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Introduction

Citizenship has two fundamental meanings. Firstly, it determines who belongs to a national community and, secondly, it distributes resources to members of the community through the allocation of rights and responsibilities.

How citizenship is defined, applied and experienced is an important element in the fight against racism in the UK and Europe. Citizenship is directly relevant to people's everyday lives because it underlies people's sense of belonging and represents "the benchmark of personal freedom, dignity, hope, freedom from violence and fear and personal autonomy." It involves processes of inclusion and exclusion, where some gain rights and others become disadvantaged through the extension or denial of formal citizenship status. With the changing politics and economics of the contemporary world, the evolution of European citizenship and the approaching millennium, we need to take stock of where we are and address the processes of inclusion and exclusion in modern democracies and the role of citizenship in this. We need to rethink the concept of citizenship to focus on the civil, social and cultural elements of citizenship and encompass a human rights perspective in that.

What is the purpose of this briefing paper?

This paper is intended to provide a short overview of the meaning of citizenship from a formal legal point of view taking into account the social and symbolic meaning of citizenship. It should be seen as a starting point for individuals and organisations to think about the value of citizenship in their lives and communities.

In the paper we discuss what citizenship means, identify some of the rights and duties which are traditionally associated with citizenship, and review the intent and provisions of formal European citizenship. We conclude by discussing the importance of the meaning of citizenship in relation to social and cultural inclusion for all members of society. We look at how European citizenship might be redefined to provide a framework across the Union for encouraging inclusion and a sense of belonging for all people resident in the Member States of the European Union.

What does citizenship mean in formal terms?

Technically, citizenship is a legal construct to encapsulate a political status. It refers to the relationship between an individual and a state and involves the individual's full political membership in the state and their allegiance to it. The citizen has duties, rights, responsibilities and privileges and the status of citizen is official recognition of the individual's integration into the political system.

The legal status of being a citizen can be gained in three ways. First through jus soli, that is an individual can become a citizen by virtue of where he or she is born. Second, an individual may become a citizen through jus sanguinis, this means to whom he or she is born. Third, an individual may acquire citizenship through naturalisation, this means to change one's citizenship usually by renouncing allegiance to one sovereign and declaring allegiance to the new state. In most democratic countries, legal citizenship is based on a combination of jus soli and jus sanguinis as well as providing options for naturalisation for immigrants. This is particularly true of European Union Member States, for example, Germany, the UK, and France.

In the UK until the 1981 Nationality Act the term "British citizen" did not exist. Furthermore, the UK does not have a written constitution in which rights are laid out. As a result, the concept of citizenship is not constitutionally defined and rights are therefore privileges as they can be removed by legislation. Therefore, citizenship in the UK essentially means having the right of abode and being free of immigration controls.

Prior to the 1981 Nationality Act citizenship was acquired by jus soli. This meant that a British birth certificate was enough evidence for an individual to become a British citizen. Increasingly in the UK, citizenship has been defined to use territory as a means of limiting access to rights. For example, the 1962 and 1968 Commonwealth Immigrants Acts, together with the 1981 Nationality Act are all legislative measures resulting in the restriction of "non-white" people entering the UK. The 1981 Act has altered the previous rule of producing a British birth certificate and now a child born in the UK can only be a British citizen if one of its parents is either a British citizen or has a permanent right of abode or if she/his can prove they have spent their first eight years in the UK. For people born outside of the UK, citizenship can be acquired by a formal process of naturalisation.

What does citizenship mean to people?

What do we as ordinary people understand by citizenship? The Commission on Citizenship² adopted a definition of citizenship based on three main elements - civil, political and social. Through their research, they found that most people in the UK held a similar view of what citizenship meant. By and large, people defined citizenship as directly tied to the provision of social rights, followed by civil and political rights.

Missing from this definition of citizenship is the emerging category of cultural rights, the fourth stage of citizenship in modern political and social thought. This element of citizenship is particularly important to black and ethnic minority communities as it relates to issues of access, belonging and multiple identities. A progressive notion of citizenship should embrace the importance of language, religion and other elements of personal identity of black and ethnic minority groups. One specific example of this is examined in The Runnymede Trust's recent report Islamophobia: a challenge for us all which illustrates how Muslim communities can face cultural exclusion in society. Cultural exclusion hinders their ability to participate in the political process and limits their enjoyment of social, economic and cultural rights. In other words, while formal citizenship, the exercise of their rights of citizenship is curtailed by their experience of cultural exclusion.

What are the main features of citizenship?

Within democratic societies there is often a popular perception of rights which traditionally belong to the citizens of a state or country. However, as many people know from experience, one does not always have to have legal citizenship in the country or state in which one resides in order to enjoy many of these rights, freedoms and duties. In fact, many of these rights and duties are applied to a wider spectrum of people than just a state or country's citizens and some rights and duties are applied to all people living in a state or country. Citizenship as the legal condition for eligibility for rights no longer reflects reality.

Why? In some cases international laws, such as the European Convention on Human Rights, guarantee fundamental rights to all persons, not just citizens of a recognised state or country. As another example, the Treaty on European Union grants many of these rights and duties to all nationals of European Union Member States through the creation of "Citizens of the Union". Finally, in other cases national laws and practices confer many of these rights and duties on all legal residents of the state or country.

The detailed research and analysis undertaken in The Hallmarks of Citizenship showed that out of eleven Member States studied, England and Wales, a significant proportion of the rights

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3. J.P. Gardner (ed.), The Hallmarks of Citizenship: A Green Paper, London: The British Institute of International and Comparative Law & The Institute for Citizenship, 1994. Finland, Austria and Sweden, were not included in the study. The United Kingdom was not considered as a whole due to the complexities involved in relation to Scotland and Northern Ireland.
and duties identified in Box 1 were, in fact, conferred on a broader range of people resident in the countries than formal citizens. Further, many of the rights and duties, particularly social and civil ones, were extended to all legal residents in a large number of the countries studied.

It is notable that of the rights and duties discussed, only three—the right to a passport, allegiance (where applicable) and the obligation to undertake military or alternative service (where applicable)—were essential to formal national citizenship in all the countries studied.

Box 1

Some Examples of Rights and Duties* 4

The selected examples of rights and duties in this list are often popularly thought to be essential to or dependent on formal citizenship. Analysis and experience shows that this, however, is not the case.

Civil rights: Civil rights generally refer to the ordinary rights and liberties given to members of a country. Some examples of these are:
- Right to assemble and to form associations
- Access to justice: civil claims; administrative matters; entitlement to legal aid
- Right to a passport
- Freedom of movement: right to reside; right to travel freely within the territory; right to leave; and right to enter
- Fundamental rights including the right to information and the right not to be discriminated against
- Right to ownership and use of property
- Freedom to exercise profession of choice and right to work

Political rights: Political rights in relation to citizenship generally form the basis for meaningful participation in the democratic process. Some examples of these are:
- Right to vote in national and local elections
- Eligibility to stand as a candidate for national and local elections
- Right of petition and referenda
- Access to public office and public service
- Allegiance to a country of citizenship

Social rights: Social rights relate to the right to a reasonable standard of living relative to the society in which one lives including access to welfare systems. Some examples of these are:
- Right to education and vocational training
- Linguistic rights, including the right to use one's mother tongue in the exercise of the other rights
- Entitlement to welfare benefits (including entitlement to housing)
- Right to medical treatment and old age care

Duties: Some examples of duties and obligations are:
- Jurisdiction of the courts, domicile, applicable private law
- Obligation to undertake military or alternative service
- Liabilities to taxation
- Obligation to contribute to social security schemes

* The rights and duties identified in this briefing paper are taken from J.P. Gardner (ed.), Hallmarks of Citizenship: A Green Paper, London: The British Institute of International and Comparative Law & The Institute for Citizenship, 1994. They have been slightly modified and re-arranged as civil, social and political rights followed by duties for the purposes of this paper.

What is Citizenship of the Union?

The European Union confers rights on citizens of countries in the European Union. Today these rights can be upheld by national courts and by the European Court of Justice. These rights which are held to be essential to the idea and practice of European citizenship were always general principles by which European institutions were bound.

Although the concept of European citizenship was first formally expressed in the Maastricht Treaty in 1992, the European Union has in fact been introducing laws and regulations to ensure certain rights and freedoms to nationals of European Member States since its inception. The Treaty of Rome (1957) outlawed discrimination based on (European) nationality in matters connected with the free movement of labour. The three revisions of the founding Treaties—the Single European Act (1987), the Maastricht Treaty (1992) and the Amsterdam Treaty (1997, expected to be ratified before the end of 1999)—further defined rights at a European level.

The Maastricht Treaty formally introduced Citizenship of the Union through Article 8, detailed through Articles 8a-8d. Articles 8 and 8a-8d were further refined through the Amsterdam Treaty.

Many other rights enjoyed by Union citizens are found in other parts of the Treaties, including the right to equal treatment of men and women and broader rights to free movement and rights of residence throughout the Member States for purposes of employment, study, retirement and travel.

Box 2

Citizenship of the Union

Article 8
1. Citizenship of the Union is hereby established. Every person holding the nationality of a Member State shall be a citizen of the Union.
2. Citizenship of the Union shall complement and not replace national citizenship.

Article 8a
Every citizen of the Union shall have the right to move and reside freely within the territory of the Member States.

Article 8b
Every citizen of the Union residing in a Member State of which he is not a national shall have the right to vote and to stand as a candidate at municipal elections in the Member State in which he resides, under the same conditions as nationals of that State.

Article 8c
Every citizen of the Union residing in a Member State of which he is not a national shall have the right to vote and to stand as a candidate in elections to the European Parliament in the Member State in which he resides, under the same conditions as nationals of that State.

Article 8d
Every citizen of the Union shall, in the territory of a third country in which the Member State of which he is a national is not represented, be entitled to protection by the diplomatic or consular authorities of any Member State, on the same conditions as nationals of that State.

Article 8e
Every citizen of the Union may apply to the Ombudsman.

Article 8f
Every citizen of the Union may write to any of the institutions or bodies referred to in this Article in one of the [European] languages mentioned in Article 248 and have an answer in the same language.

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4 It should be made clear that the other 17 remaining rights and duties were not found to be conferred on all people in all states in the same way. Each country had its own unique combination of extending rights and duties from some to all members of its territory, as is indicated in the preceding paragraph.

5 There are currently 25 Member States in the European Union. They are Austria, Belgium, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Netherlands, Portugal, Spain, Sweden and the United Kingdom.
The Amsterdam Treaty also introduced a new and very important clause enabling the Commission to combat discrimination based on sex, racial or ethnic origin, religion or belief, disability, age or sexual orientation.\(^6\) It is important to note that this is the first time the Commission has been given competence to address discrimination based on race or ethnicity, thus taking an important step forward in the fight against racism.

The European Union is in a process of strengthening its commitment to fundamental rights and freedoms, and many of these, particularly those which echo the European Convention on Human Rights, are extended to all people living in the Union. However, the formal concept and practice of citizenship of the Union is based on a legally defined view of citizenship which emulates nation-state citizenship models and is extended only to persons who are formal citizens of a European Union Member State.

This means that over 11 million people who are third country nationals resident in Europe are excluded from European citizenship; it is important to note that a significant proportion of third country nationals are from black and ethnic minority groups\(^7\). This issue is a cause for urgent concern.

Why does the meaning of citizenship matter?

So far this briefing paper:

- has looked at what citizenship means mainly from a legal, technical point of view;
- has identified some of the rights and duties traditionally perceived to belong to formal citizenship in a state or country and seen that many of these rights and duties are conferred on a broader range of people than “citizens”;
- has argued that black and ethnic minority citizens experience social and cultural exclusion despite formal citizenship status;
- has argued that the current concept and practice of Citizenship of the Union is based on a legal understanding of citizenship and is directly dependent on formal citizenship within a Member State of the European Union;
- has shown that a significant majority of people, that is third country nationals, who do not qualify for European citizenship are from black and ethnic minority communities.

If, as is the trend (albeit more so in some states than others), traditional elements of citizenship are extended to other categories of legal residents, and in some cases to all people resident in a country, the question of what the value of formal citizenship in modern society is seems inevitable. Furthermore, how do we rationalise the development of a concept and practice of European citizenship that excludes so many people because they are not nationals of a European Union Member State, when those same people are in many cases entitled to the enjoyment of similar rights and duties in the countries in which they reside?

To compound the problem, many black and ethnic minority people who do hold citizenship in a European Member State continue to both perceive and experience social exclusion within their countries and when they travel to other Member States. Further, there is a growing problem of cultural exclusion in the UK and other Member States that uniquely affects black and ethnic minority people. That is to say, although citizenship provides rights in theory, in practice these rights are not equally accessed and / or shared by all members of society, particularly black and ethnic minority people.

There are therefore three issues relating to the definition and exercise of citizenship, both in the UK today, and across the European Union, which require further consideration and action:

1. The explicit exclusion of culturally, socially and economically contributing people in European Union Member States from European citizenship because they are third country nationals.
2. The continuing social exclusion, including economic and political exclusion, of black and ethnic minority citizens of European states in their countries of residence and at the Europe-wide level, despite formal inclusion.
3. The growing cultural exclusion of black and ethnic minority communities in the UK and the European Union which curtails their exercise of citizenship rights and participation in society.

We need to recognise that both the concept and practice of citizenship require rethinking. For organisations striving for equality in our societies the question is how to move forward. It is not possible to do away with the legal construct of citizenship in European countries. But it is necessary to rethink social, civil and cultural constructs of citizenship, both at the national and European levels, and ensure that they are inclusive in theory and practice.

Rethinking Citizenship

The concept of citizenship remains important. At the national level the social ideal of citizenship gives people a sense of belonging and belief that they are entitled to equal rights, protection, respect and acceptance from the state and its society. This sense of belonging is both necessary for, and dependent on, the development of more effective policies and practices to promote and realise social and cultural inclusion of all people in our societies. It is about giving people the sense and belief, as well as the instruments with which to make it a reality, that they have a right to be free of racial and cultural (including religious) discrimination and violence, a right to maintain one's language and culture alongside majority language and culture, and a right to respect and acceptance for oneself and community. This is especially true for black and ethnic minority people.

European citizenship does not provide its citizens with the technical legal elements that are provided by individual states, for example, passports. Yet, while third country nationals enjoy a wide variety of rights at national level, they are denied rights at European level because citizenship of the Union has been developed on a legal definition of citizenship based on nation-state models of citizenship. If citizenship of the Union is to promote the evolution of a shared identity across the Member States, as it explicitly states to be its aim, and if it is to effectively address issues of social inclusion, a great difficulty is raised by the exclusion of 11 million people who are economically, socially and culturally active. As contributing people in Member States third country nationals should be granted access to European citizenship and the security this would bring. The concept of European citizenship might therefore be better redeveloped to focus on the civil, social and cultural ideas of citizenship that are emerging in modern democratic societies.

Finally there is a need to address the issue of social and cultural exclusion of black and ethnic minority citizens. The concept of national citizenship could be redefined to encompass a human rights perspective within social rights, supported by political accountability, democratic culture and public participation. We need to redefine citizenship so that there is greater stress on equal rights and equal respect for all people. This would involve an emphasis on equality of opportunity and the elimination of discrimination and a public acceptance of cultural diversity and the right to be different. There should be a recognition that the kind of citizenship appropriate for nation-states is no longer appropriate in multi-ethnic societies and new political formations like the European Union.

Towards the goals of social and cultural inclusion, we should encourage the development of a concept and practice of citizenship where “the citizen is the individual who has autonomy and choice, who can identify with a plurality of identities, recognizing the right to be treated as different, as unique and as having a willingness to treat others with the same respect and dignity.”\(^8\)

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\(^6\) Article 64 (Future Article 13), Treaty on European Union.

\(^7\) Eurostat: Labour Force Survey 1996, Table 012. This includes all age groups. It is not possible to get a definite figure on the proportion of third country nationals from black and ethnic minority groups due to data reporting methods. It is possible to extrapolate by using a number of different tables showing country of origin of third country nationals, which suggests that a larger proportion of third country nationals are from black and ethnic minority groups.

\(^8\) M. Mutard, 1997, p.256.