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Reinventing Urban Citizenship

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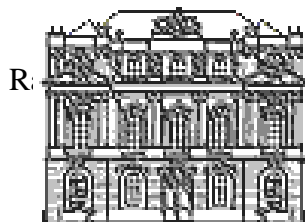
Reinventing Urban Citizenship[*]

1. From city-states to nation-states

The etymological and historical origins of citizenship are in the city. Athenian citizens were free, male and property owning members of a city-state who participated in the government of the polis. In the Roman Empire citizenship acquired a different meaning. It referred to a legal status (rather than active political participation) and was no longer attached to a specific location. However, because Empires have ill-defined boundaries, citizenship was sustained throughout the realm by a center of power located in the capital city rather than in a specific national territory. In late medieval Europe the free city, whose burghers are granted political autonomy as a special feudal privilege, becomes the site where modern conceptions of liberty can emerge.

In 1576 Jean Bodin, the first theorist of sovereignty, attacks the idea that citizenship is rooted in the city. A citizen is "the free subject under the sovereignty of somebody else" (Bodin 1576/1981: 158). Cities with customary laws and royal privileges are political communities, but they are not sovereign if their inhabitants are subjects of a larger state (ibid.: 164). Sovereignty is an absolute power exercised by the state and citizenship is a uniform relation of individuals to this sovereign political power. Henceforth citizenship can no longer be located in the city. In 1603, a generation after Bodin, Johannes Althusius publishes his alternative vision of a federal commonwealth. For Althusius the city is the smallest public association in which "many private associations are linked together for the purpose of establishing an inclusive political order" (Althusius 1603/1964: 39). The private associations of family and corporation and the public associations of city, province and the state form a nested structure composed of smaller communities that are contained within larger ones.

The American and the French revolutions have given birth to a new conception of citizenship anchored in popular sovereignty at the level of large territorial states. However, they have also developed two different models of political community, with France following a path outlined by Bodin that leads to a unitary conception and the U.S. adopting a federal constitution in which states form autonomous polities within the nation and governments at both levels are directly accountable to citizens. Neither the federal nor the unitary model of democratic citizenship have revived the idea of citizenship at the level of the city.

To be sure, a certain measure of administrative decentralization and local self-government is an important feature of all but the smallest democratic states. However, the extent of municipal autonomy and the division of competencies between city and state is generally regarded as an issue for constitutional design and political bargaining rather than a matter of democratic legitimacy. While for Bodin cities were still distinct political communities with their own customary law, modern constitutional theory sees them merely as administrative subdivisions of the national territory whose powers are essentially delegated by central state or provincial governments.

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In unitary states there is no question that local government emerges from administrative decentralization. Municipalities are not autonomous political communities but merely subdivisions of the national territory and population. This is not altogether different in contemporary federal states. Many federal constitutions do not mention local self-government at all and leave it to the constitutions of the provinces or states to define its scope. In the US, local government is regarded as a creation of the various states to assist them in the carrying out of their government functions. The result is a patchwork of different forms of local government.[1] The Swiss, German and Austrian constitutions do mention municipalities, but take quite different approaches to local government. Article 50 of the Swiss Federal Constitution merely states that municipal autonomy is guaranteed under the laws of the Cantons and that federal legislation has to take into account effects on the municipalities and the special situation of cities, urban agglomerations and mountain areas. The German Basic Law states a right of municipalities to self-administration and mandates democratic elections at local level (Art. 28). Beyond this it also regulates taxation powers and fiscal redistribution between municipalities, federal provinces and the federal state. The Austrian Constitution has much more detailed provisions for local self-government (Federal Constitution, Art. 115-120). Austria could therefore be interpreted as a triple-level federation. However, while the constitution explicitly introduces a citizenship of the federal provinces (Art. 6 (1)) there is no equivalent status of formal membership at the municipal level. Moreover, compared to the Austrian municipalities the Swiss ones generally enjoy greater powers because the silence of the Swiss Federal Constitution allows for stronger autonomy and local variation than do the regulatory efforts of the Austrian Constitution.

The general picture is thus that local government operates either with contingently devolved powers that can be retracted by a higher level government or that its autonomy is treated as a matter that lies somewhere outside (or below) the federal architecture. Nowhere do we find a contemporary version of Althusius' multilevel federation that treats municipalities as the basic constitutive units of larger territorial polities. I will argue that reviving this model would also not be appropriate. On the one hand, the constitutional neglect of local self-government in modern democracies indicates the completed submission of city polities and their integration into national communities. On the other hand, this disregard may also contain opportunities for cities to emancipate themselves from the straightjackets of unitary as well as federal conceptions of membership and sovereignty.

In this paper I will suggest some modest reforms that could contribute to a strengthening of urban democracy and citizenship. Social and political boundaries of cities ought to be broadly congruent. Cities should be reunited with their peripheries in common jurisdictions (section 2). Cities are also divided internally through residential segregation along class, racial and ethnic lines. Instead of coercively desegregating residential communities or turning them into autonomous jurisdictions, they could be more strongly represented in citywide decision-making bodies (section 3). Local citizenship could be turned from a largely informal into a formal status (section 5) that is based on residence and disconnected from nationality (section 6). Finally, municipalities should also allow for multiple local citizenship within and across national borders (section 7).

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[1] See Briffault 1993: 347). Since 1968 the US Supreme Court has, however, required that local elections must conform to the same standards of fair representation (one person/one vote) that apply to state and federal elections (ibid.).

These proposals are modest because they do not imagine that cities can somehow reverse their integration into nation-states. Instead, we should conceive of the city as a political space inside the territorial nation-state where multicultural and transnational identities can be more freely articulated than at the provincial or national level. New forms of urban citizenship might promote a cosmopolitan transformation of national conceptions of membership from below and from within (section 8).

2. Reuniting the city with its periphery

Cities have specific collective needs for a material infrastructure and public services that require common institutions of government for the city as a whole. The special interests of city populations will be ignored if cities lack substantial powers to govern themselves and are instead ruled by provinces or states. However, city self-government does not merely depend on the range of policy areas over which the city exercises final control, but also on the territorial scope of its jurisdiction.

Countries and federal provinces are territorial units of government whose borders are determined by a mix of natural geographic features (seashores or mountain ranges), contingent historical events (war and conquest) and cultural boundaries (of language, religion or ethnicity). By contrast, the city is first of all a sociological unit whose shape emerges as an agglomeration of populations and human artifacts (buildings and streets).

In order to organize the city as a political community with a representative government it is essential that its political borders should reflect its socio-demographic expansion and development. The difficulty is, however, that many of today's big cities are politically cut off from their suburbs or industrial development zones that form separate municipalities or belong to larger neighbouring jurisdictions. This creates a problem not only for the effectiveness of municipal government, but also for democratic representation. Residents living outside the city boundaries will be strongly affected by decisions taken by city governments without being represented[2] or will consume public goods provided by the city as freeriders without contributing to their production. Businesses that operate in the city and wealthy people who work there have financial incentives to settle outside the city's jurisdiction in order to avoid higher local tax rates that city governments must often impose in order to finance their more comprehensive communal services. Inequality of contributions is not the only problem. Many neighbourhoods within an urban agglomeration but outside the city boundaries receive poorer local services (such as sewage systems, water supply or public transport) because their votes do not count in municipal elections.

In order to maintain a sense of solidarity and fairness and widespread support for a comprehensive bundle of public goods it is therefore imperative to develop mechanisms for adapting external city borders to demographic development. This can be achieved either through expanding the political borders of they city by incorporating peripheral zones that have become urbanized, or through forming regional institutions of government in which the city will be

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[2] In Holt Civic Club v City of Tuscaloosa the US Supreme Court upheld a law that enabled the city of Tuscaloosa to extend its police jurisdiction over a three-mile radius outside the city limits without providing the residents of this area with a franchise in Tuscaloosa elections (439 US 60 (1978), discussed in Briffault 1993: 386-89 and Ford 1999: 846-52).

represented alongside all the other municipalities within the metropolitan area. Both methods of adjusting the borders of urban polities are quite often employed. If municipalities are regarded as "political subdivisions of the state, created as convenient agencies for exercising such of the governmental powers … as may be entrusted to them…"[3] it would seem natural that such jurisdictional adjustments should be decided by the higher level governments that have created these subdivisions. Once we take democratic self-government at local level seriously, however, the citizens themselves should be involved in decisions about changing the boundaries of their local polities.

This raises a difficult question about the procedure for arriving at such a decision. As Ivor Jennings has pointed out, demands for democratic self-determination with regard to borders of jurisdictions lead to a paradox: "…the people cannot decide unless someone decides who are the people" (Jennings 1956). Before a referendum on a change of city borders can be held there must be prior decisions who will be enfranchised and how votes will be aggregated. Consider first the case of a district that wants to secede from the city in order to set up a separate municipal government. Should this be decided by a simple majority in the district alone, or by a concurrent majority in the district and in the rest of the city, or by a majority of the aggregate votes in the city in its present shape? In my view there is no answer to this question as long as we search for purely procedural fairness.[4] Which solutions we choose depends instead on substantive conceptions of political community. If we think of political community as a voluntary association of individuals, we will count only the votes in the secessionist district;[5] if we imagine the polity as a community of equal citizens under a common political authority within a historically given territory we should aggregate all votes in the city; if we see the community as a federation whose constituent parts are committed to maintaining the union,[6] then we will choose the concurrent majority rule.

Our concern here is, however, with expanding the boundaries of the city rather than with shrinking them through secessions. It is much easier to define the democratic standard for territorial merger or for the formation of a regional metropolitan confederation. Neither should an existing peripheral community be swallowed up by a large city against its will, nor should the population of the city be forced to accept the admission of an area into their jurisdiction that they do not want to admit. Similarly, a decision of several local governments to form a joint layer of regional government can only be legitimated by the consent of all units involved.[7] Concurrent majority is therefore the obvious rule for a unification of previously independent political units.[8] The difference between the two ways of matching the social and the political boundaries of the city is that a merger that dissolves a previously self-governing municipality into a larger urban district ought to be legitimated by popular vote, whereas a partial delegation of political powers

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[3] Hunter v. City of Pittsburgh, 207 US (1907) at 178-9, quoted in Ford (1999: 896).

[4] See Bauböck (1994, chapter 7).

[5] This solution is defended by libertarian theorists of secession (Gauthier 1995, Beran 1984, 1998).

[6] Abraham Lincoln's First Inaugural Address outlines this version of a federation that does not allow for unilateral secession.

[7] As Briffault (1993:411-19) points out, regional confederation also requires a model of representation that deviates from the one person/one vote standard through equal representation of units in federal institutions.

[8] In 1977 the US Supreme Court argued that in a proposed consolidation or merger of separate local jurisdictions "[t]he fact of impending union alone would not so merge them into one community of interest as constitutionally to require that their votes be aggregated" (*Town of Lockport v Citizens for Community Action* 430 US 259, 260-61, at 271, quoted in Briffault 1993: 393).

from municipalities towards a regional confederation can also be decided by the democratic assemblies or governments of the separate units.[9]

The concurrent majority requirement for fusion or confederation is of course a very demanding standard and raises a formidable obstacle for the goal of reuniting a city whose growth has cut off its periphery. It gives each unit a veto against mergers or the delegation of powers. It is therefore tempting to shift the level of democratic legitimation upwards towards provincial or national government. As I have pointed out above, under the doctrine that local jurisdictions are merely creatures of states for the purpose of administrative efficiency, the borders of cities can be simply redrawn without consent by the local citizenry. Of course, the citizens affected by this decision have a vote in state elections and may campaign against a government that ignores their interests but their votes are counted together with those of citizens living elsewhere in the state who are in no way concerned. It is, moreover, not obvious that provincial governments will favor the political unification of metropolitan areas. The political power of governments generally grows with the population of their constituency. State and provincial governments will often be reluctant to enhance the power and autonomy of city governments within their territory. Margaret Thatcher's abolition of the Greater London Council in March 1986[10] teaches a lesson how decentralization can become a pretext for subverting local self-government. Even if the governments of the encompassing territorial unit pursue an enlightened policy of uniting metropolitan areas under a single local government, this would still be subordinate and dependent government rather than a self-government of the city.

The point of my discussion is that there is no procedural solution that is likely to yield the normatively desired outcome of matching political and social boundaries of the city while simultaneously strengthening its democratic self-government. Local and regional governments may create certain incentives for outlying districts to join the city, but ultimately both the residents of the city and of its expanding periphery must be politically convinced that they share common interests that can be best realized under a common government. The best way to achieve this outcome is to create new arenas for deliberative democracy. These arenas must be designed to overcome two major obstacles: first, the vested interests of local politicians in maintaining the boundaries of their constituencies and, second, the particular interests of outside populations in freeriding on public services of the city and of city populations in excluding jurisdictional outsiders from the provision of such services.

The first reason makes it difficult to win concurrent majority support in electoral campaigns. A merger of peripheral units with the city could cost many politicians their jobs and a regional confederation in the metropolitan area implies that present office-holders will lose some of their powers. The implication is that deliberative forums on this question should bring together citizens and policy-makers. A public articulation of citizens' interests in unification might help to reorient the preferences of politicians who need to win votes to keep their offices. The second reason makes it imperative that such deliberative arenas must not be set up separately in each of the concerned jurisdictions but should cut across these established political boundaries. The shape of such forums can foreshadow the desired outcome by bringing together citizens and policy-makers

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[9] Regional confederation preserves local self-government. If a majority of citizens disagree with the delegation of powers to a regional confederation they can vote their local government out of office and reverse this decision. If, however, their jurisdiction has been dissolved into a larger unit, they can reverse this decision only if they retain a right to unilateral secession, i.e. only under the first of the three possible procedures for deciding on secession.

[10] See http://www.election.demon.co.uk/glc/glccomment.html.

from the whole area whose political re-unification is under debate. The institutional design of deliberative forums may in these ways lower the hurdle of the concurrent majority requirement, but it can obviously not guarantee a positive outcome within these arenas or in electoral contests.

3. Reuniting the internally divided city

If the political borders of the city ought to unite its citizens under a common government that is responsive to their collective interests, then it is not merely necessary to adapt the city's external borders to urban development, but also to challenge internal borders that divide the citizenry into groups with fundamentally divergent interests. Residential segregation along lines of class, race or ethnic identity enlarges not only social privileges but "at the same time obscures the fact of such privileges from many of their beneficiaries" (Young 2000: 196). Segregation enlarges privilege through giving wealthy communities the power to exclude outsiders from their neighbourhoods and it obscures privilege by removing the marginalized communities from view and daily contact. Social inequality and racial discrimination are then no longer experienced by both sides in daily encounters but turn into a structural feature that becomes only fully visible in statistics at the aggregate level. The communicative divide between suburb and inner city cuts through the urban fabric and prevents the emergence of common interests and identities.

On the one hand, uniting the city is therefore incompatible with a further devolution of power that would turn neighbourhoods into largely self-governing communities. Wealthy communities that determine, for example, their own local taxes can provide their inhabitants with better public services at lower taxation rates than poor residential areas.[11] On the other hand, for disadvantaged groups their local communities may be important for developing their own networks and cultural identities that enable them to pool economic resources and to maintain a measure of self-respect. Urban desegregation programmes are therefore doing often more harm than good to these communities. Such policies usually "leave the dominant groups undisturbed while requiring significant changes from members of the excluded groups" (Young 2000: 216).

What should then be the status of urban districts, boroughs and residential neighbourhoods within the political structure of urban self-government? Most frequently, these are organized as decentralized units for administrative tasks. It is more efficient to work out parking restrictions for cars in specific streets on a district level rather than a city level. However, the line between administration and legislation is sometimes not so obvious and certain administrative decisions, such as zoning regulations that prevent the opening of specific businesses or the development of rented housing, have a strong impact on social segregation. Devolving legislative powers towards subunits within the city would merely strengthen this trend. On the one hand, there is thus a need for integrated city-government, on the other hand, there is also a case for recognizing districts and neighbourhoods as communities with specific interests or collective identities that may serve as a resource for disadvantaged groups.

My suggestion is that these two contrasting requirements can be reconciled if these subdivisions form constituencies for representation rather self-governing jurisdictions. Federal systems usually combine autonomy of constitutive units with their representation in federal government. However, these two elements can be separated from each other. In order to unite the city it may

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[11] In the US locally different tax rates are a strong reason for wealthy suburbs that lie outside the city borders to resist district mergers or regional government.

be better to have district representation without district autonomy. Cities could, for example, establish a bicameral system for their legislative assemblies, similar to that of federal constitutions. Delegates in the city chamber would be elected on a city-wide basis by proportional representation or by majority vote within periodically reapportioned electoral districts of equal population, while the members of the district chamber would be elected to represent historic districts, boroughs or neighbourhoods. Disadvantaged areas would then have their own voice in the government of the city as a whole and could better advance their interests in public services, infrastructural investment and a general territorial redistribution of public resources within the city. Of course, wealthy districts would be similarly represented and might be able to outvote the poorer ones. Yet a common legislative assembly will at least publicly articulate the conflict of interests that divides the city into distinct territorial units. It may also provide better opportunities to negotiate and resolve such conflicts than a unitary assembly whose composition does not reflect these territorial divisions. Voters at district level would then acquire a certain identity as "district citizens" who elect their own representatives, but wealthy districts would not be further empowered to exclude other citizens from their community and deprived areas would not receive a fake autonomy to finance their own public services.

As with my previous proposal for public arenas to debate district mergers and regional confederations the idea of a bicameral city legislature aims at facilitating a deliberative transformation of preferences towards unity that does not ignore differences. Such exercises in institutional design for decision-making bodies cannot guarantee a certain outcome and may have little chance to overcome powerful countervailing interests. The economic and social dynamics of urban segregation cannot be reversed through reforming the system of political representation. However, direct representation of disadvantaged districts would at least make the territorial distribution of privilege in the city more visible and more audible to the general public while the participation of district representatives in city government should make it easier to promote integrative policies.

4. Strengthening city autonomy

After discussing the need for redrawing external and internal boundaries of city polities let me now consider how the political autonomy of the city can be strengthened in relation to the other levels of government. Once again it seems natural to go back to Althusius' federal scheme in order to consider the various options available.

The first option would turn municipalities from subordinate creations of provinces or states into constitutive units. Unitary states like Sweden would then become federal with autonomous municipalities acquiring not only more autonomy than now but also being represented at state level in a separate chamber of parliament and gaining some power to block changes of the constitution that would affect their status and interests. The same rules applied to federal states like the US or Germany would transform them into triple-level federations in which local governments were no longer subordinate to provincial ones.

I see two main disadvantages of this idea: First, it would not empower cities to address their specific problems and needs but could instead establish the political dominance of rural over city populations. Second, it would involve cities in the government of the larger territorial jurisdictions and could thereby stifle urban autonomy through restrictions that reflect the interests of the larger unit.

If local self-government were to become the basic constitutive unit of a federation, then all municipalities must be granted this status. Federal subdivisions of a territory never adopt a principle of equal population size per unit (which requires a periodic redrawing of borders) but follow instead historic borderlines. The units created in this ways are generally more similar with regard to territorial size than with regard to population. Rapidly growing urban regions will therefore be generally underrepresented in federal systems that give equal weight and powers to each constitutive unit, whereas sparsely populated areas will be overrepresented. My argument in the previous section for creating a single government of metropolitan regions would further disadvantage big cities if these regions then serve as constitutive units of the federation alongside the rural areas from which they have been carved out.

One solution to this dilemma is to make seats in federal chambers proportional to the population of the unit (as in the German and Austrian *Bundesrat*). However, for three reasons even this idea is unlikely to work. First, given the often huge discrepancy in population between rural districts and cities, full proportionality would blow up the total number of seats in federal assemblies beyond limits set by deliberative effectiveness and cost-efficiency. Second, in provinces such as New York State the metropolitan area by far outnumbers all other districts counted together so that it would have an absolute majority in the assembly. This would of course subvert the task of the assembly to mediate between the interests of constitutive units. Third, even if cities enjoy proportional representation in a federal chamber, the separate governments of all constitutive units will still have a direct impact on the government of the federation (for example if constitutional amendments must be accepted by a majority of the total population and of the constitutive units) and urban citizens would once again be outvoted by rural populations in these crucial matters.

These objections can be overcome by another solution that is only available in present federal states. Instead of adding local government as a fully developed third level, one could selectively upgrade the constitutional status of big cities by turning them from municipalities into federal provinces. This is not a utopian idea but already present reality in Germany and Austria where Berlin, Hamburg, Bremen and Vienna are not only municipalities but also *Länder* with their own provincial governments and with representation in the federal chamber. However, these enhanced powers are the result of contingent historic circumstances rather than of constitutional design and special concern for urban self-government. The city of Munich, for example, is larger than Hamburg or Bremen but does not enjoy federal status. The obstacles for redesigning existing federations so that all large cities would become federal provinces are formidable. As mentioned above, the internal borders of federal states always represent historic units. Redrawing these borders is politically a difficult business in a democratic federation. City provinces would have to be carved out from existing federal units that have considerable powers to resist such an attack on their territorial and population base. Although some federations allow for modifications of internal borders through secession or partition, these changes normally have to be ratified through referenda and there is little chance that a scheme of turning all large cities into provinces would receive sufficient consent. The practical difficulties of realizing such a reform of federal states are considerably greater than those of mergers and metropolitan regional government discussed in the last section that are supported by common interests of all citizens.

Another major objection is directed against both schemes. Upgrading all local self-government by turning it into a third level of federation or upgrading only city self-government to a second

level would impose new constraints on city autonomy. I will argue in the final section of this paper that getting too much involved in the government of the larger federation would stifle the potential of urban citizenship to transform national conceptions of citizenship into transnational and cosmopolitan ones. Rather than pressing cities into the model provided by territorial federalism we should search for new arrangements that reflect the particular character of urban citizenship.

An illustration for the stifling effects of federal upgrading on cities can be found in those European cities that are presently federal provinces. Citizenship of the European Union includes the franchise in local elections. In the cities of Berlin and Vienna, Union citizens can, however, today only participate in district elections, but not in those for municipal parliaments, because these serve at the same time as provincial legislative assemblies. The Treaty on European Union does not mandate voting rights for Union citizens in provincial elections and the constitutions of Germany and Austria tie the franchise in these elections to nationality. While EU citizens can therefore vote and be elected in the cities of Munich or Graz, they do not enjoy the same rights in the national capitals of both countries. This is of course just a minor example that could be easily corrected if Austria and Germany were willing to extend the franchise for Union citizens to provincial elections. However, it illustrates a general problem with the idea itself that city governments should be empowered by being more strongly integrated into the federal government of the encompassing unit. The requirement that citizens of the municipality should also be nationals of the state is much more compelling once the residents of the city are not only represented within their municipality but also in a higher level federal assembly.

The proper answer to the question of how cities can be empowered within nation-states is just the opposite of the proposal I have made for the integration of city districts: Cities should enjoy greater autonomy vis-à-vis national and provincial governments rather than being more strongly represented and thereby involved in those governments.

For example, it would make sense for cities to be exempted from certain aspects the national monopoly in foreign policy and trade.[12] Cities could initiate their own campaigns against human rights abuses in particular states by directly lobbying international organizations or by refusing to contract with businesses that invest in or import from these regimes (Ford 2001: 230). More importantly, big cities could also build up friendly foreign relations by establishing their own "embassies" in other cities abroad for negotiating economic and cultural matters of common concern. Many European cities are currently engaging in such activities in an informal manner. This is an important step beyond the symbolic exercise of town partnerships for the purpose of cultural exchange. Developing such policy networks would be especially important between cities that are linked by migration flows. Instead of being confined within sovereign states where they merely form the smallest self-governing territorial units, city polities would in this way be connected to each other in transnational relations.

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[12] This is one of three reform proposals for urban citizenship suggested by Richard Ford: "Allow localities to influence international affairs as an incidence to local autonomy" (Ford 2001: 230). His other two proposals are to introduce local voting rights for non-domiciled persons and for foreign nationals. I discuss the former in section 7 and the latter in section 6.

In the following section I will explain how enhanced city autonomy could not only be expressed in greater policy making powers but also in disconnecting urban citizenship from national conceptions of membership.

5. Formalizing local citizenship

As I have already mentioned, citizenship in a local community is generally not a formal status. There are no passports or citizenship certificates issued by city administrations. However, by contrasting the city with the nation-state, we can describe the rules by which local governments allocate rights and membership to the populations within their jurisdiction.

The first contrast between the two types of polities is that all nation-states have relatively closed borders. Only nationals have an unconditional right of free access to the national territory. In liberal democracies this is different with internal borders of provinces and municipalities that are open for everybody. The right of free movement within the national territory is not a privilege of citizens but a human right.[13] Only authoritarian states (like the Soviet Union or today's People's Republic of China) have restricted this right for their own citizens as well as for foreign nationals. The liberties of citizenship in the medieval city could only be preserved through walls with gates where those who entered and left were tightly controlled. Liberties in the modern city include not only the right of free exit, but also of free admission.

Second, nation-states have three basic mechanisms for allocating citizenship: ius soli (birth in the territory), ius sanguinis (descent from citizen parents) and naturalization. Length of residence is only one among many criteria that may be required for naturalization. Whereas ius soli and ius sanguinis lead to automatic acquisition of citizenship, naturalization can be either discretionary or an entitlement, but it always depends on the active consent of the person to be admitted. By contrast, provinces and municipalities have only a single rule of automatic ius domicili: membership is acquired through residence and lost in the same way through abandoning residence.

The argument for automatic ius domicili as the basic rule for allocating membership in the city is half empirical and half normative. On the one hand, benefits and rights enjoyed by city populations and provided or guaranteed by their local governments generally depend only on residence. Urban citizenship is in this respect a truly public good from whose enjoyment no resident is excluded. On the other hand, in most democratic states the right to vote and to be elected in local elections is still tied to nationality so that those who are not formal citizens of the state will also be excluded from citizenship in the municipality. This restriction of the quintessential right of political membership, the franchise, is imposed on local governments by national constitutions. There are also instances where municipal authorities themselves exclude foreign nationals from membership rights in the city. For example, in Vienna non-EU nationals were until recently excluded from access to municipal housing.

In my view, restricting urban citizenship to nationals of the state is unjustifiable whether it is imposed by national constitutions or is adopted by the local government itself. Cities should fully emancipate themselves from the rules of membership that apply to the larger state. There is certainly a need for democratic states to reform their own conceptions of citizenship. Those that receive immigrants ought to adopt some form of ius soli and should turn naturalization into an

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[13] See Universal Declaration of Human Rights, Art. 13(1), International Covenant on Civil and Political Rights Art. 12(1). In a few countries (e.g. in Switzerland) free internal movement for non-citizens is restricted through residence permits that are only valid within a part of the territory. More commonly, free movement is limited through work permits that tie immigrants to a specific employer or permit a change of jobs only within a certain province or economic sector.

entitlement after several years of residence. However, they need not and should not turn all foreign residents into citizens without asking for their consent.[14] Cities are political communities of a different kind and they can assert this by granting full local citizenship to all residents within their jurisdiction.

This could be achieved by a simple non-discrimination clause that would prevent any nationality-based exclusion from local rights and benefits. Such a clause could still allow for a reasonable grading of rights according to length of residence. For example, a certain period of residence may be required for access to certain social services or to voting rights. I believe that it would make sense to go beyond non-discrimination by introducing a formal status of local citizenship. Acquisition and loss would remain automatic rather than based on consent, so formalization would not offer a pretext for restricting access. The status need not be purely symbolic but could be tied to the local franchise.[15] Still, the most significant effects would be symbolic ones: Immigrants from other parts of the country as well as from abroad would be made aware that they are now full members of the polity and are also expected to use their rights of participation; the native population would be made aware that they share a common membership in the city with the immigrant population; and the city would formally assert its distinct character as a local polity vis-à-vis the national government.

6. Disconnecting local from national citizenship

Let me now examine a bit more closely the reasons for disconnecting membership in the city from nationality. Federal systems are multilevel polities. Normally the relation between memberships at different levels follows two basic rules: it is vertically nested, but it is not horizontally overlapping. Every member of a lower level unit is also a member of the encompassing unit and every member of a higher level unit is also a member of one and only one lower level unit. At any given level, nobody is simultaneously a member of two units of the same type.

I want to suggest that both rules need not apply to local citizenship. Overlapping membership can be tolerated by allowing individuals to enjoy citizenship status and rights in several municipalities to whom they are connected by multiple residence. The requirement of vertically nested membership can be suspended for emigrants as well as immigrants. Nationals living permanently abroad will no longer be registered as local citizens within their home country. Conversely, all foreign nationals residing permanently in a municipality should become full local citizens without having to naturalize.

This latter proposal has been realized in a number of European states and has been a topic of political debates in many others. In 1975 Sweden introduced the vote for all non-citizens after three years of legal residence in local and regional elections and in referenda. Denmark, Norway and Finland have similarly extended local voting rights that were originally only granted to

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[14] See Bauböck (1994). Ruth Rubio-Marín has recently defended automatic ius domicili (under the condition of toleration of dual nationality) also for national citizenship (Rubio-Marín 2000).

[15] A formal regulation of local citizenship would also allow to introduce a longer residence requirement for immigrants from abroad than for national citizens. This is reasonable if one considers that cities are also a part of the national political system and that immigrants from outside need additional time before they can make meaningful choices in any election held within this system.

citizens of Nordic countries.[16] In 1985 the Netherlands adopted a local franchise independent of nationality after five years of residence. Ireland has allowed non-citizens to vote in local elections since 1963. The Swiss Cantons Neuchâtel and Jura also grant voting rights to non-citizens. Initiatives in many other Cantons have, however, failed to receive sufficient popular support. In Germany the text of the Basic Law does not explicitly tie the local franchise to citizenship, but in 1990 the German Constitutional Court repealed legislation in Hamburg and Schleswig-Holstein that would have introduced voting rights for non-citizens at the level of district elections in the former and a local franchise based on reciprocity in the latter. In France a parliamentary majority voted in spring 2000 for extending the local franchise beyond European Union citizens, but the proposal is unlikely to pass the hurdles of a Senate vote and a popular referendum. A earlier initiative in the Italian parliament was also blocked by constitutional hurdles.

Why should the case for voting rights of non-citizens be stronger at local level than at the national one?[17] A first argument is that immigrants have specific interests in local politics and develop local identities. Most contemporary migrants are attracted to big cities and the economic and cultural opportunities they offer. In receiving countries immigrants tend to develop an urban identity that can be easily combined with an ongoing national affiliation to their countries of origin. Even those who are not ready to join the wider political community of their host country feel that they have a stake in the city. This sense of belonging to the city can be expressed by participating in local elections. As members of low-income groups immigrants are also particularly affected by policy areas, such as public housing, health services and education, where municipal authorities tend to have strong competencies. Granting them the franchise at local level may thus provide political representation in decisions that affect their most immediate interests.

Secondly, some reasons for excluding non-citizens from national elections do not apply at the local level. For example, the argument that foreign nationals are exempted from some obligations of citizenship does not apply at municipal level. Local citizenship has no specific legal duties that are exclusively imposed on citizens. In my view the decisive question is, however, the specific character of local self-government. As I have pointed out above municipalities have no immigration control that distinguishes between citizens and non-citizens. The local franchise is already based on residence for the nationals of the country; they acquire it with settling in the municipality and lose it when they move elsewhere. Extending the franchise to foreign nationals merely abolishes an artificial restriction imposed by national authorities that does not make sense from a local perspective. Some may object that in a democracy the people is a single and indivisible collectivity. The local electorate is then regarded as merely a subsection of the sovereign people that cannot include anybody who is disenfranchised in national elections.[18] I think that this is an unreasonable position. Admission of new members is different at national and local levels; naturalization involves a declaration of intent, but local citizenship follows automatically from residence in the municipality. Even those who would not like to grant the national franchise to immigrants before they have naturalized should therefore accept that such a requirement is arbitrary for local voting rights.

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[16] Only Iceland still restricts the local franchise to Nordic citizens.

[17] Parts of this paragraph and the following one have been adapted from a forthcoming report by the Carnegie Endowment for International Peace on the Political Integration of Immigrants. The author of this paper was in charge of coordinating an international working group that drafted this report.

[18] In its 1990 decision the German Constitutional Court argued that the German people must be defined identically on all levels of government (see BVerfGE 83, 37 und BVerfGE 83, 60).

The local franchise for European Union citizens residing in municipalities of other member states illustrates just how arbitrary this linkage is. While it makes sense to reserve the right to vote in European Parliament elections to citizens of the Union, there is hardly any rational justification for applying the same rule to local government. The EP represents citizens of the Union and is involved in governing this supranational confederation. Municipalities are not institutions of the Union and they should represent all residents who are affected by their decisions. Why would a Union citizen who has just moved into a city of another member state qualify better for voting in local elections than a third country national who has lived there for many more years?[19] The same argument applies also at the national level if we conceive of local self-government as a distinct type of political community within the larger polity.

7. Multiple local citizenship

The second way in which local citizenship could be emancipated from the constraints of traditional federalism is with regard to multiple membership. Multiple nationality is a widespread and rapidly growing phenomenon. This results from the combination of high volumes of international migration with changing rules for the allocation of nationality. Dual nationality emerges mainly from the acquisition of citizenship at birth (from parents with different nationalities or from the combination of ius sanguinis transmission by the state of origin and ius soli acquisition in the state of residence), but also increasingly from naturalization without renunciation of a previously acquired nationality. While multiple citizenship may raise certain problems for individuals and states concerned,[20] it does not obviously violate democratic principles. One mistaken objection is that dual citizenship violates equality of representation by giving one person two votes. However, assuming that they can also vote by absentee ballot in a country where they do not presently live, dual citizens still have one vote only in each election. These separate votes are never aggregated in the process of electing representative or in a referendum. Dual citizens have a stake in two different states, but their votes do not count twice in any decision.

This is different in federal systems. If a person who has a residence in both Bavaria and Hesse were enfranchised in both provinces, this would mean that her vote is counted twice in determining the representation of these *Länder* in the *Bundesrat*. More generally speaking, federal arrangements that combine the autonomy of constitutive units with their representation in federal government cannot allow for multiple memberships in those units without violating a one-person-one-vote requirement of equal citizenship. For the European Union the somewhat paradoxical implications are: (1) that dual nationality involving a third country is less problematic than dual nationality combining the citizenship of two member states; (2) that dual

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[19] One possible interpretation is that the member states of the Union grant each other reciprocal voting rights at local level as an extra benefit of Union citizenship. However, reciprocity is not a plausible criterion for the allocation of voting rights. Portugal, for example, grants the local franchise to Norwegian citizens, although Norway is not in the EU, because Portuguese immigrants can vote in Norwegian local elections. But why should this give the very few Norwegians who live in a Portuguese city stronger rights to political participation than are enjoyed by the many more immigrants from other non-EU countries? Reciprocity is a proper standard for intergovernmental relations but not for those rights of foreign residents that promote their integration into the host society.

[20] For individuals, dual military obligations or the lack of diplomatic protection by the other state when they are in a state whose nationality they hold; for states concerns about loyalty or conflicting legal norms. Most of these problems can be resolved by multilateral agreements between states or by a rule that as long as a person resides in one country of which she is also a citizen the second citizenship will be regarded as ineffective.

nationality between member states becomes more problematic with every move towards stronger federal integration.

The same considerations leads to the conclusion that a federal upgrading of cities as discussed in the previous section would rule out simultaneous membership in different municipalities within the same state, while strengthening local autonomy makes it possible to tolerate such multiple affiliations. But why should they be tolerated? Basically for the same reasons as multiple nationality. In a mobile society many people have significant stakes in different jurisdictions and are affected in their fundamental interests by political decisions taken there. This holds for international migrants as well as for internal ones.

No person can be simultaneously physically present in two different places. But the idea that there is for every person at each point in time one and only one principal residence is sociologically unrealistic. It results from political imperatives of state control over populations and in certain contexts also from democratic imperatives of equal representation. For local government the latter argument does not apply because votes are not aggregated across units. So it should be possible to take multiple social affiliations into account by giving the persons concerned votes in each of the local units to which they are affiliated. I assume that this is frequently the case in present democratic states, but more so as a result of technological difficulties and bureaucratic inefficiency than of recognition of legitimate interests. Contemporary computing technologies make it much easier to detect multiple entries in residential or electoral registers. So there may be a new need to assert the possibility of multiple affiliation as a matter of principle.

However, multiple membership in local municipalities should also be more strictly circumscribed than dual nationality. States may deprive their emigrants from voting rights but they should not take away their citizenship without individual consent. The main reason for this is that citizenship is a ticket to return and be admitted in one's former home. This does not apply to municipalities that have anyway no right to exclude. Who should then qualify for multiple local citizenship?

There are three main criteria that can be considered: owning immobile property, being employed, or having a second household in the local jurisdiction. While property owners in the municipality certainly have a stake in political decisions of local governments, it is not obvious that this alone should entitle them to vote in local elections. Some Caribbean islands sell their citizenship to investors who are not asked to take up residence in these states and are merely interested in having second passports to avoid visa restrictions in other countries.[21] This is not a good democratic practice. It subverts the idea that democratic citizens are equal partners in an ongoing public conversation about their common interests. Owning property is not a sufficient form of presence to qualify as a local citizen. Commuting into the jurisdiction for work is a much better reason. However, employees and self-employed owners of small businesses will (or should) also be represented by their specific corporate organizations (trade unions, shop stewards, chambers of labour and commerce). Do they have an additional claim to be counted as citizens of the municipality? I am not sure. Although citizens may always vote along lines of class or other particular economic interests, the institutions of representative government have a much broader agenda. In contrast with functional associations territorial democracy does not classify citizens according to their interests but treats these as unspecified inputs into an open-ended process of

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[21] See Aleinkoff and Klusmeyer (2001: 84).

democratic participation and representation. Territoriality is an even stronger feature in local democracy than at the level of nation-states where membership is always associated with an intergenerational community of common culture or descent. And membership in a territorial jurisdiction is most naturally determined by residence. I suggest then that multiple local citizenship ought to be generally confined to persons who have some ongoing ties of residence such as being members of two different households.

This makes my proposal a fairly modest one compared with a much more radical idea that has been suggested by US American lawyers Jerry Frug and Richard T. Ford: "[E]veryone gets five votes that they can cast in whatever local elections they feel affect their interests... [A]ny form of connection that they think expresses an aspect of themselves at the moment will be treated as adequate" (Frug 1993: 329). "Local elections could be open to all members of a metropolitan region or even to all citizens of a state, rather than be limited based on residence… In this way, voters would effectively draw their own jurisdictional boundaries, decide which local government were most important to them, and allocate their votes accordingly" (Ford 2001: 231). For Frug this proposal is a postmodern utopia, a "devastating politics of laughter" (Frug 1993: 336). Yet there is also a serious concern behind the idea. A deterritorialization of local constituencies appears to respond better to the diversity of affiliations and stakes of people living outside the territorial city boundaries than the limited devices of metropolitan confederal government or multiple voting based on residence that I have defended. For example, citizens living in other parts of the country may have an interest in cultural policies of a metropolitan city. In Frug's scheme they could cast one of their votes to support the building of museums or theaters that will then attract them to visit the city.[22]

Why is this proposal not a good idea? Consider first how it would affect the distribution of votes between mobile and immobile populations. The latter are likely to cast all their votes in the single local jurisdiction where their life is focused while the former will tend to split their votes across different local communities. The effect is that in each constituency the share of the mobile and migrant vote will be smaller than their share in the local population.[23] Multiple voting in deterritorialized constituencies would thus have the unexpected effect of diluting the migrant vote. In contrast, multiple voting limited to multiple residents would guarantee proportional representation of mobile population in the vote of each constituency.

Second, the proposal would only take into account multiple local affiliations within a state but not those across international borders. This reform requires a national voter register and presupposes that all local elections are held on the same day.[24] Including foreign cities in such a scheme is neither technically nor politically feasible. On the one hand, international migrants would benefit from this because they could cast all their votes in their present host city. On the

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[22] This point was suggested to me by Hans Ingvar Roth. Cities produce public services for many consumers who do not live there. This could be considered a fourth relevant type of stake in the municipality alongside those of property, work and residence that I have discussed above.

[23] Let me illustrate this effect with a simple numerical example. Assume that cities A and B have a population of 1,000,000 each, ten percent of whom are migrants from the other city. The 900,000 natives cast their five votes in their own city while the migrants on average split it equally between elections in A and B. The migrant vote in each city is therefore only 250,000 compared to a native vote of 4,500,000. The share of the migrant vote in the total vote in each city is therefore only 5,3%.

[24] Alternatively, each voter could be issued with an electronic voting card charged with a credit of five local votes that she can spend over x years after which time all credit cards will be reloaded.

other hand, however, the proposal wouldn't create a claim to also vote in their countries of origin. Once again, multiple voting based on residence responds better to the interests of migrants. As a principle it applies across international borders and grounds a right to cast absentee ballots in local elections. Of course state governments are not in a position to guarantee voting rights in a foreign country, but the toleration of dual nationality in these cases would remove a major obstacle.

A third objection concerns perverse incentives for strategic voting. Multiple votes need not be used by individuals to express their personal stakes in other constituencies, but can be easily mobilized by political parties in order to subvert local majorities. Parties can mobilize spare votes in safe constituencies to defeat candidates in other constituencies where their opponents hold a slim majority. Incentives for strategic voting, which are stronger in multiple voting systems, are not per se wrong from a democratic perspective. What is, however, highly problematic is the fact that this scheme allows strategic votes cast from outside to determine the future representatives of a constituency. This amounts to a subjection of local majorities to the external ideological preferences of voters who have no particular stake in the community.

All three objections can be traced back to a fourth and fundamental one: The proposal would subvert rather than strengthen local self-government. It amounts to dissolving local constituencies into a single national one. Far from creating truly deterritorialized constituencies, Frug's scheme would let the voters of a larger territorial unit choose the representatives of each single local unit. In modern democracies there is a tension between the view that local governments are merely instrumental creations of states or provinces, on the one hand, and the fact that these local governments are democratically elected by local constituencies, on the other hand. The proposed reform would resolve this tension in favour of the instrumentalist conception. Local government would then not only operate with contingently devolved powers but would truly become the creation of national or provincial electorates.

Democratic self-government rests on two key assumptions: (1) that voters will tend to cast their votes responsibly because they know that they will have to bear the consequences of the electoral outcome; and (2) that representatives are responsive to their voters because they know that they will be accountable to them while they hold office and when they run for re-election. Both assumptions are fatally undermined if those who vote a local representative into office are an anonymous crowd from other places all over the country. My conclusion is that local self-government requires a firm territorial basis and that membership is therefore best determined by residence.

8. Transforming national identities in cosmopolitan cities

Citizenship was born in the Mediterranean city-states of Athens and Rome, it was reinvented in the liberties of Renaissance city republics and its modern national form arose in the urban revolutions that swept across Europe from 1789 to 1848. Will the city once again become the birthplace of a new conception of citizenship for the 21st century that overcomes the 19th and 20th century models of national membership?

It is tempting to regard the global city as a new political space within which the meaning of citizenship can be fundamentally redefined. We could hold up this hope against the prophets of

globalization who proclaim the end of citizenship and democracy.[25] Even if nation-states and their governments become ever more dependent on economic decisions taken in global markets, by transnational corporations and international financial organizations, these new agencies of power do not operate only in virtual space. They have their headquarters in global cities and their operations depend on a material infrastructure provided by city governments and on services provided by city populations (Sassen 1991). Global cities are no longer merely territorial subunits within the state territory, but become nodes in transnational flows of money, people and information. Models of cosmopolitan democracy have extended federal principles from the domestic to the global arena.[26] In this view nation-states remain the basic building blocks for global governance. Maybe a new conception of urban citizenship can offer a more attractive alternative?

However, there are reasons to be skeptic towards the idea that urban citizenship could simply bypass the national level and become a basis for building institutions of global democracy. Nodes in a network are not a proper basis for organizing a democratic polity. The links that connect these nodes to each other and to the world at large are sustained by the freedom of trade, investment, information, and migration. In this sense these city networks require local regimes of negative liberties that enable them to flourish. However, they do not generate a need for common government and democratic decision-making within the larger structure. A network is not a polity, it is not a community sharing its own institutions of government and common interests in a broad range of public goods. The populations of New York, London and Tokyo may have *similar* interests, but they do not have many *common* interests that would call for bringing them together under a single government. Urban citizens will remain citizens of the provinces and states within which these cities are located and their votes will have to be counted at all these levels before they can be further aggregated in supranational and transnational decisions.

The real significance of urban citizenship for cosmopolitan democracy is not that it would provide an alternative basis to territorial federation, but that it could transform national identities and nationalist ideologies from below and from within. The reform proposals I have made would strengthen the autonomy of cities vis-à-vis the state and would erode the claims of internal and external sovereignty attached to national government. They would also provide an alternative model of membership that could eventually help to overcome some of the exclusionary features of national citizenship. Cities provide a space not only for transnational cultural diversity but also for cosmopolitanism within the nation-state. Cosmopolitan democracy cannot be built only from above by democratizing international organizations. Such attempts will inevitably fail without the support of citizens whose primary political allegiances and identities are national ones. An urban citizenship that is emancipated from imperatives of national sovereignty and homogeneity may become a homebase for cosmopolitan democracy.

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[25] See Ohmae (1991), Guéhenno (1994).
[26] See Held (1995), Höffe (1999).

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