



# **Citizens, non-citizens and voting rights in Europe**

***Old College, University of Edinburgh, 3-4 June 2005***

Convenors: Prof. Jo Shaw, University of Edinburgh, UK and Dr. Felicity Medved,  
Centre for Research in International Migration and Ethnic Relations (CEIFO),  
Stockholm University, Sweden

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## **Executive Summary**

The European Science Foundation funding made possible a transnational workshop which examined in detail the issue of electoral rights for non-nationals, with a particular focus on the EU and its Member States, in the wider context of the transformation of citizenship as a legal and political figure and concept.

The primary funding for the Workshop came from the European Science Foundation, but additional support was provided by the Europa Institute (to fund the participation of non-European participants from the US and Australia) and by the School of Law, University of Edinburgh (to fund a reception to allow participants to meet members of the Law School).

The workshop was held over two full days, with most participants arriving on Thursday 2 June 2005, in time for a 'get-to-know-you' dinner in a local restaurant. Familiarity with the workshop topic had also been assisted through timely pre-circulation of papers by all participants via email before the workshop. This enabled those taking the Chair/Commentator role to be fully prepared. Moreover, participants were asked to make only brief presentations of their papers during the sessions, to allow the maximum amount of time for questions, responses and discussion involving all workshop participants.

The Workshop succeeded in bringing together academics and practitioners working in the field of citizenship studies, with a particular focus on electoral rights for non-nationals, with disciplinary backgrounds in law, political science and political theory, geography and sociology. The majority of participants presented papers, and/or participated actively as Chair/Commentator for papers given by others, but the minority of participants who were not giving papers or acting as commentators also participated very actively in the lengthy discussions which took place during each session (and indeed between sessions during very animated coffee and lunch breaks). The participants also enjoyed the very pleasant environment offered by the University and City of Edinburgh.

## Scientific content of the event

In 1993, the Treaty of Maastricht (establishing the European Union) introduced electoral rights for European Union citizens on the basis of residence rather than nationality/national citizenship. EU citizens are allowed to vote and stand in European Parliament and local elections even when they are resident outside their Member State of nationality. The Workshop concentrated on examining these electoral rights in their wider context, by looking at the more general concept of ‘alien suffrage’. The granting of electoral rights under EU law constitutes just one example of this wider liberal concept, and there is some evidence transnationally (and especially in Europe) of a trend towards a more liberal definition of the boundaries of the suffrage. This in turn is part of a more general transformation of the European political space, a transformation in which changes to the figure and concept of citizenship is just one element. The Workshop thus engaged with research debates in the fields of citizenship, sovereignty and political community which are affected by the question of electoral rights. The papers in the Workshop looked at theoretical questions surrounding alien suffrage, at the role of national, EU and international law, and at practical examples concerning the evolution of systems of electoral rights for non-nationals.

After a brief opening session and introduction in the morning of Friday 3 June, the workshop moved immediately into its opening substantive session. This concentrated on articulating theoretical approaches to the situation of citizens and aliens, looking at the ‘state of citizenship’ under conditions of globalization and increased interconnection between states and societies. Kim Rubenstein’s paper (*Globalization and Citizenship and Nationality*) approached the problem from the perspective of public international law, looking at the management of the badges of citizenship and nationality across time and space, including legal/institutional responses. Dora Kostakopoulou (*Citizenship goes public: the Institutional Design of Denationalised Citizenship*) took models of ‘denationalised’ citizenship, that is, models of citizenship separated from the traditional root of the nation state, and tried to imagine what institutional designs would be appropriate to such models in the future. The paper relied particularly upon the concept of domicile, drawing *inter alia* on concepts in private international law. While Rubenstein predicted a future in which international

law supported increased acknowledgement and encouragement for cases of dual and multiple nationality, with a concomitant movement away from the centrality of the state in international law, Kostakopoulou, focusing on the disentangling of the state from the nation, suggested that the concept of domicile (linked at various points to birth, choice and association) should be the defining reference point for affinity, rather than traditional models of nation-state based citizenship.

Building on these general theoretical insights, the Workshop took a more empirical turn in the second session, consisting of a single paper illuminating the key cases and significant variables regarding non-national voting rights as currently constituted (Harald Waldrauch, *Electoral Rights for foreign nationals: a comparative overview*). This provoked a lively discussion as participants not only sought to relate some of the empirical cases to the theoretical reflections developed before, but also how the application of cases of non-national voting mapped onto other conditions relating to citizenship acquisition (and indeed loss), such as naturalization.

The third session returned to the themes of theoretical models of citizenship 'beyond the state' and of the impact of international law, with papers by Hakan Sicakkan (*Changing the boundaries of political rights in Europe - How can the diversity perspective, as an alternative to difference approaches, contribute to justifying inclusive practices?*), Ciara Smyth (*The right to vote and participate in local elections: citizen's right or human right?*), and Jo Shaw (*Contesting Suffrage?*). Sicakkan's 'diversity perspective', which deployed a principle of 'presence' contrasted in interesting ways with Kostakopoulou's use of the concept of 'domicile'. Smyth turned the attention firmly to current legal arguments available to buttress normative arguments in favour of extending voting rights to non-nationals, noting that a surprising degree of support can be found in some of the current international human rights instruments applicable across most European states. However, there is no conclusive evidence that the right to vote could be seen as either a human right or a citizen's right under international law, and this has consequential impacts upon the right to vote of non-citizens. Shaw, abstracting from earlier work which focused on the contestability of the extension of electoral rights for non-nationals, linked the question of electoral rights specifically to the transformation of political space in

Europe – across the EU as a political and constitutional order, and across the Member States themselves.

The papers on the second day of the workshop (Saturday 4 June) were primarily based on national case studies of instances in which electoral rights for non-nationals have been granted and/or blocked. The papers concentrated both on the legal and political conditions surrounding changes to the status of non-citizens (Austria, former Yugoslavia, Slovenia), and on the operation of these rights in practice (Belgium, Spain and Ireland). The cases examined included not only the electoral rights mandated under EU law for EU nationals (e.g. in Spain), but also rights granted to third country nationals in a number of Member States such as Ireland and Slovenia. Belgium, studied by Dirk Jacobs in *Changing Patterns of Political Participation of Citizens of Immigrant Origin in the Brussels Capital Region: The October 2000 elections* is an interesting case, as the paper focused on the situation before the recent change to extend electoral rights to third country nationals in future local elections. However, the October 2000 elections studied by Jacobs and his collaborators were already themselves remarkable because they demonstrated important changes in the pattern of political participation and representation of Belgian citizens of non-Belgian origin. While noting an upsurge of involvement on the part of Turkish- and Moroccan-Belgians, the paper also noted a relative lack of involvement of EU citizens, despite the impact of EU citizenship to empower this group in local elections.

In the Spanish case studied by Mónica Méndez Lago (*The participation of non-national EU citizens in Spanish local elections*), it was the participation of EU citizens in some areas of southern Spain where they constitute a potentially important political force which was the focus of the attention. Despite this potential political impact of the electoral rights under EU law, however, the evidence that the changes brought about by the EU Treaty are becoming embedded in political culture is not strong. Ireland presents a further contrast, since in the local elections of 2004 a longstanding (national) right to vote and stand for election in local elections granted to third country nationals became politically salient for the first time, ironically at the same time as Irish citizens were voting on a referendum to narrow the entitlement to citizenship of babies born in Ireland to non-Irish parents. Fidele Mutwarisibo's

research and paper concentrated in particular on the experience of third country national candidates in these elections (*Participation of Third Country Nationals in the 2004 Local Elections: New dawn in the emergence of intercultural Ireland*). He linked the debate to wider questions about multiculturalism in Ireland, debates which are paralleled in states such as Belgium in quite urgent terms at the present time.

While Ireland could be seen as a case of relative inclusion (based on the marker of electoral rights for non-nationals), the Austrian (or better Viennese) case studied by Bernhard Perchinig is a case of exclusion. In *Blocked by Constitution: How the Constitutional Court stopped municipal voting rights for Third Country Nationals in Vienna*, Perchinig related the narrative of the passing of a law at the level of the City of Vienna to allow third country nationals to vote in local elections, only for this to be blocked by the Austrian constitutional court, preventing it coming into force. He noted the narrow interpretation of the possible scope of the franchise under the Constitution taken by the Court, which apes in many respects the earlier experiences in Germany, where similar initiatives in Hamburg and Schleswig-Holstein were blocked by the German Constitutional Court in the early 1990s.

The question which is posed by the cases studied is whether democracy is served or hampered by extending the boundaries of the suffrage beyond the scope of formal national citizenship, allowing those who are affected by laws (particularly at the local level, where they pay taxes and are intimately involved in local life through residence) also to vote for elected representatives (and indeed to stand).

While these arguments are also raised in relation to the cases of Slovenia and other republics of the former Yugoslavia, discussed and surveyed in the papers by Felicita Medved (*Citizenship, nationality and adaptation in a frontier state: the case of Slovenia*) and Tomaž Deželan/Damjan Lajh, (*The evolution of suffrage in the Post-Yugoslav Region: a comparative analysis of practices in the former Yugoslav Republics*), it is also clear from these papers that there can be other types of historical and geographical conjunctures, including violent upheaval, polity change and a state of 'frontierness' which can condition the development of inclusionary systems of electoral rights.

The workshop concluded with a case study from outside Europe, included in particular to put context upon a set of studies which had focused primarily on the transformation of political spaces inside Europe, the European Union and its Member States. In his paper (*Immigrant Voting Rights in the United States*), Ron Hayduk provided an important insight into the history of electoral rights for non-nationals in the US, refuting arguments about the inevitability of a drift towards exclusionary rules by reference to evidence from history and from present campaigns to support electoral rights for immigrants.

Workshop discussion was enriched not only by the research directly embodied in the papers briefly described here, but also by the backgrounds of participants working on states such as Slovakia, Poland and the Czech Republic, highlighting that the issue of electoral rights has become a genuinely pan-European question in recent years.

### **Assessment of the results and contribution to the future direction of the field**

Informal feedback during and after the Workshop signalled that it was a successful and highly collegial event where existing networks and collaborations were strengthened, and many new ones were made. After the Workshop, a number of further papers worked on by participants have been circulated via the email mailing list created to facilitate communication. In addition, it is hoped that the Workshop will have a number of concrete outputs, including a publishing venture.

Prior the Workshop, a proposal had been submitted to *Citizenship Studies*, an international journal published by Taylor and Francis, for the publication of a Special Issue (to appear in 2007) based on papers submitted to the Workshop. Positive feedback had been given by the Editors of *Citizenship Studies* prior to the Workshop, pending a final positive decision which was given later in June 2005. Thus a substantial number of the papers, reflecting the balance of theoretical and empirical work, and the interdisciplinary nature of the Workshop, will be published in the Special Issue, which will be edited by Jo Shaw and Felicita Medved. Further collaboration during the writing and editing of these papers will be based on email contacts, but it is also possible that an additional small scale Workshop could be organised with institutional funds to discuss some of the draft papers.

In addition, Jo Shaw and Felicita Medved were invited to consider the possibility of making further applications to funders such as the ESF, as well as national funders such as the UK AHRC, to fund networking activities. These suggestions are still under consideration, subject to the constraints of the funding possibilities now offered by the ESF.



## Conference Programme

Friday 3 June:

<b>9.00-9.30</b>	<b>Registration</b>
<b>9.30-9.45</b>	<b>Welcome to the Workshop</b>
<b>9.45-11.15</b>	<b>Session One: Citizens and aliens in national and international perspective</b>
	<i>Chair/Commentator:</i> Lynn Dobson, University of Edinburgh
	Kim Rubenstein, Faculty of Law, University of Melbourne, Australia, <i>Globalization and Citizenship and Nationality</i>
	Dora Kostakopoulou, School of Law, University of Manchester, UK, <i>Citizenship goes public: the Institutional Design of Denationalised Citizenship</i>
<b>11.15-11.45</b>	<b>Coffee/Tea</b>
<b>11.45-1.15</b>	<b>Session Two: Citizenship, nationality and voting</b>
	<i>Chair/Commentator:</i> Felicita Medved, Centre for Research in International Migration and Ethnic Relations (CEIFO), Stockholm University, Sweden
	Harald Waldrauch, European Centre for Social Welfare Policy and Research, Vienna, Austria, <i>Electoral Rights for foreign nationals: a comparative overview</i>
	General Discussion of morning session
<b>1.15-2.30</b>	<b>Lunch in Old College</b>
<b>2.30-4.00</b>	<b>Session Three: Alien suffrage: sovereignty, diversity and migration</b>
	<i>Chair/Commentator</i> Ruth Rubio Marin, University of Seville, Spain
	Hakan Sicakkan, University of Bergen, Norway, <i>Changing the boundaries of political rights in Europe - How can the diversity perspective, as an alternative to difference approaches, contribute to justifying inclusive practices?</i>
	Ciara Smyth, Faculty of Law, National University of Ireland, Galway, Ireland, <i>The right to vote and participate in local elections: citizen's right or human right?</i>
<b>4.00-4.30</b>	<b>Coffee/Tea</b>
<b>4.30-6.00</b>	<b>Session Four (continuation of session three)</b>
	Jo Shaw, School of Law, University of Edinburgh, UK, <i>Contesting Suffrage</i>
	General discussion to conclude first day

## Saturday 4 June:

<b>9.45-11.15</b>	<b>Session Five: Experiences with EU electoral rights: Belgium and Spain as examples</b>
	<i>Chair/Commentator:</i> Anja Rudiger, Refugee Council, London, UK
	Dirk Jacobs, Université Libre de Bruxelles, Belgium, <i>Changing Patterns of Political Participation of Citizens of Immigrant Origin in the Brussels Capital Region: The October 2000 elections</i>
	Mónica Méndez Lago, University of Murcia/Centro de Investigaciones Sociológicas, Madrid, Spain, <i>The participation of non-national EU citizens in Spanish local elections</i>
<b>11.15-11.45</b>	<b>Coffee/Tea</b>
<b>11.45-1.15</b>	<b>Session Six: Stories of Inclusion and Exclusion</b>
	<i>Chair/Commentator:</i> Kim Rubenstein, University of Melbourne
	Fidele Mutwarasibo, Immigration Council of Ireland, Dublin, Ireland <i>Participation of Third Country Nationals in the 2004 Local Elections: New dawn in the emergence of intercultural Ireland</i>
	Bernhard Perchinig, Austrian Academy of Sciences, Vienna, Austria <i>Blocked by Constitution: How the Constitutional Court stopped municipal voting rights for Third Country Nationals in Vienna</i>
<b>1.15-2.30</b>	<b>Lunch</b>
<b>2.30-4.00</b>	<b>Session Seven: Electoral rights and the legacy of former Yugoslavia</b>
	<i>Chair/Commentator:</i> Erika Harris, University of Liverpool, UK
	Felicita Medved, Centre for Research in International Migration and Ethnic Relations (CEIFO), Stockholm University, Sweden, <i>Citizenship, nationality and adaptation in a frontier state: the case of Slovenia [with Jo Shaw]</i>
	Tomaž Deželan and Damjan Lajh, Centre for Political Science Research, Institute of Social Sciences, Faculty of Social Sciences, University of Ljubljana, Slovenia, <i>The evolution of suffrage in the Post-Yugoslav Region: a comparative analysis of practices in the former Yugoslav Republics</i>
<b>4.00-4.30</b>	<b>Coffee/Tea</b>
<b>4.30-6.00</b>	<b>Session Eight: The Transatlantic Dimension</b>
	<i>Chair/Commentator:</i> Jo Shaw, University of Edinburgh
	Ron Hayduk, Borough of Manhattan Community College, CUNY, USA, <i>Immigrant Voting Rights in the United States</i>

## Workshop Participants

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## **Statistical information on the participants**

Total number of participants (see list above; plus Jo Shaw):

Male: 8

Female: 13

PhD students: 4

Early career academics: 4 (one also simultaneously a PhD student)

Established academics: 9

Practitioners: 4 (one also simultaneously a PhD student)

Country of current residence:

Austria: 2

Australia: 1

Belgium: 2

Ireland: 2

Norway: 1

Poland: 1

Slovenia: 3

Spain: 1

UK: 6

US: 2

[Two participants held academic appointments in countries other than those in which they currently resided]

Country of origin/citizenship:

Austria: 2

Australia: 1

Belgium: 1

Czech Republic: 1

Germany: 1

Greece: 1

Ireland: 1

Poland: 1

Rwanda: 1

Slovakia: 1

Slovenia: 3

Spain: 2

Turkey: 1

UK: 3

US: 1

No data collected on age range of participants, but the broad age ranges can be deduced from the figures on the career status of the participants.