

## **Rights, Identity and Claims-Making** **Yasemin Soysal**

I am going to approach the question of justice across cultures from a different angle: by focusing on citizenship and its changing formations. Specifically, I will address the changing meaning and organization of citizenship in postwar Europe via an inquiry into the case of immigrants and the ways that they practice their membership in European societies.

The nation-state mode of citizenship – the predominant way we think about citizenship – assumes the existence of actors whose rights and identities are grounded within the bounds of national collectives. And these collectives are assumed to constitute the authentic sites for the realization of claims-making and civic participation. The experience of postwar immigrants in Europe, on the other hand, reveals that the contemporary practices of citizenship are increasingly decoupled from belonging in the national collective. Regardless of their historical or cultural ties to the German nation, and even without a formal German nationality, Turkish immigrants in Berlin make claims on Berlin's authority structures and participate in Berlin's public institutions. When Pakistani immigrants in Britain make demands for the teaching of Islam in public schools, they mobilize around a Muslim identity, but they also appeal to a universalistic language of 'human rights' to justify their claims. And, not only do they mobilize to affect the local school authorities, they also pressure the national government and take their case to the European Court of Human Rights. Contrary to the predominant understandings and conceptualizations, the boundaries of citizenship are not located in a nation-state but encompass the local and the transnational.

In my presentation, I will elaborate on two paradoxes that I see as crucial in understanding the contemporary formations of citizenship. The first paradox relates to rights and identities, the two main components of citizenship, and their increasing decoupling. The second paradox regards the ways collective claims are made and mobilized, and the increasing tendency toward particularistic and group-based claims and their legitimization through universalistic discourses of personhood. I would like to suggest that these two paradoxes warrant a reconsideration of our dominant approaches to immigrants and citizenship, and also our categories of exclusion and inclusion.

The background to the arguments I am advancing in this presentation is a series of interlocking legal, institutional, and normative changes in the European state system in the postwar period. Here I will briefly cite three developments that have significant implications for the institution of citizenship and the notions of identity and rights:

First, the increasing intensification of transnational discourse and legal instruments that codify 'human rights' as a hegemonic world level principle. This elaboration of individual rights, in international agreements and institutions but also in scientific and popular discourses, has laid the ground upon which more expansive claims can be advanced and

led to the introduction of new forms of rights for women, children, minorities, immigrants, and even for animals and plants.

Second, the increasing legitimacy of the right to 'one's own culture' and identity. This right has been furthered by the massive decolonizations in the postwar period, as well as through the works of international organizations such as the United Nations, UNESCO, and the Council of Europe. Collective identity has been redefined as a category of human rights. Codified as a right, identities have become important organizational and symbolic tools for creating new group solidarities and mobilizing resources (as in the case of women's movements, environmentalists, gays and lesbians, regional identities and interests, indigenous groups, and immigrants).

Lastly, the diffusion of sovereignty and the emergence of multi-level polities, such as we observe with the gradual unfolding of the European Union and the devolution of some European nation-states into culturally and administratively autonomous regions. The diffusion and sharing of sovereignty among local, national, and transnational political institutions enables new actors, opens up an array of new organizational strategies, and facilitates competition over resources and definitions.

All these developments have paradoxical implications for national citizenship. They have paradoxical implications as regards the ways that rights and identities are defined and allocated, and also as regards the ways collective claims are made and mobilized. I would like to now turn to the discussion of these paradoxes of citizenship.

The first paradox relates to the increasing decoupling of rights and identity. In the nation-state model of citizenship, national belonging constitutes the source of rights and duties of individuals. The postwar era, however, has witnessed an increasing recasting of (national) citizenship rights as human (or personhood) rights. Rights that were once associated with belonging in a national community have become increasingly abstract and legitimated at the transnational level, within a larger framework of human rights.

As the link between rights and the national community weakens, we observe multiple forms of citizenship that are no longer anchored in national collectives. These forms are exemplified in the membership of the long-term noncitizen immigrants, who hold various rights and privileges without a formal nationality status; in the increasing instances of dual citizenship, which breaches the traditional notions of political membership and loyalty in a single state; in the European Union citizenship, which represents a multi-tiered form of membership; and in subnational citizenships in culturally or administratively autonomous regions of Europe (e.g., Basque country, Catalonia, and Scotland).

Paradoxically, as the legitimacy of rights shifts to the transnational level, identities pretty much remain particularistic, and locally defined and organized. And here is the source of this paradox: The same global rules and institutional frameworks that celebrate personhood and human rights at the same time naturalize collective identities around national and ethno-religious particularisms.

This, as I already stated, has a lot to do with the works of international organizations such as the United Nations, UNESCO, the Council of Europe and the like (as well as the discipline of anthropology), through which the universal right to 'one's own culture' has gained increasing legitimacy and collective identity has been redefined as a category of human rights. In the process, what we normally consider as unique characteristics of collectives – culture, language, and standard ethnic traits – have become variants of the universal core of humanness or selfhood. This identity represents the 'unchosen' and is naturalized through the language of kinship, homeland, nation, and territory. One cannot help but have identity.

Once institutionalized as a right, identity occupies a crucial place in individual and collective actors' narratives and strategies. Ethnic/national identities are enacted and improvised for mobilizing claims in national and world politics. Identities become more and more expressive, authorizing at times ethnic nationalisms and particularistic group claims of various sorts.

Thus, while rights acquire a more universalistic form and are divorced from national belonging, giving rise to more inclusionary forms of memberships, identities often become intentionally particularistic, and exclusionary practices on the basis of identity prevail. This we observe in the increasingly restrictive immigration policies of European countries, the vocalization of ethnic minority and religious groups for cultural closure, and the discriminatory citizenship practices of, for example, many newly independent ex-Soviet republics. So more inclusionary forms of rights clash with more exclusionary practices of identity.

The second paradox to which I would like to draw attention regards collective claims-making and participation in public spheres – in other words, the practice of citizenship by individuals and groups. With the postwar reconfigurations in citizenship that I described in the previous section, the old categories that attach individuals to nationally defined status positions and distributory mechanisms become blurred. This inevitably changes the nature and locus of struggles for social equality and rights. New forms of mobilizing and advancing claims emerge beyond the frame of national citizenship.

Two features of these new forms of claims-making are relevant for our discussions: First, an increasing tendency to advance particularistic identities and demands, which are, at the same time, located in and legitimated by the universalistic discourses of human or personhood rights. Second, the increasing mobilization of claims independent of nationally delimited collectives and at different levels (local, national, and transnational).

Let me briefly elaborate:

As regards the nature of claims advanced; immigrant groups in Europe mobilize around claims for group-specific provisions and emphasize their group identities. However, their claims are not simply grounded in the particularities of religious or ethnic narratives. On the contrary, they connect their claims to broader institutionalized agendas, such as

universalistic principles and dominant discourses of equality, emancipation, and individual rights. When immigrant associations advocate the rights and needs of immigrant children in school, they employ a discourse that appropriates the rights of individuals as its central theme. They forward demands about mother-tongue instruction, Islamic *foulard*, or *halal* food by asserting the ‘natural’ right of individuals to their own cultures, rather than drawing upon religious teachings and traditions. For instance, the issue of wearing the Islamic *foulard* in school, which erupted into a national crisis in France in the early 1990s and again very recently, has been not only a topical contention over immigrant integration and French *laicism*, but has entered into the public arena as a matter of rights of individuals. This was when three North African girls were expelled from school when they insisted on covering their hair in classroom. In France, no religious symbols or dress codes are allowed in schools in observation of the principle of laicism – the separation of church from the state. Indeed, last month the French parliament passed legislation banning all visible religious symbols from school grounds. During the debates, the head of the Great Mosque of Paris, one of the highest religious authorities, declared the rules preventing wearing scarves in school to be discriminatory on the grounds of individual rights. His emphasis was on personal rights, rather than religious traditions or duties: "If a girl asks to have her hair covered, I believe it is her most basic right," he simply claimed.

So, the claims immigrants advance and the identities they mobilize, though particularistic, derive their legitimacy and authority from universalistic discourses of personhood and human rights. The main body of immigration literature, with its singular focus on ethnic transactions and ethnic community formation, bypasses these larger scripts, which activate and energize the very claims and identities. In turn, they misread immigrant mobilization simply as enactments of ethnicity. I see it differently: by framing their assertions and claims in the categories and language of rights, immigrants do link themselves to the broader public spheres and actively take part in the host country and European citizenship projects.

As regards the second feature, the organizational strategies employed by immigrant groups: in pursuing their claims, as well as engaging the broader discourses of rights and citizenship, immigrants also target trans- and subnational institutions. Their mobilization entails multiple authorities and jurisdictions. We find immigrant community associations, political parties, and mosque organizations, which operate at local levels but do not confine their claims only to their localities. During the last elections in Berlin, for example, Turkish immigrant organizations pushed for their local voting rights and also demands to vote in European elections, while at the same time putting pressure on the Turkish government to facilitate their rights to vote in Turkish national elections. As such, they envision their participation in multiple civic spaces, in Berlin, in Europe, and in Turkey.

Also, the much debated Islamic *foulard* issue was not simply a matter confined to the discretion of a local school board, but has traversed the realms of local, national, and transnational jurisdictions – from local educational authorities to the French Higher Court, and to the European Court of Human Rights. Similarly, in the early 1990s, when

the local authorities refused to permit the opening of another Islamic primary school, the Islamic Foundation in London decided to take the issue to the European Court of Human Rights.

To summarize, while the claims and mobilization of immigrant groups aim to further particularistic identities and solidarities, paradoxically, they make appeals to the universalistic principles of human rights and connect themselves to public spheres, which are not singularly bounded by the national. Their mobilization is not simply a reinvention of ethnic or religious particularisms. Their civic projects and mobilization are not ethnically self-referential but reflect larger scripts of rights and personhood.

The experience of postwar immigrants in Europe indicates a diversion from the classical forms of participating in the public sphere, mobilizing identities, and making claims. Much of the decolonization and civil rights movements of the 1960s and the early women's movements were attempts to redefine individuals as part of the national collectivity. Similarly, labor movements were historically linked to the shaping of a national citizenry. It is no coincidence that the welfare state developed as part of the national project, attaching labor movements to nations (as in Bismarkian Germany). However, as I have tried to delineate with my examples, the emerging formations of collective participation and claims-making in Europe are less and less nationally delimited citizenship projects. Individuals and collective groups set their agenda for realization of rights through particularistic identities, which are embedded in and driven by universalistic and homogenizing discourses of personhood and human rights. This shift in focus from national collectivity to particularistic identities does not necessarily imply disengagement from participating in common public spheres or creation of disintegrated civic arenas. On the contrary, they are evidence for the emerging participatory forms and multiple arenas and levels in which individuals enact and practice their citizenship.

By way of concluding, I would like to suggest three correctives to our current sociological thinking on citizenship, rights and identity, drawing upon the arguments I have developed in this talk:

First, the much taken-for-granted dichotomy of particular versus universal no longer holds. We have to consider the mechanisms by which the universalistic rights discourse not only reinforces particularistic identities and claims but also concurrently normalizes these same identities. The particularistic identities and claims we encounter today are inevitable outcomes of the universalistic principles to which we firmly adhere. Thus, the question here is not a matter of positive or negative recognition (or even accommodation) of these claims and identities. What really matters is the very process of negotiation, contestation, and dialogue in which these claims and identities are mobilized. After all, confrontation and dialogue are what constitute the basis of democratic public spheres.

Second, there are no longer absolute and clear-cut patterns of exclusions and inclusions. Neither do these patterns simply coincide with the bounds of the national. Access to a formal nationality status is not the main indicator for inclusion or exclusion in today's

Europe. Rights, membership, and participation are increasingly matters beyond the vocabulary of national citizenship. Thus, on the one hand we have to identify contexts and processes that are beyond the nation-state and lead to simultaneous inclusions and exclusions. On the other, we need to bring back into our political agenda one of the main premises of sociology: inclusion and exclusion are also issues of distribution. Not that this is a novel idea, but it does require a strong political will to do so. And thus it is worth repeating.

Third and last, we can no longer frame our debates on citizenship and identities within the dichotomy of national and transnational, and the expected linear transition from one to the other. There is much confusion around this issue and much time and energy is spent in arguing whether we are approaching a transnational stage or not. Rather than treating national and transnational as stages in progress, we need to incorporate them into our analytical frameworks as concurrent levels within which the current practices of citizenship and identity should be understood.