrants are “biographically subjected” to more than one country, and should therefore be granted political rights in all those countries (Bauböck 2009).

(Joppke 2010: 63-67). In contrast, in order to be a helpful element for the democratization of transnational relations, the rules for granting dual citizenship should be in accordance with the all affected principle, as specified above. From the point of view of our normative principle, allowing emigrants to keep the nationality of the country of descent is seen as adequate because it signifies (to the migrants themselves and to the migrant receiving community) the on-going ties to external others which might be affected by national policy-making. But dual citizenship can also be endorsed because it is the adequate form of external citizenship for individuals who have strong personal ties to the country of descent which makes it likely that they might return (see the argumentation in the section on new forms of citizenship in the domestic arena). In consequence, national regulations for the granting and rights of dual citizens should take into account both rationales: multiple citizenship is recognized because it signifies the inclusion of affected externals and because it represents the on-going affiliations of external nationals. Like in the forgone sections we plea for processes of vertical and horizontal democratic iterations in order to develop concrete solutions which take into account the principle of including all affected in proportion to their affectedness and which take into account the interdependencies between national citizenship regimes. Furthermore, similar to the processes that we described for the horizontal adjustments between quasi-citizenship and external citizenship, we can envision different dynamics depending on whether the recognition of dual citizenship is connected to liberal or communitarian theories of democracy.

## **5 Summary: Mapping spaces and forms of citizenship in and for a Post-Westphalian world**

As an ideal-type, the Westphalian world was characterized by internally and externally sovereign and territorially demarcated nation states. These states were the exclusive site of political decision-making; citizenship status and rights were given (only) to all nationals – a particular group of people which was assumed to be congruent with the inhabitants or residents of the national territory. The realm beyond the nation state was conceptualized as “international” which means that only national peoples or nation states were recognized as

members of the international community; supranational or transnational arenas did not exist since neither supranational institutions of governance nor individuals played a role.

In the forgone sections we have shown that new forms of citizenship are proposed and/or originating in reaction to an emerging post-Westphalian world order. Massive flows of socio-economic factors and people across the territorial boundaries of states lead to a growing (inter)dependence between nation states and to a rising incongruence between the authors of democratic rule-making and those who are subjected to and/or affected by these rules. Furthermore, new arenas of political decision-making are evolving. Supranational arenas and transnational arenas are supplementing national/domestic arenas. The transfer of governance competences to supranational institutions has stimulated the debate on whether we need a corresponding world citizenship. Others have argued that not only those who are subjected to the law of a nation state, but all those who are affected by those laws should be granted citizenship rights within these states – a demand that stimulates the search for new forms of citizenship within evolving transnational arenas. Finally, some authors have pointed to an emerging post-national citizenship within the domestic realm characterized by the granting of certain rights to immigrants and driven by the spread of universal human rights. Nevertheless, not only empirical findings but also normative reasoning has revealed the limits of such universalistic forms of citizenship and we discovered lines of reasoning which lead the way towards normatively more appropriate and also more realistic new forms of citizenship in the national, supranational and transnational arenas.

Based on these insights, we formulated normative principles and facilitating steps for new forms of citizenship that lie in-between those universalistic understandings of citizenship and the particularistic forms of citizenship that are based on the assumption that the nation (should) keep its position as the singular cornerstone for conceptualizing citizenship in a post-Westphalian order – an assumption that we perceive as questionable from an empirical as well as from a normative point of view.

## 5.1 The conceptual cornerstones for normatively adequate and realistic new forms of citizenship

Table 1 shows that we applied the same concepts when we formulated the normative principles and the practical steps for new forms of citizenship in domestic, transnational and supranational arenas.

**Table 1: Forms of citizenship in divergent political arenas**

<b>Universalism</b>	States grant all residents all citizenship rights	States grant all affected individuals all citizenship rights	Supranational institutions of governance grant all individuals all citizenship rights
<b>Pluralism</b>	<i>Partiality</i> <i>Proportionality</i>	States grant all individuals (including migrants) citizenship rights in proportion to their biographical subjection	Supranational institutions grant all individuals citizenship rights in proportion to the governance competences of these institutions
	<i>Recognition of multiplicity</i>	States recognize sedentary and mobile individuals and grant quasi- and external citizenship to migrants	Supranational institutions of governance recognize peoples and individuals and grant balanced rights and representations
<b>Particularism</b>	States grant only resident nationals all citizenship rights	States grant only nationals (residents and non-residents) all citizenship rights	Supranational institutions of governance grant only statespeoples all membership rights
	<b>Domestic National Arena</b>	<b>Transnational Arena</b>	<b>Supranational Arena</b>

On the most abstract level, the major insight is that new forms of citizenship should neither be determined by membership in one particular (national) community nor by membership in a universal community of humankind. Neither particularism nor universalism but pluralism is the overarching principle that will and should shape the emerging forms of citizenship in all arenas. A pluralist way of thinking lies behind the principles and practical steps that we developed on a less abstract level: partiality, proportionality and recognition of multiplicity.

The notion of “partial citizenship” indicates that citizenship is not an all-or-nothing affair. The various dimensions of citizenship (status, rights, participation and identity) can be disaggregated and all these dimensions can be granted or developed in a differentiated manner. This, in turn, opens the door for arguing that polities should grant citizenship rights in proportion to the level of influence they exert on people. Within the domestic arenas, all individuals who are residing at least some part of their lives within the territorial confines of a specific state are directly subjected to the laws of its national government. In the supranational arenas, in contrast, governance institutions exert their influence usually more indirectly and this influence is limited by the competences which states delegated to these institutions. Finally, in the transnational arena, external people are often strongly affected by national policies, although they are neither directly nor indirectly subjected to any decision. In a post-Westphalian world order, all these forms of governmental influence on people should be recognized and mirrored by a corresponding amount of citizenship rights that the institutions of governance should grant to diverse groups of subjected and affected individuals.

A very important step on the way to implement proportional citizenship rights in national, transnational and supranational arenas is that polities recognize not only that they have divergent kinds of members, but also that some of these members have affiliations to multiple polities. States should recognize that not only sedentary individuals but also migrants are, have been or will be subjected to their laws. In consequence, they should grant certain forms of quasi-citizenship to immigrants as well as certain extents of external citizenship to emigrants. Furthermore, states should recognize that their policies do not only affect residents but also people beyond their territorial boundaries. They should also recognize that some of their members are affiliated with one nation state, but others have affiliations to multiple polities. In consequence, they should grant multiple citizenships and recognize these “also-others” as representatives of affiliated and affected externals. Finally, supranational institutions of governance should recognize not only peoples but also individual people as their principled members and grant both kinds of members balanced rights and representations.

Recognizing diversity and multiplicity is an important first step for connecting universalistic and particularistic principles and practices. This has to be complemented by procedural and discursive opportunities for the constant re-adjustment of these principles. We have highlighted the fact that “democratic iterations,” which Benhabib (2004) has introduced

for this purpose, should not be limited to a vertical dimension. Specifying the extent of quasi- and external citizenship, recognizing multiple citizenship and balancing the rights of peoples and individuals involves a multiplicity of national communities and makes these communities aware of the fact that their (citizenship) policies are interdependent. In consequence, new forms of citizenship will and should also evolve in processes of horizontal iterations among democracies.

The notion of horizontal iteration leads us to another insight: By distinguishing between domestic, supranational and transnational arenas we have introduced new boundaries in order to systematize the search for new forms of democratic citizenship. Nevertheless, the normative principles which have been developed for the different arenas are valid beyond these arenas and a comprehensive normative framework has to take 'spill-over effects' into account. For example, a supranational polity like the European Union should specify and implement the proportionality principle not only in respect to the level of competence transfer (as we have laid out in chapter II), but also in respect to the level of affectedness (in order to address the fact that it produces massive external effects) and in respect to the level of biographical subjection (in order to recognize the rights of third-country immigrants within the EU). The first principle demands that a supranational institution like the EU grants citizenship rights to those whose polity has delegated competences to it – thus, within the European Union, it demands that citizenship rights are granted to the citizens of member states (as individuals). The principles from the other arenas lead to further normative demands; they underline that due to international migration and transnational interdependencies such entitlements cannot be exclusively reserved to these individuals but that they should be enlarged to all individuals in proportion to their biographical subjection for those residing within the circumscription of the supranational institution and to all other individuals in proportion to their affectedness by this supranational institution. Overall, this reveals that (analytic) boundaries are necessary tools for guiding our thinking and for regulating our social life, but they should not be seen as demarcations which separate the world in clearly distinct entities. Instead, the recognition of flows and (inter)dependence leads directly to the normative demands for the recognition of plurality and non-exclusivity.

## 5.2 The centrality of dual/multiple citizenship

Table 1 indicates that adequate new forms of citizenship are and should be found in-between universalistic and particularistic principles. It also illustrates our conviction that the transnational arena as a space “in-between” the domestic and the supranational realm should play a major role in this respect. The theoretical and normative debates so far have focussed very much on the supranational and the domestic arenas, with major disputes about how far world citizenship and post-national citizenship are existing, feasible and desirable. Transnational arenas have been discovered rather lately, although the spread of multiple citizenship and its growing acceptance in international law and by nation states is certainly one of the most relevant phenomena when we are searching for new forms of citizenship in the post-Westphalian world. We have introduced multiple citizenship as a promising pathway for the democratization of transnational relations. Although certainly not the perfect instrument for internalizing the external effects of national policy making, it is an opportunity that should be seized because more tailor-made proposals seem to us unrealistic in the foreseeable future.

In order to bolster our argument that multiple citizenship is the most important new form of citizenship in a post-Westphalian world order, we will briefly illustrate that multiple citizenship has positive effects in the domestic and in the supranational arena, as well. Nevertheless, we should not ignore potential pitfalls and problematic uses of dual citizenship. We briefly address those at the end of this section (a much broader and detailed discussion of the pros and cons of dual/multiple citizenship is provided in Blatter 2008, 2011).

First, if the country of residence accepts multiple citizenship, it removes a major motivational hurdle for immigrants to naturalize (e.g. Schröter and Jäger 2005: 16). Naturalization, in turn, is the most important pathway to fulfil the normative citizenship principle that we laid out for the domestic arenas for all those who want to stay in a country for a longer period of time. Making naturalization easier reduces the current incongruence between those who are subjected to law for a significant period of time and those who can participate in making these laws.

Secondly, it is very likely (but not yet proven empirically) that multiple citizenship provides its beholders with the kind of cosmopolitan attitude that the proponents of supranational citizenship are hoping for in order to stimulate citizenship practices and identities on a



continental or global level. The recognition and practice of multiple citizenship is certainly very helpful in overcoming parochial and exclusive forms of identity and interest formation. Those who realize that memberships, identities and practices can be multiplied on a horizontal level, will be more open to similar multiplications in a vertical dimension. Nevertheless, we have to admit that – in contrast to research on the relationship between bilateralism and multilateralism in international governance (e.g. Rixen 2008) – until now, we have no empirical knowledge on how transnational and supranational forms of citizenship interact.

There are three major dangers that we see emerging with the spread of dual citizenship. First, mobile individuals with two or more passports have more options to influence political decision-making. In addition to “voice” and “vote”, they can more easily use (the threat of) “exit” as a means to express their interests and to control and influence governments (Blatter 2011: 786). There is a risk that multiple citizenship will not be used for representing the periphery within core states, but as a means that allows a transnational class of mobile and wealthy individuals to exert an unjustified influence on nation states. The danger that multiple citizenship is enhancing the influence of the affluent global class instead of strengthening the representation of the affected periphery would be reduced if countries would not merely tolerate but recognize multiple citizenship and if this official recognition would have to be justified in the public discourse with reference to normative principles.

Furthermore, security might become an issue (again), both for individuals and for political communities. Multiple citizenship might actually endanger the security of individuals. States might not provide diplomatic protection for multiple citizens during their stay in the country in which they are also nationals. In addition, multiple citizens can more easily than mono-nationals be stripped off their nationality by a country that perceives them as a threat because they do not end up stateless. However, Blatter et al. (2009: 29-31) found that those fears are not warranted (yet).

Finally, we have to realize that in many parts of the world the current situation is actually not adequately characterized by our description of a transformation from a Westphalian system of sovereign nation states to a post-national world order. Instead, it resembles much more the transformation from an imperial pre-national world order towards a world of nation states. In places like Eastern Europe, the transformations that we conceptualize – lead by the experiences in Western Europe and North America – in an sequential order, are actually taking place at the same time. In consequence, in these places dual citizenship shows up once again

as a potential threat for the security and sovereignty of nation states (as it had been perceived in the West during the 19<sup>th</sup> and the first part of the 20<sup>th</sup> centuries, see e.g. Triadafilopoulos 2007). In many states in Eastern and Central Europe, dual citizenship is proposed to strengthen the bonds of ethnic minorities to neighbouring kin states, which in turn is perceived by the respective states as a threat to their integrity (e.g. Riedel 2012). Although we reject conservative demands for an uncompromised loyalty to a nation state (e.g. Renshon 2005), we acknowledge that dual citizenship can be misused as an instrument to foster an ethno-nationalistic agenda instead of facilitating transnational democracy. This insight does not certainly not undermine our argument that dual/multiple citizenship is the most important new form of citizenship, but it represents a kind of "scope condition" for our normative endorsement: Dual citizenship can play an important and positive role in democratizing a transnationalizing world order in those spaces in which the existence, security and integrity of nation states as such is not questioned and disputed.

In order to get into a more thorough debate about the potentials and the problems of multiple citizenship we need further empirical information. Nevertheless, the scrutinized lines of argumentation indicate that multiple citizenship is a salient new form of citizenship that plays an important role in all political arenas. The conceptual map that is presented in table 1 visualizes this centrality of dual/multiple citizenship in the post-Westphalian world.

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