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# The Rise of Earned Citizenship

## Narodziny nabytego obywatelstwa

### ABSTRACT

The author examines the concept of “citizenship” and shows how the definition of the concept and its scope have changed. “Citizenship” entered the social science lexicon as a code word for the capacity of post-WWII capitalism to reform itself by providing formal, and even a modicum of substantive equality for those who were initially at its losing end: workers or the “proletariat.” Citizenship connoted rights and equality as counterforce to a simultaneously wealth- and inequality-producing capitalism. It was then generalized beyond its original meaning as counter-concept to class, to other types of equality-seeking movements. Citizenship thus became a metaphor and platform for intra-societal claims-making by excluded groups. The author traces the development of citizenship in the altogether different context of international migration, from being a “right” to something that needs to be “earned.”

### ABSTRAKT

Autor artykułu analizuje pojęcie „obywatelstwa” oraz ukazuje, jak zmieniała się sama jego definicja oraz zakres przedmiotowy. Termin „obywatelstwo” wszedł do leksykonu nauk społecznych jako słowo kluczowe określające zdolność powojennego kapitalizmu do

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#### SŁOWA KLUCZOWE

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zreformowania się poprzez zapewnienie choćby w minimalnym stopniu formalnej równości materialnej tym, których początkowo postrzegano jako osoby przegrane: robotnikom lub „proletariatowi”. Obywatelstwo kojarzyło się z prawami i równością i jednocześnie stało w opozycji do kapitalizmu, który wytwarza bogactwo i nierówności. Termin ten został następnie uogólniony, wychodząc poza swoje pierwotne znaczenie jako kontrkoncepcja wobec społeczeństwa klasowego, i przeniesiony na inne rodzaje ruchów dążących do równości. W ten sposób obywatelstwo stało się metaforą i platformą do wewnątrzspołecznego wysuwania roszczeń przez wykluczone grupy. Autor śledzi rozwój koncepcji obywatelstwa w całkowicie nowym kontekście migracji międzynarodowych, reflektując nad nim jako nad „prawem” do czegoś, na co trzeba „zapracować”.

## Introduction

“Citizenship” entered the social science lexicon as a code word for the capacity of post-WWII capitalism to reform itself by providing formal, and even a modicum of substantive equality for those who initially were at its losing end: workers or the “proletariat,” as Marx called it. In T.H. Marshall’s classic formulation (1950), citizenship connoted rights and equality as counterforce to a simultaneously wealth- and inequality-producing capitalism. It was then generalized, beyond its original meaning as counter-concept to class, to other types of equality-seeking movements, “Pandas, Tamils, Women,” in the sarcastic diction of Niklas Luhmann (1986: 213). Citizenship thus became a metaphor and platform for intra-societal claims-making by excluded groups.

The great postwar migrations, at first postcolonial and guest-worker, and later asylum and family, led to a fundamental conceptual reorientation, the focus shifting from citizenship’s “internally inclusive” to its “externally exclusive” function (Brubaker 1992: chapter 1). Henceforth, citizenship no longer connoted rights but status, from which all non-citizens were categorically excluded: citizenship as mechanism of “social closure,” as Rogers Brubaker put it in a Weberian mode (*ibidem*). Ever since, the concept of citizenship, in the real world as much as in the world of scholarship, has been marked by a tension between fundamental right—the “right to have rights”

(Arendt 1948)—and formal status that by definition must exclude all non-citizens and thus reinforces global inequality (for the new vista of citizenship as expressing and consolidating global inequality, see Harpaz 2019).

A decade ago, I argued that citizenship in the liberal state had undergone a process of “lightening” (Joppke 2010). This meant that the access to the status of citizenship was facilitated, rights were less exclusively attached to citizenship but extended to immigrants, and nation-state identities were becoming increasingly liberal and universalistic. In retrospect, the lightening hypothesis has two problems. First, it does not allow to distinguish between what is liberal and what is neoliberal in changing citizenship; it swallows the ever more important neoliberal aspect under the liberal umbrella.<sup>1</sup> Secondly, it misses entirely citizenship’s inherently bounded and thus potentially nationalist dimension, which has acquired renewed prominence with the resurgence of nationalist populism across the Western state world.

As I shall suggest, a better formula to capture these other-than-liberal elements and processes, which empirically have moved to the fore in the contemporary context of neoliberal globalization and resurgent nationalism, is “earned citizenship.” Unlike citizenship light, earned citizenship is not primarily an analytical category, but the practical idiom in which citizenship operates on the ground.<sup>2</sup> To a degree, earned citizenship is reactive to the liberal lightening of citizenship. Liberalization is said to have profaned the “precious good” of citizenship by handing it out too easily and indiscriminately. The new diction is that citizenship is not a right but a privilege that “needs to be earned,” with naturalization considered not as tool to further integration, as in the liberal past, but as “last step of a successful integration” (as Stern and Valchers 2013: 41 argue for the case of

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1 About the delicate question how to distinguish “liberal” and “neoliberal,” see Joppke (2021b: 5–8). Both make the individual the lynchpin of social and political order; but “liberal” also includes a democratic and social justice dimension that is precisely repudiated by “neoliberal”. Another word for “neoliberal” is “market fundamentalist” (Block, Somers 2014).

2 The concept of “earned citizenship” was first used in a British proposal for nationality law reform, in 2008, by the late Blair government (Home Office 2008a, 2008b).

Austria). That citizenship needs to be “earned” is *the* central theme in new-millennium restrictive citizenship discourse, unlikely to disappear soon, and thus in need to be adequately charted.

Importantly, earned citizenship still operates on a liberal basis. Not even the populist radical right wishes to return to a past where entire groups were categorically excluded from the status of citizenship itself, like non-whites, or left with lesser rights within the status, like women and workers. However, the heft of earned citizenship is its neoliberal and nationalist elements. Three Dutch sociologists appositely speak of “neoliberal communitarian citizenship” (van Houdt et al. 2011). This sounds contorted but it is the concise formula for a citizenship that is neoliberal and nationalist in tandem: “Under a neoliberal communitarian regime, it becomes one’s responsibility, expressed in the form of ‘earning’ one’s citizenship to convert to a nation that is sacralized as a bounded community of value” (*ibidem* 423–424).

Earned citizenship is *neoliberal* because it is contingent on the demonstrated capacity of the self-responsible individual to achieve and to contribute. In its premier site, which is the post-birth acquisition of citizenship through naturalization, earned citizenship means asking more in terms of knowledge and virtue of the citizenship applicant than of the average citizen, requiring the aspiring citizen to be a kind of “super-citizen” (Badenhoop 2017); earned citizenship is a “prize for performance rather than a status of equality,” as an American jurist put it with an eye on the US case, where the concept appeared in the context of legalizing the meritorious portion of the country’s vast illegal immigrant population (Ahmad 2017: 260).

At the same time, earned citizenship is *nationalist* because citizenship is conceived of as a privilege not a right, reserved for the select few, whereby the exceptional quality if not sacredness of the citizenship-conferring community is confirmed and enhanced. But it is nationalism of a specific kind. When fleshing out their “neoliberal communitarian citizenship,” Friso van Houdt et al. (2011: 424) pointedly speak of a “community of value,” not of descent. Instead of being ethnic and wishing to restore homogeneity of this kind, the new nationalism has porous boundaries, it includes everyone who can contribute and is proven worthy—which warrants calling this nationalism neoliberal itself (see Joppke 2021a). Neoliberal

nationalism is thus perfectly compatible with, if not altogether permeated by, the gospel of diversity that reigns across Western societies, despite repeat-declarations that multiculturalism is “dead” (see Joppke 2017).

## What is liberal citizenship?

Through its neoliberal-cum-nationalist coating, earned citizenship moves away from a liberal conception. But what is the status quo ante, liberal citizenship, to begin with? This question is surprisingly difficult to answer. To anticipate the counterintuitive part of the answer, it requires the anchoring of liberalism in something like nationhood, but a conception of it that connotes less merit and contribution, which become dominant under a neoliberal arc, than shared fate and thrownness, thus recovering the etymological origin of the word “nation,” which is the Latin word *nasci*, to be born.

In terms of the right-privilege binary, liberal citizenship is right not privilege, both formally (in terms of access to the status) and substantially (in terms of the goods attached to it). Hannah Arendt (1948) thus famously understood citizenship as foundational “right to have rights,” pointing out that human and other rights are void if not resting on the solid basis of membership in a state that is capable of guaranteeing and implementing these rights. While not using the Arendtian formula, T.H. Marshall (1950: 11) shared her intuition when depicting “social citizenship,” his 20<sup>th</sup>-century endpoint of liberal citizenship evolution, as the “right to share to the full in the social heritage and to live the life of a civilized being according to the standards prevailing in the society.”

Margaret Somers (2008: 2) recovered the Arendtian formula as a foil to attack the current “contractualization of citizenship,” according to which “the relationship between state and the citizenry (is reorganized), from noncontractual rights and obligations to the principles and practices of quid pro quo market exchange.” In her view, this “distorts the meaning of citizenship from that of shared fate among equals to that of conditional privilege” (ibidem). As a result, “social inclusion” and “moral worth” are no longer “inherent rights but rather earned privileges that are wholly conditional...upon the ability to exchange something of equal value” (ibidem: 3). The discursive

mechanism (“conversion narrative,” says Somers) driving this change is the insistence on “personal responsibility,” which has become dominant under neoliberal “market fundamentalism” (ibidem).

Somers develops her dark contemporary citizenship diagnosis from an internal, Marshallian social rights perspective. In particular, Somers attacks the American federal government, under Republican President George Bush Jr., for its incapacity—even downright unwillingness—to help out its own (predominantly black and poor) citizens after the disastrous Hurricane Katrina had inundated New Orleans in late August of 2005, causing 1800 deaths. Already the citizens of a neoliberal regime, Somers says, have become “internally stateless,” at least the disadvantaged portion that does not meet the “personal responsibility” threshold and lacks the means to fend for themselves, including something as trivial as an automobile to leave the flooded city (Somers 2008: 114). Earned citizenship thus becomes a metaphor for a post-welfare society that is unwilling to redistribute its wealth and protections internally (for the social policy implications of earned citizenship, see also Joppke 2021b: 230-235).

However, the premier and explicit site of earned citizenship is external, in an immigration context. Here it perversely serves the opposite purpose of symbolically upgrading a membership that, if Somers is correct, has become materially devalued. The British government, which invented the term “earned citizenship” in the early millennium, defined it as “the expectation...on newcomers to ‘earn’ the right to stay by learning English, paying taxes, obeying the law and contributing to the community” (Home Office 2008a: 4). This citizenship reform proposal, which included a new “probationary citizenship” phase in which one’s virtuous behavior could speed up (or its absence delay) the “journey to citizenship,” never saw the light of day, apparently because it wasn’t practicable (see Anderson 2013: 105). However, it expresses well the underlying idea of rendering the access to citizenship more exclusive, even of making the entire process of integration dependent on the migrant’s examined behavior, where previously there was trust that the sheer facts of residence and time passing would yield the desired outcome.

For Joseph Carens (2013: 59), the benchmark of liberal citizenship is precisely its grounding in residence and time: “Citizenship is not something that normally is earned or that ought to be earned.

People acquire a moral right to citizenship from their social membership and the fact of their ongoing subjection to the laws.” In this view, citizenship derives from “social membership” that is “normatively prior to citizenship,” and whose only two criteria are “residence” and the “passage of time.” These thin criteria are still “proxies for richer, deeper forms of connection” that, as a matter of justice, stand to be recognized and are merely formalized by the state’s granting of citizenship.

Whether understood as “right to have rights” (Somers, following Arendt), or as premised on “social membership” (Carens), a liberally inclusive citizenship, this seems to be their joint message, must be non-contractarian. To argue that liberal citizenship is non-contractarian is surprising if one considers that the ultimately liberal way of imagining society and state is in terms of a contract. However, already T.H. Marshall (1950: 68) had looked at social citizenship as “invasion of contract by status,” thus reversing the famous diction by 19<sup>th</sup> century legal historian Henry Sumner Maine that “the movement of the progressive societies has hitherto been a movement from Status to Contract,” that is, from ascription to choice in determining the individual’s place in society. For Somers (2008: 69), “citizenship entails reciprocal but non-equivalent rights and obligations between equal citizens; contracts entail market exchange of equivalent goods or services between unequal market actors.” The meaning of this statement is not entirely clear (why do “market actors” *have to be* “unequal”? In the ideal world of neoclassical economics, for one, they are equal, and even in the real world this is certainly a possibility). But the incontrovertible part of her proposition is that the citizen proper, unlike the market participant, is not acting out of “self-interest” but “shared fate” that comes from membership in a “preexisting” community. Curiously, Somers identifies the latter not as “nation,” as one would expect, but as “civil society,” a “third sphere” between market and state (ibidem: 30), the “site of the social” that is “effaced” in the classically liberal binaries of public vs. private and state vs. market (ibidem: 150). Carens comes to the same conclusion, but from a different angle. He juxtaposes not market and citizenship, as Somers does, but human rights and citizenship rights. Unlike general “human rights,” citizenship rights are particular “membership rights,” which are “derived not from one’s general humanity but from one’s social location” (2013: 97).

Both Somers and Carens painfully avoid any reference to the semantics of nation and nationalism, presumably because of political aversion. But it is obvious that the “nation” has been the historical site of the “bounded solidarity” (Bloemraad et al. 2019: 86) that is implied in these non-contractarian articulations of liberal citizenship. T.H. Marshall was more forthright in this respect, when arguing that the evolution of citizenship coincided with the rise of “modern national consciousness” (1950: 41).

The problem is that the non-contractarian core of liberal citizenship may rest on specific historical foundations (Somers appositely speaks of “shared fate”) that it cannot itself generate and, worse still, that lose traction over time. Capitalism’s brief 20<sup>th</sup> century moment, when redistribution on the basis of steeply progressive taxes had greatly flattened the disparities in income and wealth, rested on the two most lethal wars that the world had ever seen, and on the “nationalization of social life” (Rosanvallon 2013: 183–188) that was their consequence. Note that US President Roosevelt’s famous “freedom from want,” the basis of the emergent US welfare state, was compensation for engaging Americans in war, while the building of the British and French welfare states was framed as in the “spirit of Dunkirk” and the “spirit of 1945,” respectively (ibidem: 201). T.H. Marshall (1950: 74) knew that, much as “personal gain” is the engine of the “free contract system,” so “the call of duty” is the presupposition for “social rights”—but that the required “Dunkirk spirit cannot be a permanent feature of any civilisation” (ibidem: 80).

Not just had the memory of war to fade with enduring peace and prosperity. In addition, as Irene Bloemraad et al. (2019: 86) have pointed out, the “expansion in national membership”—ethnic, racial, and religious—that followed from liberalized immigration and citizenship laws since the 1960s, had to weaken the “feelings of mutual obligation” that are required for the creation of social rights. As a result, “(a)ccess to welfare resources (has) been ... made more conditional on deservingness judgments, which in effect means it is not really a ‘right’ of membership at all, but rather something stigmatized groups need to ‘earn’ in the face of suspicions about their need or effort” (ibidem).

This is not to deny that contractual and performance-related elements have *always* undergirded citizenship to the degree that that it



is acquired by naturalization, which is the post-birth acquisition of citizenship. Unlike birthright citizenship, post-birth citizenship never was unconditional and automatic. Only birthright citizenship, be it territorial (*jure soli*) or by descent (*jure sanguinis*), is non-contractual—and this is of course the standard mode of acquiring citizenship for most people in the world, including those who later in life decide to acquire another citizenship through naturalization. In this sense, citizenship is always and exclusively non-contractual for most people in the world. Alas, what appears to the romantic as “shared fate” (Somers 2008: 3), is to the anarchist “a historically violent and ultimately totalitarian status of pre-modern nature, both rigid to the extreme and capriciously random in how it is assigned” (Kochenov 2019: xi), revealing the state as the coercive institution that it is. By contrast, for the few who are not born with it, usually immigrants, who—never to forget—make up little more than 3 percent of the world population, even in the current moment of global migrations, citizenship has always been conditional and contractual.

This raises the question what is new about earned citizenship. The mere fact of conditionality cannot be it, because this is inherent in naturalization and post-birth citizenship as such. Instead, what is new is the foregrounding and amplification of conditionality. One could summarize earned citizenship as one that is simultaneously “more difficult to get” and “easier to lose.” In the following, I will address each of these aspects in turn.

## Towards earned citizenship: More difficult to get, easier to lose

### More difficult to get

In a liberal understanding, naturalization must be equally possible irrespective of an individual’s ascriptive markers, in particular sex and race, on the basis of which practically all states (in the case of sex) or some states (in the case of race) in the Western world have discriminated well into the second half of the 20<sup>th</sup> century. But a liberal understanding goes further. It conceives of naturalization as just one moment in an infinite process of integration; the new citizen’s integration is to be supported by her naturalization, but the

integration outcome is otherwise outside the reach of government control. Even more importantly, sheer time passing, in terms of legal residence time, is the thin liberal prerequisite of naturalization—this is the gist of Carens’ (2013) “social membership.”

More recently, a more exacting understanding of naturalization has taken hold. It rests on a liberal fundament, in that it is not a return to the categorical exclusions of the past; naturalization *remains* an individual-level process from which no one, in principle, can be excluded on the basis of origin markers. But apart from this, earned citizenship takes on distinctly neoliberal colors: it foregrounds the element of individual merit and desert that had been low to non-existent in the liberal past (in the form of citizenship tests and behavioral requirements; see below). The new rhetoric is that naturalization is not tool in an infinite process of integration, but the end-point of, or even “prize” for, successful integration, measured and examined by the government. Accordingly, earned citizenship rhetoric goes along with more demanding cognitive and behavioral requirements as conditions for naturalization. The old trust that time passing suffices for rendering an immigrant “natural” (which is a bizarre fiction to begin with) and thus ready for citizenship, is gone.

The single most debated new conditions are cognitive-cultural, in terms of civic integration and language courses and tests that an applicant for citizenship must take or pass (for an overview, see Bauböck, Joppke 2010). While a crypto-nationalist intention may undergird these new requirements, it would be mistaken to see them as a return to cultural assimilation. Their diction, qua learning and tests, is cognitive more than cathectic and identificatory, and the particularly important language component points at a pragmatic rationale, to make newcomers a functioning and self-sufficient participant in mainstream institutions, especially the labor market.

Much less attention has been given to new penal-law and economic requirements for naturalization. On the penal-law side, there was a time when convicted murderers could become citizens, even in the United States with its archaic sense of retaliatory justice. Now, to stay with the American example, an “aggravated felony” not just forever excludes an immigrant from US citizenship, but even makes her immediately deportable (so that many immigrants with a less than spotless legal vest no longer dare to apply for citizenship). “Aggravated

felony” sounds grave, but under contemporary US immigration law, which has taken a severely restrictive direction since the mid-1990s, even trivial shoplifting is an instance of it (see Lapp 2012).

More directly identifiable as neoliberal are new economic requirements, either making naturalization itself more expensive, or making anyone who once received social benefits or is unemployed illegible for citizenship—and sometimes both. In this respect, citizenship becomes quite literally “earned.” An extreme case of making naturalization more expensive, and explicitly connecting this with a neoliberal rationale, is the UK. At the welfare state’s height, in the 1960s, the attitude of Home Office bureaucrats was that fees should be low, “not ... to form a barrier to worthy applicants of humble means” (to quote one of them, see Fargues 2019a: 343). In the early millennium, the fees have skyrocketed, to an amount that is not a small investment for the normative family of four. Importantly, to set the fees high above the actual cost of the procedure serves a symbolic purpose, to express and reinforce the “importance” and “value” of British citizenship (ibidem: 345).

The increasing conditionality of citizenship acquisition, across the cognitive-cultural, penal-law, and economic registers, which is the signature of earned citizenship, goes along with a “focus on behavior, and behavior only” (Fourcade 2021). But there is an additional twist. In the liberal past, the average citizen was the benchmark of naturalization, the person of “humble means,” to reiterate the above-quoted UK Home Office bureaucrat; in the US, with its “good moral character” requirement, the “average man of the country” used to be the legal standard (Lapp 2012: 1586). By contrast, in the neoliberal present, new citizens are expected to be not just “average” but “ideal” or “super-citizens” (see Badenhop 2017). British Immigration Minister Phil Woolas, under whose watch “earned citizenship” was invented in the UK, put it this way: “As a point of principle...if you don’t break the law and you are a citizen, that’s fine. But if someone is applying to be a citizen to our country, we don’t think that you should only obey the law but show you are committed to our country” (Anderson 2015: 187). Expecting new citizens to be “super-citizens” is complementary to a new-millennium immigration policy that, across the rich OECD world, prioritizes high-skilled immigrants (see Joppke 2021b: 78–87).

Essential to earned citizenship rhetoric, and perhaps the sharpest contrast to a liberal understanding of citizenship, is the notion that citizenship is not right but privilege. Phil Woolas, again, expressed it adroitly (if not free of tautology): “(T)he system of earned citizenship ... establishes the principle that British citizenship is a privilege that must be earned” (Home Office 2008b). At one level, the notion of privilege simply expresses that under international law the determination of citizenship is a sovereign state function. But a constant cannot explain variation. If the notion that citizenship is privilege has been recently resurgent, this is because it is re-nationalizing affirmation of the superior value of the citizenship-granting political community, in a moment where boundaries and identities are threatened by globalization and the migrations unleashed by it. The re-nationalization of citizenship, whose intention is upgrading, co-exists uneasily with its simultaneous neo-liberalization, which, in social policy respect, amounts to the downgrading of citizenship. This double movement is appositely captured in the only seemingly paradoxical notion of “neoliberal communitarian citizenship” (van Houdt et al. 2011).

### *Easier to Lose*

A current trend toward forced denationalization or citizenship stripping is empirically rare but conceptually interesting. At the political level, forced denationalization has been a response to Islamist terror, in particular the specter of returning Islamic State (IS) fighters, who have been recruited from disaffected Muslim youth in Western countries and continue to pose a considerable security risk. A number of Western states, including France (as early as in the mid-1990s), the UK, Canada, the Netherlands, Australia and Germany, have passed laws (or tightened already existing laws) that allow the denationalization of terrorists. These laws are mostly limited to dual nationals, in observance of the international norm to avoid statelessness.

At the conceptual level, which mainly interests us here, to make citizenship “easier to lose” is the exact corollary of making it “more difficult to get.” Both are complementary sides of the same trend toward earned citizenship and the post-liberal idea that citizenship is

not right but privilege. Not only commentators have seen the logical connection between citizenship's tendency to become both "harder to get and easier to lose" (e.g., Macklin 2017: 6); also the governments driving the trend have been conscious of the connection. The British government, for instance, pointed to the latter's negative flip-side from the start, in its influential 2002 White Paper *Secure Borders, Safe Haven*: "The Government believes that a corollary of attaching importance to British citizenship is that the UK should use the power to deprive someone of that citizenship" (quoted in Mantu 2015: 185, footnote 47).

In a previous paper (Joppke 2016), I argued that citizenship stripping is an instance of the liberal "lightening of citizenship," because it "moves (citizenship) ever more toward a contractarian logic." This diagnosis has two problems. First, as the entire "lightening" concept, it conflates liberal and neoliberal—if the above analysis, following Somers (2008) and Carens (2013), is correct, liberal citizenship is non-contractarian. But even more importantly, a young French political scientist (Fargues 2017) objected that citizenship stripping is not an instance of "lightening," be it "liberal" or "neoliberal," but part of a "renationalizing" countermovement to citizenship's increasing "denationalization" in recent years; it reinvigorates the notion of the "national community as a homogenous entity" against liberal cosmopolitanism (ibidem: 985). This strikes me as a plausible objection. But there is an element of truth to my earlier argument. Of course, there is nothing liberal—properly understood as individual-rights protecting—in citizenship stripping. In fact, liberals consider it odious precisely for its close association with early 20<sup>th</sup> century totalitarian regime practice. However, there is much neoliberal in citizenship stripping, namely, the conditioning of citizenship on individual performance. Accordingly, as Emilien Fargues correctly suggests, citizenship deprivation "combines both communitarian and neo-liberal features" (2019b: 357).

In other words, citizenship stripping is both nationalist and neo-liberal. *Nationalist* is the ambition to "strengthen" and "protect the value" of citizenship, as Canadian immigration minister, Chris Alexander, had motivated the appositely entitled Strengthening Canadian Citizenship Act of 2014, which was a citizenship-stripping law. The central claim in this respect is that citizenship requires loyalty

(or allegiance, in Common Law terms) on part of the citizen, the breach of which, through an act of terrorism, most notably, requires the severing of formal ties. *Neoliberal*, to repeat, is the conditioning of citizenship on individual performance, which had already undergirded the new requirements in the access to citizenship. The difference is that in denationalization the direction is not positive but negative, the loyalty breach *itself* bringing about the severing of the citizen bond that is only rubberstamped, as it were, by an act of state. Tellingly, most citizenship stripping laws operate with the legal fiction that the individual herself, through committing a terrorist act, has expatriated herself, perhaps also to deny any association with totalitarian states, in which entire categories of people (such as Jews by the Nazis) were first deprived of their citizenship before they were killed.

Sensing the intrinsic link and symmetry between both directions of conditioning citizenship, the positive access and the negative loss direction, an Australian lawyer noted that “schemes for the revocation of citizenship encourage the idea that the allegiance of citizens should be fostered, *or even tested* by the state” (Irving 2019: 383; emphasis supplied). And in a critique of the 2019 German denationalization law, two lawyers find that “being German (*Deutschsein*) is not a quality label (*Gütesiegel*) and membership does not cease if a person was ‘disloyal’ (*illoyal*)” (Gärditz, Wallrabenstein 2019: 6–7). The notion of “quality label” is well chosen, as it stems both from the nationalist *and* the neoliberal lexicon.

More than any other recent legal-political development surrounding citizenship, the debate on denationalization raises the question what citizenship *is*: right or privilege. That citizenship is privilege has been the uniform battle cry of the proponents of denationalization, from Britain to Canada. Even in the US, where the opposite notion that citizenship is the “right to have rights” has been famously enunciated by the Supreme Court in the late 1950s (see Weil 2012), the “citizenship is privilege” discourse has taken hold, at least in politics. “United States citizenship is a privilege. It is not a right. People who are serving foreign powers ... or ... terrorists ... are clearly in violation ... of that oath which they swore when they became citizens,” declared US Secretary of State, Hillary Clinton, in support of Democratic Senator Joseph Lieberman’s 2010 proposal of a Terrorist Expatriation Act (Savage, Hulse 2010).

When commenting on the UK Government's position that "citizenship is privilege, not a right," one observer gasped that this "seems to emerge from nowhere... , with no acknowledged sources" (Sykes 2016: 754). In fact, it can be traced back to pre-democratic times, when citizens were subjects (Kingston 2005); and it persisted in the fact that, even under European Union law, the determination of citizenship remains a sovereign state function. This is even more true for naturalization, which is by definition conditional, today more than ever because of the growing list of behavioral and character requirements discussed above; its strong and recently stronger contractual element allows the state to always say No. The legal meaning of what a privilege as distinct from a right is, and why states *qua* *states* have an interest to favor the privilege line, has been crisply expressed by Audrey Macklin (2014: 53): "A privilege in law belongs not to the recipient, but to the patron who bestows it. A right belongs to the one who bears it. When members of the executive declare that citizenship is a privilege and not a right, what they are asserting is their own power to take it away."

## Conclusion

In an iconoclastic essay, Dimitry Kochenov (2019: 195) concedes that citizenship, while at heart "totalitarian and oppressive" and randomly assigned by the grace or curse of birth, has recently become "more inclusive." Kochenov's end-point, not quite explicable from within his dark frame, has been our starting-point. It was argued that liberal citizenship, in a context of neoliberal globalization counterpointed by a new nationalism, has become "more difficult to get" and "easier to lose." We called the outcome "earned citizenship," and could show that it was centrally involved, both as operative category of practice and as reflective category of analysis, in both processes. At the same time, earned citizenship is still *liberal* citizenship, in the minimal sense of being no return to discriminatory categorical exclusions, on the grounds of race, sex, or class, but including or excluding at the individual level only, in consideration of what the individual *does* rather than what she *is*. But citizenship's enhanced conditionality betrays other than liberal elements, a neoliberal stress on performance

and self-responsibility, and a nationalist frame of “strengthening” citizenship by making it more exclusive and privilege not right.

The relationship between neoliberalism and nationalism is complex. The most obvious one is that of nationalism as reactive and oppositional to neoliberalism, positing “closure” against the perhaps most drastic episode of opening that human societies have ever experienced, in the current era of globalization, which is undergirded by the ideology of neoliberalism and the advancement of markets as fundamental (if not fundamentalist) social organizing principle. Earned citizenship, by contrast, seems to be an instance of neoliberalism and nationalism not being oppositional but complementary or even mutually constitutive; one could call it an expression of “neoliberal nationalism,” which is something new in the lexicon of nations and nationalism (see Joppke 2021a). This new nationalism is non-ethnic as it does not exclude on the basis of ascriptive origin categories. But in primarily including on the basis of merit and desert, it is also only incompletely described as “civic,” to invoke the opposite part of the classic ethnic v. civic binary (see Kohn 1944).

Importantly, the meritocratic infrastructure of neoliberal nationalism cuts both ways, affecting ordinary citizens also. Earned citizenship, which was discussed here on its premier site, which is the acquisition (or loss) of citizenship, is also an apt metaphor for post-welfarist social policies of workfare and social investment, whose point is not to de-commodify the individual, as was the thrust of Marshallian social citizenship, but, on the contrary, to re-commodify her as a productive working member of society, as “worker citizen” (Anderson 2015). Earned citizenship thus flags a neoliberal contractualization of citizenship more generally, according to which “real fairness ... is about the link between what you put in and what you get out.”<sup>3</sup>

Compared with immigration policy, the first-order gatekeeper of the state, citizenship, as its second-order gatekeeper, has been much less subject to a populist-nationalist onslaught that has peaked in the West with the rise of Trump and the Brexit referendum in 2016. Indeed, immigration was central to the latter, but not citizenship. Moreover, whereas on the immigration front one often sees

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3 British Premier David Cameron, whose workfarist Universal Credit policy of 2012 rests on this maxim (Morris 2018: 7).



nationalism and neoliberalism operating as separate and oppositional forces, most clearly perhaps in the case of Brexit, on the citizenship front they are not easily separated and they work hand-in-hand. Earned citizenship, to repeat, is driven by a neoliberal nationalism, whose boundaries are non-ethnic, excluding only those who are deemed unwilling or incapable to contribute.

Of course, not all recent restrictiveness in citizenship policy can be reduced to neoliberal nationalism. The revival of citizenship stripping, for instance, is *also* logical response to a new kind of globally operating religious terror that targets citizens qua citizens. Why should its perpetrators be able to avail themselves of the citizenship that they have callously attacked and openly renounced? Those radical rightists, in alliance with self-aggrandizing states, have embraced this measure, does not make it any less apposite an answer to the killing of fellow-nationals just “because they are French,” as French President François Hollande put it with aghast in his own (unsuccessful) campaign for a tougher approach to citizenship stripping after a savage Islamist mass slaughter of French youngsters in a Parisian concert hall, in November 2015. If the random possibility to be hit by religious terror constitutes the contemporary citizen’s universalized “moment of conscription,” as political philosopher Paul Kahn (2011: 156) fathoms, to deprive the terrorist of this citizenship is merely a matter of consistency.

The rise of earned citizenship is a Pan-Western phenomenon, stretching from Western Europe to the classic immigrant nations. While in the latter required residence times for naturalization still tend to be shorter and the transition to citizenship more routine than in Europe, this is more a relic of the past than due to a sustained commitment to nation-building through immigration—the Canadian lawyer Catherine Dauvergne’s (2016: ch.7) called it the “loss of settlement.” The same idiom of earned citizenship has taken hold everywhere, from Ottawa to Vienna, which is broadly restrictive and mixes an economic utility rationale with a non-ethnic sense of collective self.

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