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Exclusion by Design? Rethinking Democratic Belonging Through Citizenship

Naturalization and the Boundaries of Membership in Switzerland

Author: Seraina Tirza Loeffel
Supervisor: Maria Daniella Marouda

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Abstract

This thesis examines the legal and normative foundations of citizenship, with a particular focus on Switzerland and the exclusion long-term non-citizens from formal membership. While Switzerland maintains a strong democratic tradition, nearly one-quarter of its population remains disenfranchised, lacking access to political rights and full societal participation. Through an analysis of Swiss citizenship law, international human rights instruments, and relevant case law, this thesis explores how formal naturalization procedures often fall short of reflecting the lived realities of social belonging.

Challenging the view that citizenship lies exclusively within the sovereign discretion of states, the thesis engages with evolving shifts in the human rights framework and emerging normative concepts such as *jus nexi*—the idea that membership should be based on a genuine connection between the individual and the society in question. It argues that the current Swiss regime constitutes "exclusion by design," reinforced by vague integration criteria, fragmented cantonal practices, and a lack of transparent oversight.

The study advocates for a rethinking of citizenship as a right rooted in equality, dignity, and democratic participation. It concludes that individuals who demonstrate long-standing social attachments—particularly those born and raised in Switzerland—ought to have their right to belong recognized through access to citizenship. By doing so, Switzerland could bridge the gap between its democratic ideals and its exclusionary practices, reaffirming the principle that the 'right to have rights' begins with recognition as a full member of the political community.

List of abbreviations

CtteeERD: Committee on the Elimination of Racial Discrimination

CtteeMW: Committee on the Protection of the Rights of All Migrant Workers and Members of their Families

CtteeRC: Committee on the Rights of the Child

CMW: International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families

CO: Concluding Observations

CoE: Council of Europe

CRC: Convention on the Rights of the Child

CRC-Com: Committee on the Rights of the Child

EC: European Commission

ECHR: European Convention on Human Rights

ECRI: European Commission against Racism and Intolerance

ECtHR: European Court of Human Rights

EU: European Union

HRC: Human Rights Council

HRCttee: Human Rights Committee

GC: General Comment

ICJ: International Court of Justice

ICCPR/CCPR: International Covenant of Civil and Political Rigths

MIPEX: Migrant Integration Policy Index

MMS: Migration-Mobility Survey

NCCR: National Center of Competence Research

NGO: Non-governmental organizations

OECD: Organisation for Economic Cooperation and Development

PCIJ: Permanent Court of International Justice

SCA: Federal Act on Swiss Citizenship

UDHR: Universal Declaration of Human Rights

UN: United Nations

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Table of Contents

1. Introduction

"I am a citizen, not of Athens or Greece, but of the world," the philosopher Socrates once famously declared. In doing so, he touched on the essence of belonging and self-determined identity, setting the stage for a broader reflection on the right to free self-identification and the meaning of modern-day citizenship. What does it mean to belong? To be a citizen of a specific place? And the more poignant question: on which principles do law and politics make citizens and citizenship? While Socrates asserts a broader, global identity—defining who he is and where he belongs based on reason rather than birthplace or local and national ties—his cosmopolitan conception of allegiance does not reflect the lived reality of individuals who, unlike him, seek belonging within communities grounded in shared location or spatial attachment. Although he dismisses political and territorial boundaries as the basis for belonging, it is precisely these boundaries that, in contemporary societies and a globalized world, fundamentally shape individuals' everyday lives by enabling or restricting their access to rights, mobility, and participation.

In many countries of the Global North, discussions around citizenship and the rights and duties it entails often reveal that the core issue is not necessarily the violation of formal rights or the absence of legal protections. Rather, exclusion is experienced more subtly—through domestic policies and institutional practices that foster a sense of marginalization among non-citizens, extending beyond what is written in law. Political discourse centered on nationalism, securitization, and the contemporary politics of belonging has amplified these dynamics, contributing over the past two decades to a broader trend of democratic contraction.[1] In this context, the hope of escaping the creeping erosion of protection in an increasingly volatile environment, combined with a persistent desire to be recognized as a full member of the community one calls home,

[1] Marina Nord et al., *Democracy Report 2025: 25 Years of Autocratization – Democracy Trumped?* (V-Dem Institute, University of Gothenburg 2025) <https://www.v-dem.net/publications/democracy-reports/> accessed 10 July 2025

becomes a powerful motivation for non-citizens to pursue legal membership through naturalization. [2]

For many, naturalization represents not merely a bureaucratic process but a claim to recognition—a claim to full and equal standing in the society where one lives, works, and builds a life. It is an attempt to overcome the gap between being socially embedded and legally excluded. Yet the act of acquiring citizenship is also shaped and constrained by national laws and political ideologies that define who is deemed worthy of membership. As scholars such as Castles and Soysal have observed, sovereign states have long instrumentalized citizenship to regulate access to rights and inclusion in national communities. They determine who belongs and who does not. Even today, citizenship remains a central expression of state sovereignty, one that is fiercely guarded against international interference.

Nevertheless, the exclusive grip of states on matters of nationality has been gradually challenged. The growing recognition of the individual in international law and the strengthening of international human rights protections have begun to reshape the legal landscape. Regional human rights bodies, such as the Inter-American Juridical Committee and the European Court of Human Rights, have acknowledged the relevance of social ties and personal identity in relation to legal status. Still, international human rights law lacks a specific and enforceable right to nationality—a gap that becomes increasingly untenable in light of global mobility and demographic shifts. As United Nations Special Rapporteur on Minority Issues Nicolas Levrat has pointed out, there is broad consensus within the international community around the idea that individuals possess an identity that exists independently of state recognition, and that this identity must be respected by the state. Yet this consensus has not translated into binding obligations, as states continue to invoke the *domaine réservé* to shield citizenship from international scrutiny.

Nowhere is this tension more apparent than in the case of Switzerland. With one of the highest proportions of foreign nationals in Europe—27% of the population as of 2024—

[2] 'Naturalize': To make native. To admit (a foreigner or immigrant) to the position and rights of citizenship; to invest with the privileges of a native-born subject, Oxford English Dictionary (OED), <https://www.oed.com/dictionary/naturalize_v?tl=true> accessed 10 July 2025

Switzerland stands as a striking example of the disconnect between demographic reality and political inclusion.[3] Despite the scale of its foreign population, Switzerland maintains some of the most restrictive naturalization policies in Europe. This demographic reality is not merely statistical; it raises foundational questions about who gets to belong, under what conditions, and according to whose terms.

This thesis critically examines the legal and political structures that determine access to Swiss citizenship and reflects on their implications for democratic legitimacy, human rights, and the lived experiences of those excluded from formal membership. It explores how citizenship law in Switzerland operates not only as an administrative framework but also as a gatekeeping mechanism—shaping who is seen, who is heard, and who is allowed to participate in the polity. Specifically, it investigates how long-term non-citizens are systematically marginalized despite deep-rooted social attachments, and how this undermines the liberal-democratic ideals to which Switzerland formally subscribes.

While citizenship acquisition may not be the only path to political and social cohesion, it remains, within the current international state-based order, the principal means by which individuals access the full spectrum of rights and recognition. As such, this thesis advocates for a more inclusive understanding of legal membership that aligns with both normative democratic principles and the lived realities of diverse, pluralistic societies.

[3] By comparison, the proportion of foreign residents stands at approximately 35% in Liechtenstein, 15% in Germany, 10% in Italy, and 8% in France.

The Case for Inclusion in Times of Democratic Backsliding

Since the early 2010s, particularly in the wake of the 2015 refugee movements, national populist parties have gained increasing prominence across Europe. These parties have placed questions of national belonging at the center of contemporary political discourse.[4] This thesis argues that the inclusion of non-citizens within the political community is not merely an aspirational feature of liberal democracy, but rather a structural and ethical necessity—grounded on the premise that acquiring citizenship is a manifestation of long-term residents' "right to belong", a concept that has yet to be explored. This claim becomes especially salient in contexts marked by democratic erosion, political polarization, and the growing appeal of exclusionary populist movements, which challenge core liberal democratic principles by raising fundamental questions such as "Who belongs?" and "Who decides?".[5] The case for inclusion is crucial and rests on several normative grounds. It has been the subject of discussion in political theory and legal scholarship. While Robert A. Dahl[6] emphasized that "inclusive citizenship" is a necessary condition for democracy, Dankwart A. Rustow[7] identified national unity as the sole precondition for democracy as early as fifty years ago. Building on this, Juan J. Linz and Alfred C. Stepan[8] underscore the importance of "inclusive and equal citizenship," which they argue provides all members of a polity with a common "roof" of rights—an element that is especially vital for the democratic consolidation of multiethnic populations.

What follows is a brief justification of the broader normative argument advanced by influential scholars for why liberal democracies must continue to pursue the inclusion of all residents and confront questions of citizenship, even—indeed, especially—in times of democratic backsliding. While not all of these arguments will be explored in depth, some will be revisited and further developed over the course of this thesis. Crucially,

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[4] Sara Wallace Goodman, 'Liberal Democracy, National Identity Boundaries, and Populist Entry Points' (2019) 31(3–4) *Critical Review* 377
[5] *ibid*
[6] Robert A Dahl, 'What Political Institutions Does Large-Scale Democracy Require?' (2005) 120(2) *Political Science Quarterly* 187–197
[7] Dankwart A Rustow, 'Transitions to Democracy: Toward a Dynamic Model' (1970) 2(3) *Comparative Politics* 337–363
[8] Juan J Linz and Alfred C Stepan, 'Toward Consolidated Democracies' (1996) 7(2) *Journal of Democracy* 14–33

the purpose of this section is not to offer a comprehensive analysis of the internal workings or normative foundations of liberal democracies, nor does it aim to examine in detail the political dynamics of the current global or European resurgence of populist movements. Rather, it serves to underscore the enduring relevance of inclusion as a normative and political concern—even in times marked by democratic retrenchment, rising protectionism, and exclusionary politics. Nevertheless, the central question remains: why should liberal democracies strive for the inclusion of their population?

First, because the democratic legitimacy of liberal regimes hinges on the congruence between those who are subject to political power and those who possess a share in that power. As Arendt famously argued, losing political membership means losing "the right to have rights"—a condition of rightlessness that undermines the foundation of political equality. [9] Scholars such as Thomas Nagel and Arash Abizadeh have articulated the "all-subjected" principle, which holds that anyone subject to the coercive authority of the state should be included in the *demos*. Abizadeh, in particular, argues that democratic legitimacy depends on the consent of everyone governed, including noncitizens residing under the state's jurisdiction.[10] The persistent exclusion of long-term residents is therefore not a neutral policy choice, but rather a democratic deficit.

Second, while the previous argument based inclusion on the state's legitimate authority over its citizens, another line of reasoning emphasizes the ethical obligation to include individuals embedded in the political community. The ethical consistency of liberal democracy requires that its ideals, such as freedom, equality, justice, tolerance, and pluralism,[11] apply not only to citizens, but also to all individuals who contribute to the social and political life of the community. According to Rainer Bauböck, democratic legitimacy requires including all individuals with a stake in the political community due

[9] Hannah Arendt, *The Origins of Totalitarianism* (Harcourt 1973) 296

[10] Arash Abizadeh, 'Democratic Theory and Border Coercion: No Right to Unilaterally Control Your Own Borders' (2008) 36 Political Theory 37

[11] As there is, to date, no universally accepted set of principles that apply to all (liberal) democracies, this thesis adopts the principles set out in the Swiss Federal Constitution, as they are most relevant to the subject matter. According to the Federal Department of Foreign Affairs (FDFA), these include: the principle of participation; transparent, credible and free elections; freedom of expression; the protection of minorities; a universally accessible justice system and independent courts; the division of state power between the executive, legislative and judicial branches (separation of powers) and the checks and balances between them: Federal Department of Foreign Affairs (FDFA), *Leitlinien Demokratie 2025–2028* (2024) 8 <https://www.eda.admin.ch/publikationen/de/eda/schweizer-aussenpolitik/Leitlinien_Demokratie_2025-2028.html> accessed 10 July 2025

to their long-term residence and social membership. He asserts that those who are subjected to the laws of a polity and contribute to its reproduction over time must ultimately be granted a voice in shaping its rules.[12] In such cases, political exclusion is not merely a denial of formal status; it undermines the democratic legitimacy of the polity itself. Thus, inclusion becomes a moral and political imperative once membership in the community is already a social reality.

Third, the normative architecture of liberal democracy is based on the idea that each individual has equal moral worth. However, this ethical commitment becomes incoherent when access to core rights, including political voice, is restricted based on nationality or legal status. Joseph Carens argues that, today, citizenship operates like an inherited feudal privilege—arbitrary and morally indefensible when used to exclude individuals who are full members of society in every respect except formal status. Exclusion entrenches a two-tiered order that offends the liberal ideal of equality before the law and equal moral consideration.[13]

Fourth, democratic inclusion fosters civic cohesion and political stability. Iris Marion Young emphasizes that political communication and shared governance are essential for inclusive democratic institutions, as the absence of a political voice can lead to misrecognition and marginalization. [14] In pluralistic societies, exclusion based on legal status often aligns with racial, ethnic, or class hierarchies, further deepening social divisions. However, inclusive practices can help establish a civic identity based not on ancestry or formal status, but on shared participation, mutual recognition, and co-responsibility.

Fifth, excluding non-citizens can lead to illiberal practices that often extend beyond immigration policy. As Linda Bosniak notes, the legal marginalization of non-citizens creates a normative loophole within liberal democracies, permitting differential treatment and rights for citizens and non-citizens. She argues that this distinction creates

[12] Rainer Bauböck, 'Democratic Inclusion. A Pluralistic Theory of Citizenship' in Rainer Bauböck (ed), *Democratic Inclusion* (Manchester University Press 2018); see also Ayelet Shachar, *The Birthright Lottery: Citizenship and Global Inequality* (Harvard University Press 2009) 178 f.
[13] Joseph Carens, 'Aliens and Citizens: The Case for Open Borders' (1987) 49 *Review of Politics* 251–273
[14] Iris Marion Young, *Inclusion and Democracy* (Oxford University Press 2000)

a legal hierarchy of rights and protections that contradicts democracy's principle of equality.[15]

Finally, from a pragmatic and institutional perspective, inclusion is necessary to ensure the sustainability and responsiveness of democratic governance. Seyla Benhabib warns that liberal democracies face a tension between the principle of universal human rights and the practice of bounded citizenship. Resolving this tension requires rethinking political membership in light of increasing mobility and diversity. [16] When democratic institutions fail to adapt, they risk creating a growing underclass of disenfranchised residents, which threatens institutional legitimacy and social cohesion.

In sum, including long-term non-citizen residents in the democratic polity is not, and has never been, a marginal or idealistic demand. Rather, it is a normative imperative rooted in the internal logic of *democratic* norms (identifying a citizenry for participation and representation), the ethical foundations of *liberalism* (ensuring that the criteria for inclusion and exclusion are just), and the pragmatic necessity of democratic resilience (preserving institutional legitimacy during periods of political fragmentation).[17] As Goodman aptly observes, liberal democracies face a unique dilemma in an age of demographic change: while they must flexibly maintain social boundaries—as both physical and symbolic delineations between "insiders" and "outsiders"—populists increasingly contest the very malleability and legitimacy of those boundaries. Thus, boundary maintenance becomes both a necessity and a source of vulnerability for liberal democracies.[18] Nevertheless, the denial of inclusion contradicts the principles on which liberal democracy claims to rest. Insofar as citizenship functions as a threshold for enjoying rights, it amounts to an explicit denial of the full exercise of human rights to non-citizens. Therefore, debates surrounding the right to acquire citizenship, the right to

[15] Linda Bosniak, *The Citizen and the Alien: Dilemmas of Contemporary Membership* (Princeton University Press 2006); see also Vanessa Barker, 'Democracy and Deportation: Why Membership Matters Most' in Katia Franko Aas and Mary Bosworth (eds), *The Borders of Punishment: Migration,Citizenship, and Social Exclusion* (Oxford University Press 2013) 246
[16] Seyla Benhabib, 'The End of the 1951 Refugee Convention? Dilemmas of Sovereignty, Territoriality, and Human Rights' (2020) 2 *Jus Cogens* 75–100
[17] Goodman (n 4) 378
[18] *ibid*

remain, and ultimately, the underlying right to belong must lie at the core of the human rights discourse.

Approach

Use of Terminology

At the core of this thesis lie the notions of nationality, citizenship, belonging, and identity—concepts that carry distinct meanings depending on disciplinary context, legal tradition, and language. This brief overview aims to clarify the use of the terminology most relevant to the following review.

The term *non-citizens* is used here to refer to individuals commonly described as foreign nationals or aliens, including migrants, refugees, asylum seekers, stateless persons, irregular migrants, and others who do not hold the citizenship of the state in which they are present. While this thesis generally gives preference to the term *non-citizen*, the term *foreign nationals* is also used at times, particularly when drawing on statistical data that either includes or excludes specific groups such as stateless persons or asylum seekers. Moreover, official sources—especially state authorities and public offices—tend to use the term *foreign nationals*. For the sake of accuracy and consistency with source material, this thesis follows the terminology used for the respective official data. Additional remarks on the use of specific terms will be provided where appropriate. Closely related to the category of non-citizens is the ambiguous understanding of "permanent" population and "long-term" residents. This thesis primarily builds on the normative claim for the acquisition of citizenship by individuals falling into these categories. The terms *permanent* and *long-term* generally refer to individuals who have resided in a country for several years, often continuously, and typically—though not necessarily—with some form of legal status short of full legal membership in the form of citizenship. Both terms emphasize durable social, economic, and communal ties rather than temporary or transitory presence. While a minimum duration of five years is often implied, references to permanent or long-term residence in academic, policy, and legal contexts frequently concern individuals with significantly longer periods of residence. Understandings and definitions vary depending on the scholar, study, or legal jurisdiction. Relevant clarifications will be offered where needed

Finally, particular attention will be given to the terms *citizenship* and *nationality*, which, though often used interchangeably in international legal discourse, carry distinct meanings. While both refer to a legal bond between an individual and a state, *nationality* typically denotes the international legal relationship involving state protection and allegiance, whereas *citizenship* emphasizes internal membership, encompassing political rights, duties, and participation in civic life. Traditionally, legal scholarship has used *nationality* to describe the external, international aspect of state membership, and *citizenship* to refer to the internal, municipal framework governing the rights and obligations of individuals within the state. Paul Weis distinguishes *nationality* in a politico-legal sense from its ethno-cultural or historical usage—the former referring to legal membership in a state, the latter to a collective identity often associated with nationhood or "race."[19] This distinction helps explain why the conflation of the two terms is often contested within political theory and the social sciences, where *nationality* is frequently linked to ethnic and nationalist connotations and is rarely used to describe state membership. *Citizenship*, by contrast, is viewed as the more inclusive concept, referring to broader notions of membership, belonging, participation, and equality in society that extend beyond legal status alone.[20] For the purposes of this thesis, both terms will be used to refer to full legal membership in a state and will, in principle, be used interchangeably. However, *nationality* will be retained when citing sources of international law that uses this terminology, while *citizenship* will be preferred when addressing normative questions of membership, in line with Ernst Hirsch Ballin's view that the term more aptly reflects the legal status of individuals within a polity without invoking associations of state sovereignty. [21]

The Right to Belong

This thesis builds on the premise that the inclusion of long-term non-citizen residents within the political community is not merely a democratic aspiration but a normative imperative—particularly for states founded on liberal democratic principles. Central to this claim is the notion of a "right to belong"—not as a codified or legally enforceable

[19] Paul Weis, *Nationality and Statelessness in International Law* (2nd ed, Sijthoff & Noordhoff 1979) 3
[20] Anuscheh Farahat, *Progressive Inklusion: Zugehörigkeit und Teilhabe im Migrationsrecht* (Springer 2014) 120
[21] Ernst Hirsch Ballin, *Citizens' Rights and the Right to Be a Citizen* (Brill Nijhoff 2014) 71

human right, but as "a proposal for a more rights-based interpretation of the right to citizenship" [22] on the one hand, and, on the other, as a normative imperative: rooted in the principles of liberal democracy, embedded in the universal human rights framework, and grounded—both in connection with the latter and as a standalone idea—in the moral equality of all individuals by virtue of their humanity.

In this thesis, the *right to belong* is invoked as a conceptual tool to illuminate the structural significance of inclusion and the normative tensions surrounding citizenship. It is situated at the intersection of legal status, political membership, and social embeddedness, and is strongly informed by Ayelet Shachar's contributions on *jus nexi*, a concept that proposes grounding citizenship acquisition in a genuine connection between the individual and the society in question. [23] Linking citizenship to a person's ties to society allows it to be understood as a mixed question of fact and law. At its core, the argument rests on the idea that individuals who are permanently present in and contribute to a society should not remain excluded from its political community. This claim becomes especially salient in a world defined by territorial states, where citizenship remains the principal gateway to full participation and equal rights, and where state sovereignty continues to determine the boundaries of inclusion—boundaries that are increasingly contested in today's rapidly changing global context. That said, this thesis does not advocate for an unconditional or automatic right to citizenship for everyone present within a state's territory. Rather, it works within the tension between inclusion and boundary-setting, acknowledging that liberal democracies must navigate the demands of pluralism, inclusion, and sovereignty alike, as outlined in the introduction.

Belonging, in this sense, offers a broader conceptual scope than citizenship alone. While citizenship is often understood as a legal status tied to nationality, belonging encompasses a richer set of dimensions that includes not only formal membership but also social recognition, emotional attachment, political participation, and identity-based affiliation. As such, it speaks to the lived experience of inclusion or exclusion within a community. One may formally hold citizenship and yet be excluded from full

[22] Barbara von Rütte, The Human Right to Citizenship (Brill Nijhoff 2022) 330
[23] See Shachar (n 12)

participation due to racial, ethnic, or socioeconomic marginalization. Conversely, a long-term resident who contributes to the social, economic, and cultural life of a polity may feel—and be perceived as—fully part of the community, while remaining legally excluded. Thus, foregrounding belonging enables a shift in focus beyond contemporary positive law on citizenship and helps reveal the disconnect between legal categorization and actual membership. Moreover, framing the inquiry around the right to belong creates space to engage core debates in democratic theory: Who constitutes the demos? Who gets to decide on its boundaries? And what forms of exclusion, if any, can be normatively justified? These questions will be explored in greater detail through the case of Switzerland and its current naturalization regime—its status quo and contestations.

The *right to belong*, then, offers a lens through which to re-evaluate citizenship not merely as a legal status but as a normative construct that shapes access to rights, recognition, and participation. It creates space to imagine more inclusive and responsive forms of political community—forms that reflect contemporary demographic realities as well as the realities of the individuals mostly affected, uphold the democratic values they claim to embody, and ultimately reinforce the credibility of the original intent behind the creation of the human rights regime.

Methodology

This thesis is grounded in a qualitative literature review. It does not rely on empirical data collection or fieldwork, but instead draws on an extensive and interdisciplinary body of existing scholarship. The research engages with contributions from legal studies, political theory, philosophy, ethics, and sociology to explore the contested dimensions of citizenship and belonging in liberal democratic states.

Central to the inquiry is a normative and conceptual analysis of citizenship—both as legal status and as a moral and political claim. This analysis is guided by the work of scholars such as Hannah Arendt, Joseph Carens, Ayelet Shachar, and Seyla Benhabib, whose theoretical frameworks interrogate the alignment between social membership, political participation, and legal inclusion. Their writings inform the thesis's central

claim that long-term residents, by virtue of their durable ties and embeddedness in the host society, hold a legitimate claim to formal membership.

The thesis also incorporates doctrinal legal research. It examines international, regional, and domestic legal frameworks relevant to nationality and citizenship, including human rights conventions, customary international law, general principles, and soft law. Jurisprudence from international and regional courts, including select case law and Swiss legislation, is analyzed to examine the evolving legal standards and constraints surrounding citizenship law.

The legal analysis has been particularly informed by the work of Barbara von Rütte. Her 2022 monograph, *The Human Right to Citizenship*, has been a valuable resource in identifying, conceptualizing, and situating the right to nationality within the broader human rights framework. Many arguments and insights in this thesis have been developed through, and are frequently cited with reference to, her scholarship.

In addition to legal sources and academic literature, the thesis also consults qualitative studies, official reports, policy papers, and statistical data produced by academic institutions, governments, and civil society organizations. In particular, it draws on data and research generated by the *nccr – on the move*, Switzerland's National Center of Competence in Research for migration and mobility studies. Bringing together scholars from the social sciences, economics, and law, the NCCR provides detailed, interdisciplinary analyses of migration and citizenship in the Swiss context, offering valuable empirical insights for the legal and normative questions examined in this thesis.

***Disclaimer**:*
Translations from German, French, and Italian were conducted with the assistance of DeepL Translate.
Language refinement was supported by DeepL Write and Grammarly.
OpenAI's ChatGPT was used as a supplementary tool for searching academic sources and drafting the thesis title.

2. Conceptualizing Belonging through Citizenship

Theoretical conceptualizations include various dimensions of citizenship, which predominantly encompass citizenship as legal status and rights, citizenship as identity or belonging, and citizenship as political activity. While analytically distinct, these dimensions frequently overlap and prove mutually reinforcing in practice.[24] This chapter outlines the broader normative and conceptual framework within which citizenship is situated, drawing on legal, sociopolitical, and philosophical perspectives. It considers four principal dimensions: citizenship as legal status, as identity and belonging, as political participation, and as a moral claim. Reflecting its foundational role in structuring membership in a political community, the chapter begins with the legal dimension of citizenship before turning to its affective, participatory, and normative aspects. This conceptual groundwork provides the foundation for the more context-specific analysis that follows—access to citizenship in Switzerland.

2.1 Citizenship as Legal Status

Yves Déloye has described citizenship as a "legally codified status of belonging"[25]—a notion that resonates with the legal dimension of inclusion at the heart of this thesis. As a status governed by public law, citizenship formalizes membership in a political community and functions as a primary gateway to access specific rights. Indeed, it is the legal mechanism through which belonging is institutionalized.

This section explores citizenship as legal status along two analytical strands. First, it considers citizenship as membership: a legally defined relationship between the individual and the state that delineates who counts as part of the community and who does not. Second, it examines the normative and legal frameworks that provide a roof for the right to nationality under which citizenship operates. The tension between the originally inclusive logic of human rights and the seemingly exclusionary logic of citizenship thus remains central to understanding the role of law in structuring belonging.

[24] von Rütte (22) 22
[25] Yves Déloye, 'La citoyenneté entre devoir et engagement politique' in Olivier Beaud and François Saint-Bonnet (eds), *La citoyenneté comme appartenance au corps politique* (LGDJ 2020) 28

2.1.1 Citizenship as Membership and Access to Rights

Thomas Marshall, who significantly shaped today's understanding of citizenship, defined it as "a legal status bestowed on those who are *full* members of a community" and emphasized equality among those who hold this status with regard to the accompanying rights and obligations[26]. The rights and obligations tied to the status of full membership and the basis for the status, i.e. the conditions for acquisition and loss of citizenship, have traditionally been shaped and regulated by national laws and policies. As citizenship determines who may enter and remain in a state, who belongs to the state's population, and ultimately, who constitutes the *demos* that shapes the state's body politic and for whom the state bears responsibility in the international arena, it is equally central to both states and individuals. In a time marked by intensified global migration, this latter function has become an increasingly relevant aspect of migration governance. Citizenship operates as the legal mechanism through which individuals are allocated to a specific state, and as such governs both the external relationship between states and, internally, the relationship between the individual and their state of nationality. Thus, citizenship is generally understood and applied in relation to the nation-state, which remains the principal framework for conferring legal status and political participation. However, there are also accounts of citizenship that go beyond the traditional state-centric focus. Socrates' introductory quote exemplifies the two ways in which the question of who a citizen is is usually answered. Some view citizenship as a universal concept – aspired to at the local, regional, global, or supranational level, or even entirely detached from territory – that should ultimately include everyone. Others, however, approach citizenship from its margins, emphasizing the exclusionary mechanisms it entails. As a concept, citizenship always implies both the inclusion of those who belong (citizens) and the exclusion of those who do not (non-citizens). [27]

It is precisely this boundary — between inclusion and exclusion — that renders citizenship so consequential. As Matthew Gibney points out, citizenship operates in most countries as a kind of "passport" to vital social, economic, and political goods that

[26] Thomas H Marshall *Citizenship and Social Class* (1950), 149 (emphasis added).
[27] Barker (n 15) 238

profoundly affect the well-being of individuals and communities.[28] Thus, these goods underpin citizenship just as much as the notions of identity and belonging, and often become the driving force behind the desire to acquire citizenship and, with it, full equality of status. According to Gibney, they can broadly be understood in terms of three key categories: *privileges*, *voice*, and *security*.[29] *Privileges* refer to access to key elevators of social advancement such as education, state-provided healthcare, housing, and welfare. *Voice*, by contrast, is typically embodied in political rights, including the right to vote, to stand for public office, and to serve on juries.[30] More broadly, it enables individuals to participate in public discourse as full and equal members of society. [31] The good of *security*, in turn, manifests most evidently in the unique protection that citizenship affords: unlike non-citizens, citizens generally enjoy a unique level of security of residence in the state that typically shields them from deportation or expulsion, and thus renders their access to other rights and privileges significantly more robust.[32] Additionally, citizens have an *unconditional right to enter and remain*, as Elspeth Guild puts it. [33] They may stay, [34] leave, (re)enter the state at will, and claim diplomatic protection when abroad. [35] Non-citizens, however, can be denied entry into the territory and may even face expulsion. They are subject to a state's exclusionary power and thus "remain subject to potential removal", as Bosniak poignantly observes. [36] It is that exclusionary power and the lack of territorial security that remain among the primary reasons why access to (and retention of) citizenship continues to be of such importance. [37]

[28] Matthew J. Gibney, 'Statelessness and Citizenship' in Alice Edwards and Laura van Waas (eds), *Nationality and Statelessness under International Law* (Cambridge University Press 2014) 51
[29] *ibid*
[30] *ibid*
[31] Rogers M. Smith, 'Modern Citizenship' in Engin F. Isin and Bryan S. Turner (eds), *Handbook of Citizenship Studies* (Sage 2002) 105 (emphasis added)
[32] Gibney (n 28) 51
[33] Elspeth Guild, *The Legal Elements of European Identity: EU Citizenship and Migration Law* (Kluwer Law International 2004) 8
[34] von Rütte (n 22) 38
[35] Gibney (n 28) 51
[36] Linda Bosniak, 'Status Non- Citizens' in Ayelet Shachar and others (eds), *The Oxford Handbook of Citizenship* (Oxford University Press 2017) 327
[37] von Rütte (n 22) 39

2.1.1.1 Acquisition of Citizenship Status

How, then, is citizenship acquired? As mentioned, the attribution of citizenship – including its retention or loss – is regulated at the national level. It is typically acquired at birth, either by descent (*jus sanguinis*) or by place of birth (*jus soli*). While both systems provide for the automatic acquisition of citizenship at birth, many states in practice apply a combination of the two – granting citizenship to children of citizens and, in some cases under specific conditions, to those born on the territory. International law does not mandate either system, but some argue that human rights instruments implicitly favor *jus soli* due to its more inclusive character. While *jus sanguinis* has been criticized for reinforcing exclusion and privileging ethnic ties, *jus soli* is viewed as more egalitarian. However, both systems fail to include to include those who migrate at a young age and grow up without access to citizenship, the so-called 1.5 generation[38]. Beyond acquisition at birth through *jus soli* or *jus sanguinis*, citizenship may also be obtained after birth—most notably through naturalization based on legal length of residence, marriage, historical ties, or significant financial investment in the country. [39] In public and political discourse shaped by the logic of the current international state-based system, citizenship is often portrayed as the ultimate marker of inclusion. Indeed, interest in naturalization frequently mirrors the value the host society attaches to citizenship as an emblem of inclusion, [40] while also reflecting the meaning attributed to it by individuals and their communities.[41] A powerful symbol of national membership on the one hand, citizenship, as discussed previously, also typically serves as a legal entitlement to country-specific rights and resources. Many scholars have analyzed the acquisition of citizenship through such an instrumental lens, understanding the intention to naturalize as a dependent variable shaped by factors such as legal—and thus territorial—security, visa-free mobility, the costs and complexity of naturalization

[38] For the term "1.5 Generation" see also Rubén G. Rumbaut, 'Ages, Life Stages, and Generational Cohorts Decomposing the Immigrant First and Second Generations in the United States' (2004) 38 *International Migration Review*

[39] Global Citizenship Observatory, 'GLOBALCIT Citizenship Law Dataset – Modes of Acquisition of Citizenship' (Globalcit, 2024) <https://globalcit.eu/modes-acquisition-citizenship> accessed 2 July 2025.

[40] See Kristina B. Simonsen, 'Does Citizenship Always Further Immigrants' Feeling of Belonging to the Host Nation? A Study of Policies and Public Attitudes in 14 Western Democracies' (2017) 5(1) *Comparative Migration Studies* 3

[41] See Elisa Barbiano di Belgiojoso and Livia E Ortensi, 'Who Wants to Become Italian? A Study of Interest in Naturalisation among Foreign Migrants in Italy' (2022) 38(5) *European Journal of Population* 1095–1118

procedures, and the extent to which policies facilitate or obstruct access to citizenship—all factors that affect an individual's decision to seek naturalization.[42] Then, unlike citizenship acquired by operation of law, naturalization requires a formal application and is granted at the discretion of state authorities. While some countries provide a legal entitlement to naturalization, it is more commonly a discretionary process, subject to a range of criteria. These typically include a minimum period of residence, a regular immigration status, language proficiency, civic knowledge, social integration, a clean criminal record, and economic self-sufficiency. In some cases, applicants must also demonstrate loyalty or alignment with certain national values[43]. In practice, both the substantive conditions and procedural hurdles – such as administrative complexity, high fees, and broad official discretion – create significant barriers to naturalization. The criteria for acquiring citizenship, as well as the methods used to assess them, have generally drawn strong criticism from some scholars for being unjust and potentially discriminatory, and they continue to be the subject of ongoing debate.[44] As von Rütte has pointed out, when discussing the different modes of attributing citizenship, it is important to recall that these are politically constructed and enforced by law, as are the requirements for naturalization. The very notion of citizenship is equally relative and subject to change, as it reflects evolving ideas and ideals of community, subjective and collective perceptions of identity and political self-determination, and the continuous negotiation of who belongs.[45]

2.1.2 Citizenship as (Human) Right

As legal status mediating the relationship between individuals and the nation-state, citizenship is often depicted and discussed as a primarily national prerogative. In fact, citizenship is embedded in a multi-layered legal architecture that spans domestic, regional, and universal frameworks. These overlapping regimes constrain and shape

[42] See Simon R Birkvad, 'Immigrant Meanings of Citizenship: Mobility, Stability, and Recognition' (2019) 23(8) *Citizenship Studies* 798–814; see also Antje Ellermann, 'Discrimination in Migration and Citizenship' (2020) 46(12) *Journal of Ethnic and Migration Studies* 2463–2479
[43] Gerard-René de Groot and Olivier Vonk, *International Standards on Nationality Law: Texts, Cases and Materials* (Wolf Legal Publishers 2016) 60 f.
[44] Joseph Carens, *The Ethics of Immigration* (Oxford University Press 2013) 53 ff.
[45] von Rütte (n 22) 26

states' discretion in determining who may acquire, retain, or be deprived of nationality and thus, heavily influence domestic regulations.

This section explores how the right to nationality is protected—directly or indirectly—under international and regional human rights law with a focus on accessibility for non-citizens. First, it outlines the erosion of the traditional *domaine réservé*, then examines relevant instruments adopted at the universal (UN) and regional (European) levels. While not exhaustive, this section focuses on the most relevant provisions for understanding the normative and legal framework applicable to the subject matter of this thesis.

2.1.2.1 Domaine Réservé and the Limits of State Sovereignty in Nationality Matters

The modern concept of state sovereignty in international law is often traced back to the Peace of Westphalia (1648), which established a system of territorially bounded, formally equal, and politically independent states. Since then, sovereignty has remained a central—albeit contested—concept in the legal and political understanding of statehood. Commonly defined as a state's supreme authority within a given territory and its capacity to act independently both internally and externally, sovereignty is traditionally associated with legal supremacy: no external actor should interfere with a state's domestic affairs.[46] Yet sovereignty in international law is neither absolute nor static. As states enter into treaties and accept obligations under international law, their discretion becomes increasingly shaped—and at times constrained—by international norms. [47] Legal scholars have long recognized this development. Sovereignty is no longer conceptualized as unbounded discretion but as legal authority exercised within and defined by the broader framework of international law. [48] Sovereignty is thus both relative, depending on the scope of applicable norms, and dynamic, evolving in response to legal and normative change. [49] The internal dimension of sovereignty is often captured by the doctrine of *domaine réservé*, referring to those areas deemed to

[46] Sandra Mantu, *Contingent Citizenship: The Law and Practice of Citizenship Deprivation in International, European and National Perspectives* (Brill Nijhoff 2015) 11, 25
[47] von Rütte (n 22) 63
[48] Christian Hillgruber, 'Souveränität — Verteidigung eines Rechtsbegriffs' (2002) 57 *JuristenZeitung* 1072, 1074 f.
[49] Catherine Dauvergne, 'Challenges to Sovereignty: Migration Laws for the 21st Century' (2003) UNHCR Working Paper No. 92 3 <https://www.unhcr.org/sites/default/files/legacy-pdf/3f2f69e74.pdf>

fall exclusively within a state's domestic jurisdiction and therefore shielded from international scrutiny. Nationality—or citizenship—has long been considered one such domain.

Historically, states have been reluctant to accept binding international regulation in nationality matters. This resistance is primarily grounded in the belief that nationality strikes at the very core of statehood and collective self-determination. Decisions about who belongs to the permanent population, who may reside, and who may participate in political life bear far-reaching implications for national identity. Liberal nationalist theory reinforces this view, arguing that defining the terms of membership is central to the political community's self-understanding. Accordingly, many claim that the regulation of nationality should lie solely within the competence of states, beyond the reach of international law. [50] This position was codified in Article 1 of the 1930 Hague Convention, which declares: "Each State shall determine under its own law who are its nationals." Jurisdiction and legal doctrine likewise often frames nationality as part of the state's sovereign prerogative.

Yet, as Barbara von Rütte and others have rightly pointed out, this understanding cannot be maintained in absolute terms. The scope of a state's *domaine réservé* is not defined by the state itself, but by international law. As Juss sharply notes, a matter falls within domestic jurisdiction only "because international law allows it to." [51] In other words, state sovereignty does not imply immunity from international obligations; it is exercised within their bounds. This is especially apparent in nationality law. Since the emergence of international human rights frameworks in the mid-20th century, international law has progressively narrowed the space of unregulated domestic discretion. Domains once considered exclusively sovereign—such as the treatment of non-citizens, the prevention of statelessness, and certain aspects of migration—are now subject to international oversight. Consequently, state authority has contracted while the rights of individuals have received greater international recognition. [52]

[50] Von Rütte (n 22) 70-71
[51] Satvinder S Juss, 'Nationality Law, Sovereignty, and the Doctrine of Exclusive Domestic Jurisdiction' (1994) 9 *Florida Journal of International Law* 219, 229 f.
[52] von Rütte (n 22) 65

Moreover, the idea that nationality is a purely internal status becomes difficult to sustain given its external implications. Nationality defines an individual's legal standing not only vis-à-vis their own state but also in relation to other states and international institutions. This is most clearly illustrated in the context of diplomatic protection[53], which presupposes a "genuine link" between the individual and the state, as emphasized by the ICJ in *Nottebohm*.[54] The same holds true in fields such as migration governance, statelessness, and refugee protection. Here, nationality acts as a gatekeeping mechanism—defining who qualifies as a national and who does not, with direct consequences for access to territory and legal status.[55] In this context, a crucial distinction must be made between the legislative authority of states to regulate the acquisition and loss of nationality, and the question of whether nationality as such lies outside the reach of international law. While states retain competence to legislate, they are increasingly bound by human rights obligations to ensure that nationality laws do not result in discrimination, arbitrariness, or statelessness. [56] These obligations do not replace domestic law but rather operate as normative constraints—especially where individual rights are at stake.

In light of the preceding review, the evolution of the international legal framework on nationality reflects a broader transformation that renders the doctrine of *domaine réservé* increasingly difficult to sustain in its absolute form. As Barbara von Rütte argues, the assumption that nationality regulation lies solely within the sovereign domain of states is increasingly untenable.[57] Over the course of the 20th and 21st centuries, international law has progressively carved out limitations on state discretion in nationality matters, introducing legal boundaries where none previously existed or where they were overlooked. This shift is evidenced by a growing number of bilateral and multilateral instruments that directly or indirectly address questions of nationality, statelessness, and citizenship rights, thereby contributing to a fragmented yet expanding body of international citizenship law. [58] What emerges is a legal field not governed by a

[53] *Panevezys-Saldutiskis Railway (Estonia v Lithuania)* [1939] PCIJ Series A./ B. No. 76 para 65
[54] *Nottebohm (Liechtenstein v Guatemala) [1955] ICJ Reports 1955, p. 4 23*
[55] von Rütte (n 22) 84
[56] *ibid* 72
[57] von Rütte (n 22) 75
[58] See Mantu (n 46) 26

single, comprehensive treaty, but shaped through the convergence of multiple normative regimes—most notably human rights law, refugee law, and migration governance. As a result, nationality is no longer the exclusive preserve of domestic legislation but is increasingly embedded within a broader international legal order. Most significantly, the locus of international concern has shifted: from inter-state coordination aimed at conflict avoidance toward the recognition of the individual as a rights-holder. Under the growing influence of human rights law, international citizenship law is beginning to move beyond a model of order management to one that affirms positive obligations on states. This normative evolution underscores an important shift: that access to nationality—and with it, legal personhood and belonging—is no longer governed solely by sovereign discretion, but increasingly by principles of legality, equality, and human dignity.[59] In this sense, the right to nationality is no longer merely a sovereign prerogative; it is emerging as a legal entitlement under international law. [60] Accordingly, while the authority to determine membership remains a central feature of statehood, it can no longer be understood as unbounded. State sovereignty in nationality matters must instead be seen as relative and dynamic—continually shaped and constrained by the evolving normative framework of international law, and most notably, by the deepening reach of international human rights standards. [61]

2.1.2.2 The International Human Rights Instruments on Nationality Matters

Article 15 Universal Declaration of Human Rights

At the international level, the human rights framework provides several entry points for assessing the legal significance of citizenship and the implications of its denial. While no single treaty enshrines a comprehensive right to citizenship, key provisions across core human rights instruments articulate rights that intersect with nationality, legal identity, and non-discrimination. As Article 15 of the *Universal Declaration of Human Rights* (UDHR, 1948) formed the basis for all subsequent codifications of the right to nationality in international law, it is the foundation for any analysis of the right to citizenship. Article 15 of the UDHR states that:

[59] von Rütte (n 22) 76 ff.
[60] *ibid* 85
[61] *ibid* 73

1. "Everyone has the right to a nationality."
2. "No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality."

As Barbara von Rütte notes, the use of the terms "everyone" and "no one" in Article 15 of the Universal Declaration of Human Rights (UDHR) clearly affirms its universal scope: the provision applies to all individuals, regardless of whether they currently possess a nationality, are stateless, or hold a specific nationality. [62] While some interpretations suggest that Article 15(1) confers a right to nationality only upon stateless persons and excludes those who are already nationals, such a reading is not supported by the actual wording of the article. Rather, Article 15 must also be understood in light of related provisions, particularly Articles 13 and 14 UDHR, which enshrine the rights to freedom of movement and to seek asylum. [63] Paragraph 1 of Article 15 proclaims that "everyone has the right to a nationality," thereby implying that no one should be left without a nationality and that all individuals must have an effective opportunity to acquire one. [64] Whether this provision entails a right to a specific nationality, or to nationalities, however, remains disputed. While Article 15(2) permits deprivation of nationality provided it is not arbitrary, the text itself does not define when such deprivation is to be considered arbitrary. [65] During the drafting process, the prevailing view was that arbitrariness encompasses cases where nationality is withdrawn without a legal basis or in a manner deemed fundamentally unjust. As such, both procedural and substantive guarantees are required to meet the standard of non-arbitrariness.[66] Although the guarantees in paragraph 2 are relatively concrete, the right to a nationality in paragraph 1 remains vague and underdeveloped. [67] As Emmanuel Decaux has pointed out, this lack of specificity reflects a broader weakness within international legal provisions on nationality as they often fail to address the underlying structural issues related to statelessness and exclusion. [68]

[62] von Rütte (n 22) 94 f.
[63] von Rütte (n 22) 95
[64] Yaffa Zilbershats, *The Human Right to Citizenship* (Transnational Publishers 2002) 15
[65] von Rütte (n 22) 95
[66] Zilbershats (n 64) 16
[67] von Rütte (n 22) 96
[68] Emmanuel Decaux, 'Le droit à une nationalité, en tant que droit de l'homme' (2011) *22 Revue trimestrielle des droits de l'homme* 237, 241

Although by definition not legally binding as a provision of primary source law, Article 15 UDHR holds significant normative weight as a foundational principle in international law and has been repeatedly invoked in the development of subsequent treaty law and jurisprudence. An increasing number of scholars argue that Article 15 serves as the basis for a customary international right to a nationality, and has further found support in national court decisions.[69] While the question of whether Article 15 UDHR has definitively acquired the status of customary international law remains subject to ongoing debate, the prevailing view among legal scholars is that it has, or is at least in the process of becoming, a binding norm of customary international law. [70]

The Right to Nationality

At the universal level, the rights enshrined in the UDHR have been incorporated into the nine core international human rights treaties adopted by the United Nations. Among these, six explicitly or implicitly affirm the right to nationality. These instruments recognize various dimensions of nationality, particularly in relation to the prevention of statelessness, the protection of children's rights, and the elimination of discrimination based on gender or ethnicity. This international legal architecture is further complemented by the two Conventions which impose specific obligations on states to protect stateless persons and promote the reduction of statelessness through access to nationality, including via naturalization. The foundational principles articulated in the UDHR find their most comprehensive legal expression in the *International Covenant on Civil and Political Rights* (ICCPR) and its companion treaty, the *International Covenant on Economic, Social and Cultural Rights* (ICESCR), which together form the normative backbone of the modern international human rights framework. As von Rütte observes, while the ICCPR transposes many of the civil and political rights proclaimed in the UDHR into binding treaty law, it notably omits Article 15 UDHR—the right to a nationality—which remains without a direct counterpart in this central covenant.[71]

[69] See Hurst Hannum, 'The Status of the Universal Declaration of Human Rights in National and International Law iii: The Status and Future of the Customary International Law of Human Rights' (1995) 25 *Georgia Journal of International and Comparative Law* 332, 340
[70] Kay Hailbronner, 'Der Staat und der Einzelne als Völkerrechtssubjekte' in Wolfgang Graf Vitzthum (ed), *Völkerrecht* (4. Aufl., De Gruyter 2007), para 201 ff
[71] von Rütte (n 22) 102

Article 24(3) of the ICCPR affirms that "every child has the right to acquire a nationality" and was introduced to protect children from statelessness and provide them with an additional layer of protection.[72] Von Rütte notes, that the use of the term "acquire" has been interpreted as a deliberate move by states to retain their sovereignty, thereby signalling a more limited obligation, in von Rütte's own words, a "right to nationality light".[73] In this reading, the wording of the provision leaves room for states to determine the criteria and modalities under which children may obtain nationality, including the discretion to develop domestic laws that fulfil this right as they see fit.[74] Others challenge this restrictive reading, arguing, arguing that the right to acquire nationality entails more than a formal or conditional possibility. On this reading, Article 24(3) requires states to establish accessible and effective avenues for children to obtain nationality—whether by descent or naturalization—when they would otherwise be excluded from such status).[75] A central ambiguity of Article 24(3), however, lies in its omittance on which state bears the responsibility for ensuring this right, and through what means.[76] A systematic reading in conjunction with Article 24(2) ICCPR—requiring the registration of all children born within a state's territory—suggests that Article 24(3) may likewise apply to all children born in the territory.[77] This interpretation aligns with the Human Rights Committee's position that Article 24(3) does not confer a right to a nationality of one's choosing, but rather to one grounded in a *genuine connection* to the *state of birth*.[78] Nevertheless, the Committee has also clarified that the provision does not necessarily oblige states to grant nationality to every child born on their territory.[79]

The *Convention on the Rights of the Child* (CRC) further reinforces the child's right to nationality through Articles 7 and 8. Article 7(1) affirms that every child shall be registered immediately after birth and shall have the right to acquire a nationality, while

[72] Human Rights Committee, 'General Comment No. 17: Article 24 (Rights of the Child)' (HRCttee 1989) UN Doc. CCPR/ C/ 21/ Rev.1/ Add.9 para 2
[73] von Rütte (n 22) 103
[74] Decaux (n 68) 245
[75] Manfred Nowak, *U.N. Covenant on Civil and Political Rights: CCPR Commentary* (2nd ed, NP Engel 2005) 561
[76] *ibid*
[77] HRCttee, 'GC Comment No. 17' (n 53) para 7; see also Nowak (n 56) 561
[78] HRCttee, 'GC No. 17' (n 53) para 8 (emphasis added)
[79] HRCttee, 'GC No. 17' (n 53) para 8

Article 8 safeguards the child's right to preserve their identity, including their nationality. Once again, despite these guarantees, the precise addressee of the right and the scope of state obligations remain ambiguous.[80] The prevailing interpretation holds that Article 7 does not create a general obligation for states to confer their nationality on all children born within their territory but an obligation for states to take proactive measures to ensure that children can exercise their right to a nationality, as von Rütte observes. In its case law, the Committee on the Rights of the Child has emphasized a broader understanding of state responsibility. In *A.M. v. Switzerland*, it held that the obligation under Article 7 extends not only to the child's state of birth but to all states with which the child maintains a sufficient link, whether through descent, residence, or other connections.[81] Furthermore, von Rütte notes, when interpreted in conjunction with Article 2(1) CRC, Article 7 requires that nationality laws be applied without discrimination, obliging states to implement nationality frameworks in a manner that is substantively equal and inclusive.[82] Any such interpretation must also consider Article 3 CRC, which mandates that the child's best interests serve as a primary consideration in the interpretation of Article 2 CRC.[83] Article 8 CRC reinforces and expands this protection by requiring states to respect the child's right to preserve their identity. While the Convention does not explicitly define identity, it identifies nationality, name, and family relations as core components thereof.[84] Scholars have argued that this provision creates obligations for states to register these elements, ensure children's access to relevant documentation, and protect against arbitrary deprivation of its identity, including nationality. In this respect, von Rütte concludes that Article 8 CRC clearly offers stronger and more comprehensive safeguards than Article 24(3) ICCPR.[85]

[80] Peter Rodrigues and Jill Stein, 'The Prevention of Child Statelessness at Birth: A Multilevel Perspective' in Ton Liefaard and Julia Sloth- Nielsen (eds), *The United Nations Convention on the Rights of the Child: Taking stock after 25 years and looking ahead* (Brill Nijhoff 2017) 397
[81] *A.M. (on behalf of M.K.A.H.) v Switzerland, Communication No 95/ 2019* [2021] CtteeRC UN Doc. CRC/ C/ 88/ D/ 95/ 2019 para 10.1; see also Gerard- René de Groot, 'Children, Their Right to a Nationality and Child Statelessness' in Alice Edwards and Laura van Waas (eds), *Nationality and Statelessness under International Law* (Cambridge University Press 2014) 147.
[82] von Rütte (n 22) 110
[83] Committee on the Rights of the Child, 'Concluding Observations on the Initial Report of Myanmar' (CtteeRC 1997) UN Doc. CRC/ C/ 15/ Add.69 para 14
[84] Stefanie Schmahl, *Kinderrechtskonvention: mit Zusatzprotokollen* (2. Aufl., Nomos 2017) 135
[85] von Rütte (n 22) 111

Article 29 of the *International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (CMW) offers additional protection of the child's right to a nationality. Unlike Article 24(3) ICCPR or Article 7 CRC, it does not refer to the *acquisition* of nationality, but instead affirms in unequivocal terms that "each child of a migrant worker shall have the right […] to a nationality". This provision has been interpreted as imposing a positive obligation on state parties to take all appropriate measures to prevent children from being left stateless.[86] The Committee on the Protection of the Rights of All Migrant Workers and Members of their Families has repeatedly underscored the relevance of Article 29 in safeguarding migrant children's access to nationality and citizenship, emphasizing that such rights must be secured irrespective of the parents' legal situation.[87] In this context, naturalization procedures should be designed to be accessible and efficient, allowing children to obtain nationality within a reasonable timeframe.[88] The CMW further reinforces the principle of non-discrimination by requiring that laws governing the acquisition or transmission of nationality be applied equally to all children, including those of migrant workers.[89]

The 1965 *International Convention on the Elimination of All Forms of Racial Discrimination* (CERD) addresses nationality primarily from a non-discrimination perspective, though it leaves considerable room for state discretion. On the one hand, the Convention protects individuals from discrimination based on nationality and recognizes the right to a nationality. On the other, Article 1(2) explicitly excludes from its scope distinctions made between citizens and non-citizens, thereby permitting preferential treatment of nationals in domestic legislation.[90] Article 1(3) further affirms that the Convention does not limit the authority of states to regulate matters of nationality, citizenship, or naturalization—a provision that some scholars as reflecting

[86] Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, 'General Comment No. 1 (2011) on Migrant Domestic Workers' (CtteeMW 2011) UN Doc. CMW/ C/ GC/ 1 para 58
[87] Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, 'Concluding Observations on the Initial Report of Timor- Leste' (CtteeMW 2015) UN Doc. CMW/ C/ TLS/ co/ 1 para 39
[88] Committee on the Protection of the Rights of All Migrant Workers and Members of their Families, 'Concluding Observations on the Combined Second and Third Periodic Reports of Senegal' (CtteeMW 2016) UN Doc. CMW/ C/ SEN/ CO/ 2-3 para 22 f.
[89] Von Rütte (n 20) 113
[90] See Michelle Foster and Timnah Rachel Baker, 'Racial Discrimination in Nationality Laws: A Doctrinal Blind Spot of International Law?' (2021) 11 *Columbia Journal of Race and Law* 83

the continued discretion afforded to states in nationality matters.[91] Nonetheless, this discretion is not unlimited: while differential treatment per se is not prohibited, discrimination against a specific nationality in nationality, citizenship or naturalization matters.[92]

According to Ion Diaconu, the reference to 'nationality' in Article 1(3) must also be understood as encompassing ethnic origin, thereby extending anti-discrimination safeguards to all aspects of citizenship law—including acquisition, retention, and loss of nationality.[93] Under Article 5(d)(iii), CERD prohibits racial or ethnic discrimination in both access to nationality and deprivation of citizenship.[94] As noted by the Committee on the Elimination of Racial Discrimination, the denial of citizenship to long-term or permanent residents may result in significant disadvantages—particularly in access to employment and social benefits—and, in certain cases, may amount to discrimination.[95] Thus, while CERD recognizes the state's authority in nationality matters, it simultaneously obliges states to eliminate discriminatory barriers that impede equal access to citizenship.[96]

Protection of the right to nationality is also embedded in other core UN treaties, notably the *Convention on the Elimination of All Forms of Discrimination against Women* (CEDAW) and the *Convention on the Rights of Persons with Disabilities* (CRPD), both of which reinforce the principle of non-discrimination in nationality matters. Additional safeguards are provided by the 1954 and 1961 *Convention on the Reduction of Statelessness*[97] and the 1951 *Refugee Convention*, which impose specific obligations on states aimed at the protection of stateless persons and the reduction of statelessness through naturalization, thus contributing to further developing the right to nationality.

[91] Foster and Baker (n 90) 103
[92] Foster and Baker (n 90) 104
[93] Ion Diaconu, *Racial Discrimination* (Eleven International Publishing 2011) 166
[94] Committee on the Elimination of Racial Discrimination, 'General Recommendation No. xxx on Discrimination Against Non- Citizens' (CtteeERD 2002) para 14
[95] Committee on the Elimination of Racial Discrimination, General Recommendation No. xxx (n 94) para 15
[96] *ibid*
[97] Note that Switzerland is not party to the Convention on the Reduction of Statelessness.

2.1.2.3 The European Human Rights Instruments on Nationality Matters

The *European Convention on Nationality* (ECN) represents the most comprehensive regional instrument on nationality to date, yet its practical impact remains limited due to the relatively low number of ratifications (currently 21).[98] Article 4(a) ECN affirms the right to a nationality as a human right and obliges member states to enshrine this principle in their domestic legal orders. Article 6 further details positive obligations concerning the acquisition of nationality. Under paragraph 1, states must grant nationality *ex lege* to children on the basis of descent, while paragraph 3 mandates that naturalization be made available to all persons lawfully and habitually resident, setting a maximum residence requirement of ten years. As von Rütte highlights, this provision is notable not only for requiring the legal availability of naturalization in domestic legislation, but also for constraining the substantive conditions attached to it.[99] If lawful and habitual residence is enough to naturalize, she states, it implicitly amounts to a right to naturalization.[100] Beyond general access, paragraph 4 requires states to offer facilitated naturalization to specific groups, including spouses, children, second-generation migrants, stateless persons, and refugees. Such facilitation may take the form of facilitated procedures, favorable conditions, or reduced requirements.[101] The ECN also restricts states' discretion in matters of deprivation of nationality: Article 7 sets out an exhaustive list of permissible grounds, thereby limiting arbitrary withdrawal. While the Convention's pragmatic approach has contributed to its broader international recognition, it suffers from a significant structural weakness—namely, the absence of a supervisory mechanism to ensure implementation and compliance at the domestic level. Nevertheless, the ECN's normative commitment to the integration of long-settled migrants into the citizenry through accessible, rights-based naturalization pathways.[102]

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[98] Council of Europe, *Chart of signatures and ratifications of Treaty 166 – European Convention on Nationality* <https://www.coe.int/en/web/Conventions/full-list?module=signatures-by-treaty&treatynum=166> accessed 9 July 2025; Note that Switzeralnd is not party to the European Convention on Nationality (ECN).
[99] von Rütte (n 22) 160
[100] *ibid*
[101] Council of Europe, 'Explanatory Report to the European Convention on Nationality' (Council of Europe 1997) para 52
[102] von Rütte (n 22) 162

Despite its substantive guarantees, the *European Convention on Human Rights (ECHR)* does not explicitly enshrine a right to nationality among them. This exclusion reflects the reluctance of states to grant the ECtHR jurisdiction over nationality matters, on the one hand, and serves as an explanation for the Council of Europe's parallel development of the European Convention on Nationality as a separate instrument.[103] Nonetheless, the ECtHR has addressed nationality-related issues under other provisions and has progressively integrated elements of nationality into its jurisprudence, primarily through the interpretation of Article 8 ECHR; the right to respect for private life. In *Genovese v. Malta*, the Court recognized for the first time that nationality forms part of an individual's social identity and is thus protected under Article 8:

> "[T] he denial of citizenship may raise an issue under Article 8 [ECHR] because of its impact on the private life of an individual, which concept is wide enough to embrace aspects of a person's social identity.[104]

Building on the jurisprudence initiated in *Genovese*, the Court gradually extended its approach to the acquisition and loss of nationality in a series of subsequent rulings, as von Rütte points out.[105] Central to this evolving line of case law is the concept of a non-citizen's social identity, understood as the web of personal, social, and familial ties formed through long-term residence, integration into society, or close family links in the host state.[106] As such, it has emerged as a key dimension of the Court's interpretation of private life in migration-related cases—from the question of removal of settled migrants, particularly second-generation migrants, to the regularization of stay, and to the right to citizenship. According to von Rütte, this case law reflects the ECtHR's "implicit recognition of a right to remain, a right to a legal status and a right to citizenship for non-citizens on the basis of their center of life"[107] —thereby reinforcing the normative significance of legal status and belonging under Article 8 ECHR.

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[103] von Rütte (n 22) 163
[104] *Genovese v Malta* [2011] ECtHR Application No. 53124/ 09 para 33. Subsequently confirmed in *Ramadan v Malta* [2016] ECtHR Application No. 76136/ 12. As discussed by Barbara von Rütte, the idea of a link between a person's social identity and her citizenship was in fact first brought up in a partly dissenting opinion by Judge Maruste in *Riener v Bulgaria*, European Court of Human Rights, 'Dissenting Opinion Judge Maruste in *Riener v Bulgaria*' (2006) Application No. 46343/ 99.
[105] Barbara von Rütte, 'Social Identity and the Right to Belong – The ECtHR's Judgment in Hoti v Croatia' (2019) 24(2) *Tilburg Law Review* 154
[106] *ibid*
[107] von Rütte (n 105) 152

Although the ECHR does not formally guarantee a right to nationality, the ECtHR has, through its evolving interpretation of private life, effectively carved out a human rights dimension to citizenship.[108]

There are various more instruments at the European level that engage with the right to nationality, explicitly those adopted by the Council of Europe[109]. The *European Convention on Nationality*, in particular, provides a comprehensive codification of principles concerning the acquisition and loss of nationality, and its progressive approach to naturalization procedures represents a valuable normative model for the international regulation of nationality (481). Nonetheless, the Council of Europe framework lacks a directly enforceable general right to nationality. This gap is not filled by the *European Convention on Human Rights*, which omits such a provision. However, the Convention system affords a measure of protection through the evolving jurisprudence of the ECtHR under Article 8 ECHR, which has come to recognize aspects of citizenship as falling within the scope of the right to private life.[110]

2.2 Citizenship as Identity or Belonging

Marshall's definition of citizenship implies that those without legal status cannot be considered *full* members of society. While he assumes that granting institutional rights naturally ensures formal inclusion, subsequent theorists have challenged this view, arguing that formal rights alone do not automatically translate into genuine inclusion, substantial equality or a sense of belonging. Citizenship–as a marker of political and social membership within a given polity–may refer to being a full member of a political community. Yet, as a normative concept, it must clarify the basis on which such membership is constituted. The notion of belonging offers a useful dual lens here, referring both to a subjective sense of attachment and the objective fact of being part of a collective. These two dimensions intersect where socio-political membership is justified by an assumed relationship of mutual attachment among members. Political theory, however, allows for a reversal of this relationship: identification and attachment

[108] von Rütte (n 22) 169
[109] Such as the *Convention on the Reduction of Cases of Multiple Nationality* or the *Convention on the Avoidance of Statelessness in Relation to State Succession.*
[110] von Rütte (n 22) 182

may also emerge as the result of political inclusion. One response to what underpins attachment within a democratic community is the idea of a shared national identity.[111] Nira Yuval-Davis has made significant contributions to debates on collective identities and the politics of belonging–a concept that examines the boundaries of inclusion and exclusion in societies, particularly concerning gender, race, ethnicity, and migration, and focuses on who 'belongs' and who does not, as well as the common grounds used to signify such belonging.[112] She reminds us that people can belong in many different ways and to many different objects of attachment–from a particular person to the whole of humanity, in both concrete and abstract terms. Belonging can be an act of self-identification or identification by others, in a stable, contested, or transient manner. However, "even in its most stable 'primordial' forms, belonging is always a dynamic process, not a reified fixity, which is only a naturalized construction of a particular hegemonic form of power relations." [113] Regardless of the attributes from which it derives, (national) identification thus often reproduces a particularist notion of belonging and community membership, resulting in an identity that is 'internally inclusive' and 'externally exclusive'. [114]

In her work, Yuval-Davis's emphasizes that belonging is not simply about identification, but also about the power-laden processes that define who is allowed to belong and under what conditions. She challenges the assumption that belonging is a fixed or self-evident identity and, in her piece, *Belonging and the politics of belonging* highlights how citizenship regimes often assume a homogeneous national identity, thereby marginalizing those who do not fit neatly into the dominant narrative, particularly migrants, minorities, and women. As a dynamic process, she argues, belonging is constructed on three interrelated analytical levels: *social locations;* individuals' *identifications and emotional attachments* to various collectivities and groupings; and the *ethical and political value systems* with which people judge their own and others' belonging/s.[115] *Social locations* refer to the structural dimension of

[111] Päivi Johanna Neuvonen, 'Transforming Membership? Citizenship, Identity and the Problem of Belonging in Regional Integration Organizations' (2019) 30 *EJIL* 229
[112] Nira Yuval-Davis, 'Belonging and the Politics of Belonging' (2006) *40 Patterns of Prejudice* 20, 199
[113] *ibid* (n 112) 199
[114] Rogers Brubaker, *Citizenship and Nationhood in France and Germany* (Harvard University Press 1992) 21
[115] Yuval-Davis (n 112) 199

belonging as they address the positions individuals occupy within society, such as their gender, ethnicity, class, nationality, religion, age, ability, or migration status. At each historical moment, such categories of social and economic location carry specific implications within the grids of power relations in society, as they differ in nature and occupy distinct positions along a hierarchical axis of power.[116] These positions become significant when they intersect with the *ethical and political values* of individuals or collectives, including prevailing ideologies and discourses. Consequently, belonging, in its normative dimension, is shaped and regulated by ideas such as citizenship, democracy, nationalism, multiculturalism, and human rights which determine which forms of membership or attachment are considered legitimate or desirable. The personal dimension of belonging encompasses both *identifications and emotional attachments* to collectives and groupings that ultimately shape individuals' identities. "Identities are narratives", Yuval-Davis states, "stories people tell themselves and others about who they are (and who they are not)." Although not all of these narratives revolve around belonging to specific collectivities, they often relate–directly or indirectly–to how individuals perceive themselves and are perceived by others as members of particular ethnic, racial, national, cultural, or religious groupings. These identity narratives may be individual or collective, the latter often providing the structure and substance from which the former draw. While they can be transmitted across generations, this transmission is always selective. Identity narratives shift and change, they can be multiple and contested. They may refer to a myth of origin, help make sense of the present, or orient toward a projected future. Yet constructions of belonging are not merely cognitive or discursive. Yuval-Davis draws on Elspeth Probyn, who emphasizes the emotional dimension of belonging–the affective investments that drive people's desire for attachment. Individuals and groups, she argues, are caught in a dynamic of wanting to belong and wanting to become–a process not of arriving at a fixed identity, but of continuously navigating between being and becoming, between belonging and longing to belong.[117] This dual movement is often reflected in identity narratives. Of course, not all belongings matter to people in the same way or to the same extent. Emotions, like perceptions, shift across time and context, and they may be more or less

[116] Yuval-Davis (n 112) 199-200
[117] Elspeth Probyn, Outside Belongings (London: Routledge 1996), 19

consciously experienced. Still, the emotional dimensions of identity tend to become most salient when people feel insecure or when their belonging is put into question.[118]

2.2.1 Conceptualizing Belonging through Naturalization

Studies on citizenship have affirmed that feelings of belonging are closely linked to a sense of security and stability, which operate as both instrumental and more intangible dimensions of belonging.[119] Traditionally, the acquisition of citizenship has been examined in relation to processes of social integration—such as the development of a sense of belonging, the formation of social networks, and political involvement in the country of residence.[120] In contrast to the strand of literature that explains intentions to naturalize primarily through instrumental factors, these studies conceptualize citizenship and naturalization as independent variables that may in turn shape subsequent social integration. Citizenship, in this sense, contributes to enhancing one's sense of belonging, broadening access to social networks, and facilitating economic and political participation. In addition to socio-cultural and legal considerations, political factors have also been linked to the desire to naturalize. This may be shaped by individuals' subjective perceptions of the political system in their country of residence by the salience of political conditions in the country of origin as a motivating factor for migration, or by the aspiration to become more actively engaged in the political life of the host society through the acquisition of citizenship.[121]

Thus, while the relevance of instrumental motives – such as access to rights and resources – is rarely disputed, scholars increasingly emphasize that naturalization can represent more than the acquisition of a legal status or set of rights. Rather, it can be seen as a marker of identity and a framework for acquiring the competencies and norms

[118] Yuval-Davis (n 112) 202
[119] See Marta B. Erdal, Eline M. Doeland and Ebba Tellander, 'How citizenship matters (or not): The citizenship–belonging nexus explored among residents in Oslo, Norway' (2018) 22(7) *Citizenship Studies* 705–724
[120] See Erdal et al. (n 120); see also Sara W. Goodman and Matthew Wright, 'Does Mandatory Integration Matter? Effects of Civic Requirements on Immigrant Socio-economic and Political Outcomes' (2015) 41(12) *Journal of Ethnic and Migration Studies* 1885–1908; see also Aurélie Pont, 'How and Why Do Intentions to Naturalize Evolve over Time?' (NCCR On the Move Working Paper Series 33, 2023) <https://nccr-onthemove.ch/wp_live14/wp-content/uploads/2023/02/WP33_Pont.pdf> accessed 6 July 2025; see also Simonsen (n 40)
[121] See Harry Pachon and Louis DeSipio, *New Americans by Choice: Political Perspectives of Latino Immigrants* (Routledge 2019)

necessary for social and political participation and integration.[122]As Bloemraad and Sheares have observed, citizenship may signal a commitment to the cultural values of the host society, express a sense of feeling 'at home', and mark identification with the national community.[123] The rules of membership to this community and to the state thus operate not only as legal thresholds but also as "an instrument and objective of social closure",[124] shaping and maintaining the boundaries of national belonging.[125] In the same line of reasoning, a growing body of scholarship highlights the important role of the state in shaping the link between citizenship and belonging.[126] Taken together, these insights suggest a broader scholarly consensus around the interrelation of legal frameworks and administrative practices,[127] sociocultural integration,[128] and emotional identification with the country of residence.[129] As Poole and Soehle conclude, such emotional identification is often understood as an indication of a long-term commitment—a desire to remain, establish roots, and contribute meaningfully to the host society.[130]

2.3 Citizenship as Active Political Participation

Belonging to the national collective carries not only symbolic but also profound political significance. This has been powerfully articulated by philosopher Hannah Arendt through her concept of the "right to have rights."[131] In her analysis, the fundamental injustice of statelessness lies not only in the absence of legal protection but, more profoundly, in the loss of recognition as a rights-bearing subject within a

[122] See Russell J. Dalton, *Citizen Politics: Public Opinion and Political Parties in Advanced Industrial Democracies* (CQ Press 2013); see also Sara W. Goodman, 'Citizenship Studies: Policy Causes and Consequences' (2023) 26(1) *Annual Review of Political Science* 135–152
[123] See Irene Bloemraad and Alicia Sheares, 'Understanding Membership in a World of Global Migration: (How) Does Citizenship Matter?' (2017) 51(4) *International Migration Review* 823–867
[124] Brubaker (n 114) 31
[125] See Goodman (n 122)
[126] See Barbiano di Belgiojoso and Ortensi (n 41)
[127] See Philipp Wanner, Gianni D'Amato, Aurélie Pont and Vestin Hategekimana, *Migration Mobility Survey, Survey on Living as a Migrant in Switzerland 2016–2018–2020–2022 (First Version of Fourth Wave)* [dataset] (2023) <https://zenodo.org/records/7810743> accessed 6 July 2025
[128] See Ursula Mehrländer, Carsten Ascheberg and Jörg Ueltzhöffer, *Repräsentativuntersuchung 95: Situation der ausländischen Arbeitnehmer und ihrer Familienangehörigen in der Bundesrepublik Deutschland* (Bundesministerium für Arbeit und Sozialordnung 1996)
[129] See Arnfinn H. Midtbøen et al., 'Assessments of Citizenship Criteria: Are Immigrants More Liberal?' (2020) 46(13) *Journal of Ethnic and Migration Studies* 2625–2646
[130] See Alicia Poole and Thomas Soehl, 'A Citizen Just Like You: The Role of Complex Contagion and Resemblance for Decisions to Naturalize' (2023) 57(4) *International Migration Review* 1515–1536
[131] Arendt (n 9) 296

political community. Without such recognition, she argues, individuals are deprived of "a place in the world which makes opinions significant and actions effective."[132] To be excluded from the legal order is thus not merely a matter of lacking specific rights, but of lacking the very conditions under which one's voice and agency are acknowledged and thus enable active political participation. In this sense, the right to belong—to be part of a legal and political order—is therefore not simply one right among others, but a foundational precondition for the exercise of all other rights. What Gibney identifies as *voice* among the three key benefits of citizenship becomes, for Arendt, *the* central function of citizenship.[133]

Susanne Baer similarly underscores the centrality of political rights within any conception of human rights. Political rights, she argues, "establish membership of a political community and enable its co-creation, but they are also the basis of every legal subjectivity that is rooted in such communities"[134]. Broadly understood, political rights encompass a range of entitlements that safeguard participation in public life—from the right to vote to more indirect forms of engagement such as the freedoms of expression, assembly, and association. These latter rights form essential preconditions for any functioning democracy as has also been pointed out by the Human Rights Committee.[135] Among political rights, the right to take part in public affairs—including the right to vote—holds a distinct status. As pointed out by Kälin und Künzli, it is one of the few rights that are not conceived as universally applicable human rights, but rather as a right reserved for citizens of the respective state.[136] This distinction is explicitly reflected in Article 25 of the International Covenant on Civil and Political Rights (ICCPR), which provides:

> Every *citizen* shall have the right and the opportunity, without any of the distinctions […] and without unreasonable restrictions:

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[132] *ibid*
[133] von Rütte (n 22) 36
[134] Susanne Baer, 'Politische Rechte' in Arnd Pollmann and Georg Lohmann (eds), *Menschenrechte: Ein interdisziplinäres Handbuch* (Metzler 2012) 257 (own translation)
[135] Human Rights Committee, 'General Comment No 25: The Right to Participate in Public Affairs, Voting Rights and the Right of Equal Access to Public Service (Art 25)' (1996) UN Doc CCPR/C/21/Rev.1/Add.7, para 12
[136] Walter Kälin and Jörg Künzli, *Universeller Menschenrechtsschutz: der Schutz des Individuums auf globaler und regionaler Ebene* (4th edn, Helbing Lichtenhahn Verlag 2019) 607

(a) To take part in the conduct of public affairs […];
(b) To vote and to be elected at genuine periodic elections […];
(c) To have access on general terms of equality to public service in his country.[137]

However, von Rütte notes that this provision does not preclude granting certain political rights to non-citizens.[138] Freedoms such as expression, assembly, and association are generally guaranteed to all individuals, irrespective of nationality.[139] Furthermore, an increasing number of states permit non-citizen residents to participate in elections—particularly at the local level—or even to stand for public office. For instance, in the context of the European Union, this includes participation in supranational elections.[140] The extension of voting rights to permanent resident non-citizens is also increasingly advocated as a means of fostering integration and enhancing democratic legitimacy.[141] Nevertheless, under current international law, non-citizens cannot generally claim a legal entitlement to participate in elections and public affairs in their country of residence. Thus, marginal access to citizenship diminishes non-citizens' protection and opportunities for participation,[142] despite the existence of other participatory rights which do not allow non-citizens to influence political decision-making in the same way as other political rights reserved for citizens. As Boillet and Demay put it, in order to defend their own interests, must rely on indirect forms of participation, rendering them dependent on the goodwill of citizens who may or may not take those interests into account.[143] As such, the right to political participation cannot, at least for now, substitute the right to citizenship as the principal gateway to the full enjoyment of

[137] International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171, art 25 (emphasis added)
[138] von Rütte (n 22) 37
[139] Human Rights Committee, 'General Comment No 15: The Position of Aliens under the Covenant' (1986) para 7
[140] Dan Ferris *et al*, 'Noncitizen Voting Rights in the Global Era: A Literature Review and Analysis' (2020) 21 *Journal of International Migration and Integration* 949
[141] See Parliamentary Assembly of the Council of Europe, 'Recommendation 1500 (2001) on Participation of Immigrants and Foreign Residents in Political Life in the Council of Europe Member States' (PACE 2001)
[142] Brigitte Studer, *La conquête d'un droit: Le suffrage féminin en Suisse (1848–1971)* (Le Carnet du Mouvement Social: Collection Focus 428, Neuchâtel 2021) 12
[143] Véronique Boillet and Clémence Demay, *Access to Political Rights in Switzerland: Critique of the Naturalization Process as a Source of Exclusion* (sui generis 2021) 234

political rights. Political rights thus remain one of the central functions—and defining features—of citizenship.[144]

2.4 Citizenship as Moral Imperative for Liberal Democracies

Citizenship is increasingly understood as a central element of a person's social identity—essential for the protection of fundamental human rights and constitutive for the functioning of modern democracies.[145] From the 1980s onward, situated within the broader context of liberal democratic theory, human rights discourse, and evolving patterns of international migration, debates about citizenship as a moral right began to emerge. Influential voices such as Seyla Benhabib, Ruth Rubio-Marín, Joseph Carens, and Ayelet Shachar have argued that permanent residence in a state gives rise to a form of social membership which, over time, ought to be reflected in legal membership—thereby granting individuals equal rights to those already in full enjoyment of that status, namely, those who hold citizenship.

Seyla Benhabib takes the phenomenon of transnational migration as a starting point to question the boundaries of political membership and to challenge the traditional doctrine of state sovereignty. She argues that a cosmopolitan theory of justice must go beyond questions of fair distribution on a global scale and also include what she calls "just membership."[146] In her view, this implies that, under certain conditions, non-citizens should have a right to citizenship. She sees permanent alienage not only as incompatible with the values of liberal democracy but also as a violation of fundamental human rights. At the heart of her argument is the idea that again Hannah Arendt's "right to have rights" must today be grounded in the universal recognition of personhood, regardless of an individual's national citizenship. Furthermore, she contends that liberal democratic states cannot avoid acknowledging a human right to membership by their very nature. While they may establish criteria for admission, they cannot be such that individuals are permanently excluded from becoming members of the political community.[147] Grounded in discourse theory, her argument is based on the right to

[144] von Rütte (n 22) 38
[145] von Rütte (n 22) 6
[146] Seyla Benhabib, *The Rights of Others, Aliens, Residents, and Citizens* (5th printing, Cambridge University Press 2007) 3
[147] *ibid* 135

communicative freedom. She asserts that there is no justifiable reason to exclude individuals or groups from membership based solely on who they are.[148] Such exclusion would contradict liberal democracies' self-understanding as associations committed to respecting the communicative freedom of all human beings. According to Benhabib, the only acceptable membership criteria are those relating to qualifications or capacities, such as length of residence, language skills, civic knowledge, material resources, or marketable competencies, rather than fixed identity traits.[149] Benhabib acknowledges the concern that a human right to membership could limit democratic sovereignty. However, she clarifies that this right should not be equated with an automatic right to citizenship in a particular state. Liberal democracies are free to define the specific terms and procedures for naturalization. However, she finds the complete absence of any pathway to citizenship morally indefensible. In her view, denying long-term residents the possibility of ever becoming citizens – particularly on the basis of religion, ethnicity, race, or gender – violates the core principles of liberal democracy. Therefore, non-citizen migrants have a moral human right to membership by virtue of their personhood and social presence, and liberal democracies must respect this right by providing accessible, non-discriminatory naturalization frameworks. Thus, Benhabib emphasizes that what matters is not just individuals' *physical* presence, but their participation in social and legal life—what Ruth Rubio-Marín has coined as *social membership*.

Similar to Benhabib, Rubio-Marín asserts that long-term residence entitles non-citizens to formal inclusion. She expands on this idea, arguing that liberal democratic states *ought to* recognize permanent residents as full members of the political community. Excluding such individuals from the political realm, she warns, risks creating a divide between civil and political society, ultimately undermining the legitimacy and stability of democratic governance. [150] Building on the concept of *social membership*, Rubio-Marín argues that all individuals residing in a state who are subject to its laws, rely on its protection, and are embedded in its community should be recognized as members of

[148] *ibid* 136
[149] *ibid* 139
[150] Ruth Rubio-Marín, *Immigration as a Democratic Challenge: Citizenship and Inclusion in Germany and the United States* (Cambridge University Press 2000) 4-6 (emphasis added).

the political collective. She proposes *jus domicilii* as a more just and inclusive basis for citizenship. According to this principle, permanent residents should be regarded as potential citizens and included in political decision-making processes. Although this challenges traditional notions of sovereign self-determination, Rubio-Marín insists that democratic principles require political membership to reflect lived social realities. In her view, the national community is not fixed but constantly evolving – shaped by those who already belong, even if not legally. [151]

The principle of *jus domicilii*, later taken up by Rubio-Marín, was first articulated by Joseph Carens, who offers a detailed normative argument for why long-term residence should give rise to a right to citizenship grounded in democratic principles. His account links residence whether from birth or developed over time, to social membership and, ultimately, to full political inclusion. He contends that living in a state over time makes individuals members of society in a morally relevant sense, and this membership gives rise to a growing claim to inclusion in the political community. Carens argues that once democratic states admit individuals as permanent residents, they have a responsibility to extend the rights, security, and opportunities that legal membership entails, and not to marginalize them.[152] Furthermore, Carens asserts that the children of immigrants who have the right to remain in a democratic state should be granted citizenship at birth, as their social ties are equally strong and merit equal recognition. The same logic applies to children who migrate at a young age. He argues that the state and society in which a child grows up profoundly shape their identity, opportunities, and capacity for political agency, making the case for automatic and unconditional citizenship, free from tests or requirements.[153] In his view, the state bears responsibility for the very conditions of social formation that matter for citizenship.[154] Turning to adult migrants, Carens examines the legitimacy of naturalization requirements through the lenses of social membership and democratic legitimacy. He argues that long-term residents eventually cross a moral threshold, becoming indisputable members of the community, and this reality should be reflected in formal legal recognition.[155] On this basis, citizenship is not

[151] *ibid* 60
[152] Carens (n 44) 109
[153] *ibid* 46
[154] *ibid*
[155] *ibid* 50

just a legal formality, but a matter of democratic legitimacy: those who live under the laws of a state should have the right to participate in shaping them.[156] As for the conditions of access, Carens firmly rejects naturalization criteria that hinge on belief systems, language or civic knowledge tests, good character clauses, or economic self-sufficiency requirements. These, he argues, are morally unjustifiable and risk being discriminatory. According to Carens, the only legitimate criterion for acquiring citizenship is long-term residence because it produces social membership, which is the basis for the moral claim to citizenship.

Carens's focus on residence as the basis for moral entitlement to citizenship raises deeper questions about the fairness of distributing political membership in the first place. Ayelet Shachar addresses this concern by critically examining the legal regimes that govern the attribution of citizenship, which she calls the "birthright lottery." She argues that the dominant principles of *jus soli* and *jus sanguinis* are fundamentally arbitrary criteria for allocating political membership. Like inherited property, these principles confer significant advantages based on unchosen circumstances, determining who has access to rights, security, and opportunity. This form of ascribed membership, she argues, is incompatible with the principles of civic nationalism, which emphasize political participation based on consent and active belonging rather than inheritance.[157] The ascriptive nature of birthright citizenship, she notes, stands in tension with the core principles that liberal democracy purports to uphold.[158] While Shachar acknowledges that birthright rules may be justified on grounds of administrative convenience, she maintains that this alone cannot legitimize the global inequalities they help reproduce. To address these structural injustices, she proposes a two-pronged approach: first, a "birthright privilege levy" on the intergenerational transfer of political membership in wealthier states, intended to support global redistribution and mitigate the inequities perpetuated by the current system.[159] Second, she introduces the concept of *jus nexi* as a complement or eventual replacement for birthright-based citizenship. *Jus nexi* grounds political membership in actual social attachment, proposing that citizenship should

[156] *ibid*
[157] Shachar (n 12) 3 ff
[158] *ibid* 124
[159] *ibid* 96, 164 f

reflect a genuine connection to the state – not merely formal entitlement acquired at birth. This connection, she argues, should be based on shared obligations, lived experience, and democratic participation. By offering resident stakeholders a predictable and secure path to membership, *jus nexi* promotes political equality for those most directly affected by the state's legal and institutional authority.[160] Thus, Shachar shifts the debate beyond expanding access to birthright citizenship and instead calls for a reevaluation of the basis on which political membership is granted. To overcome the structural injustices of inherited membership, she argues that citizenship must be rooted in actual social ties rather than birthright alone.

These diverse scholarly positions—from Benhabib's discourse theory to Carens's moral argument and Shachar's critique of birthright entitlement—all point to the same underlying concern: the exclusion of non-citizens from legal and political membership undermines both the normative foundations and the practical functioning of liberal democracies. If citizenship is indeed the gatekeeper to rights, belonging, recognition, and participation, then its unjust distribution cannot be treated as a marginal issue. As the preceding arguments brought forth in this chapter have shown, citizenship in fact is more than a legal status; it is a structuring institution that defines access to (human) rights, participation, and belonging. Non-citizens, particularly long-term residents, acquire social and moral claims to inclusion that liberal democracies can neither ignore nor indefinitely defer as they are grounded not only in residency and social ties but also on the democratic principles which liberal democracies are founded on.

At the same time, while human rights are, by definition, universal and grounded in the equal worth of all individuals regardless of citizenship, legal citizenship often remains a decisive condition for the effective enjoyment of rights in practice. The continued relevance of formal status, according to Gibney, lies in the fact that globalization has made it more apparent than ever that the citizenship into which one is born continues to heavily shape the kind of life one will be able to lead.[161] This reality ultimately stems from how a person's citizenship, nationality, or immigration status fundamentally

[160] *ibid* 180
[161] Matthew J. Gibney, 'The Rights of Non-citizens to Membership' in Caroline Sawyer and Brad K. Blitz (eds), *Statelessness in the European Union: Displaced, Undocumented, Unwanted* (Cambridge University Press, 2011) 41

determines their capacity to fully enjoy human rights, as former UN Special Rapporteur on Racism Tendayi Achiume concludes.[162] Particularly due to its inherently exclusive dimension, some scholars therefore argue that citizenship is a significant driver of global inequality in the contemporary world. [163] Thus, the impact of being a citizen or not is far from abstract; it carries immediate and tangible consequences for an individual's daily life. The exclusionary nature of citizenship, particularly the absence of territorial security for non-citizens, helps explain why access to citizenship remains so profoundly important. It is in this context that the aspiration of long-term residents to attain *full* membership and the equal enjoyment of rights becomes not only understandable but expected.

3. The Swiss Citizenship Regime

Switzerland, often celebrated for its robust democratic traditions and decentralized political structure, presents a paradox when it comes to the question of citizenship. Comparative studies have consistently shown that Swiss legislation ranks among the most restrictive in Europe when it comes to acquiring citizenship, whether by birth on the territory or through long-term residence. Opportunities for non-citizens to participate in local elections remain limited compared to many European neighbors, notwithstanding the notable variation between cantons.

From a democratic perspective, the process of naturalization holds particular significance: it sets the formal threshold for full political inclusion. The legislation that governs access to Swiss citizenship not only shapes who may join the political community but also delineates who remains excluded from it. Against this backdrop, one must ask: who are the people that make up the Swiss population, who are its citizens—and, more importantly for this chapter, who are its non-citizens? Do they seek legal membership, and under what conditions is such membership granted, denied, or

[162] UN Special Rapporteur on Contemporary Forms of Racism, Racial Discrimination, Xenophobia and Related Intolerance, 'Report on Racial Discrimination in the Context of in the Context of Laws, Policies and Practices Concerning Citizenship, Nationality and Immigration' (Special Rapporteur on Racism 2018) UN Doc. a/ hrc/ 38/ 52 para 7

[163] Barker (n 15) This phenomenon becomes even more pronounced when citizenships and nationalities are ranked based on their "value".

contested? As this chapter explores, naturalization in Switzerland is not merely a legal procedure but a site of continuous political negotiation.

3.1 Setting the Context

In the international realm, Switzerland is perhaps best known for its longstanding policy of neutrality, which has historically made it a trusted mediator in international disputes and contributed significantly to its role as a global hub for international organizations, including the United Nations and the International Committee of the Red Cross. Another widely recognized and distinct feature is Switzerland's federal system and tradition of direct democracy, often cited as a model of political decentralization and civic engagement. It is this decentralized structure—embedded in institutions, citizenry, and "minds"—that becomes determinant for Switzerland's citizenship regime, which is why it must be examined in more detail.

3.1.1 Federalism, Democracy, and the Swiss Electorate

The term *federalism* derives from the Latin *foedus*, meaning "alliance" or "covenant."[164] In political and democratic theory, it generally refers to "an organising principle according to which a political community or alliance is divided into constituent political units, which are afforded (or retain) substantial autonomy and contribute to shaping the will of the higher political authority."[165] This principle finds its main institutional expression in federally organized nation-states.[166] In Switzerland, these constituent nation-states are the 26 cantons, which—together with the Confederation and over 2,000 communes, the smallest administrative unit—form the country's political structure.[167] The Federal Constitution, although it does not explicitly mention the terms

[164] University of Fribourg, 'Federalism in Switzerland' (2025) <https://www.unifr.ch/federalism/en/topics/> accessed 5 July 2025
[165] Bernhard Waldmann, 'Föderalismus unter Druck, Eine Skizze von Problemfeldern und Herausforderungen für den Föderalismus in der Schweiz' in Daniel Gredig and others (eds), *Peters Dreiblatt: Festschrift für Peter Hänni zum 60. Geburtstag* (Special Edition, Bern 2010) 3 ff.
[166] *ibid*
[167] Swiss Confederation, *Federalism* (24 April 2024) <https://www.aboutswitzerland.eda.admin.ch/en/federalism> accessed 5 July 2025

"federalism" or "federal state," nonetheless embeds federalism as a foundational principle. Together with the rule of law, democracy, and the welfare state, it constitutes one of the structural pillars of the Swiss political order. This constitutional basis arises not from a single provision, but from the structure and functioning of the Constitution as a whole and the legal system it establishes—particularly the organization of government and the division of powers.[168] Power is shared between the Confederation, the cantons, and the communes. Each level has its own legislature and executive, while judicial authority is held by the Confederation and the cantons. Under the principle of subsidiarity, even the smallest political entities are afforded maximum autonomy and responsibilities are delegated upward only when necessary.[169]

The traditional division of powers among the three levels of Swiss federalism often sparks discussion, particularly when systems are harmonized in areas such as education, health, and the naturalization of non-citizens. These matters have historically been within the competence of the cantons and communes. Thus, uniforming them ultimately means delegating competence, at least in part, to the Confederation. Bernhard Waldmann attributes this recurring reluctance to the fact that federalism is not only an organizing principle, but also a "state of mind, a culture shared by citizens and institutions".[170] Swiss federalism is therefore often associated with the so-called "Kantönligeist," or provincialism (literally, "little canton mentality"). While Waldmann acknowledges that today's division of authority between the Confederation and the cantons results in diverse regulations that can exacerbate existing problems, he emphasizes that equating federalism with cantonal sovereignty in certain areas and resulting legal fragmentation would oversimplify the matter.[171]

Such a culture of autonomy and distribution of power is further reinforced by Switzerland's system of direct democracy, which enables citizens to participate directly and influence political decision-making at all three levels of government.[172] In the Swiss constitutional order, democracy is both the foundational principle of legitimacy and the

[168] Waldmann (n 165) 3 ff.
[169] Swiss Confederation, *Federalism* (n 167)
[170] Waldmann (n 165) 3 ff.
[171] *ibid*
[172] Swiss Confederation, *The Political System* (1 March 2024) <https://www.aboutswitzerland.eda.admin.ch/en/political-system> accessed 5 July 2025

core value guiding the institutional framework of the state. As Tanquerel notes, the people are regarded as the supreme authority, representing the democratic sovereign from which all public power ultimately derives.[173] According to Article 136 of the Federal Constitution, the federal electorate is composed of Swiss citizens—men and women aged eighteen and over—who are not legally disqualified from voting due to mental incapacity. As discussed in the previous chapter, by definition, citizenship serves as the gateway to inclusion in a democracy, as it enables individuals to exercise political rights and thus active participation in political life and in the development of law.[174] In Switzerland, these rights, granted to citizens specifically, encompass the ability to vote[175], to elect representatives, and to stand for election at the federal level, including to the Federal Parliament, the Federal Council, and the Federal Supreme Court. While non-citizens are excluded from the Federal electorate under Article 136 of the Federal Constitution, certain cantons and communes grant them the right to vote in cantonal and local elections, and to stand as candidates at the municipal level. Notably, while most German-speaking cantons restrict voting rights to Swiss citizens, most French-speaking cantons extend at least some electoral rights to non-citizen residents.[176] However, the total number of cantons providing such rights remains relatively low (i.e. seven cantons have granted long-term non-citizen residents the right to vote in certain local elections). In regional comparison, Switzerland is thus considered to offer foreign residents fewer opportunities for political participation at the local level than many of its European counterparts.[177]

[173] Thierry Tanquerel, 'Les fondements démocratiques de la Constitution' in Daniel Thürer, Jean-François Aubert and Jörg Paul Müller (eds), *Verfassungsrecht* (Schulthess 2001) para 18
[174] Barbara Holland-Cunz, 'Demokratie — StaatsbürgerInnenschaft — Partizipation' in Sieglinde Rosenberger and Birgit Sauer (eds), *Politikwissenschaft und Geschlecht* (WUV Universitätsverlag 2004) 132
[175] A Swiss particularity is that, unlike in most other countries, Swiss citizens vote three to four times per year in popular referenda, allowing the electorate to directly express their views on specific issues raised by the Federal Council, the Federal Parliament, individual politicians or political parties, as well as by ordinary citizens who hold no public office: Swiss Confederation, *The Political System* (1 March 2024) <https://www.aboutswitzerland.eda.admin.ch/en/political-system> accessed 7 July 2025
[176] NCCR On the Move, *What are the conditions for access to citizenship in the Swiss cantons?* (NCCR On the Move Indicators, 10 January 2019) <https://nccr-onthemove.ch/indicators/what-are-the-conditions-for-access-to-citizenship-in-the-swiss-cantons/> accessed 10 July 2025
[177] NCCR On the Move, *How inclusive are Swiss and European citizenship laws?* (NCCR On the Move Indicators, 28 Februar 2018) <https://nccr-onthemove.ch/indicators/how-inclusive-are-swiss-and-european-citizenship-laws/> accessed 10 July 2025

3.1.2 Swiss Population

The compact yet internally diverse Swiss democracy, with a population of just over nine million, hosts a remarkably large non-citizen population. By the end of 2023, around 2.42 million individuals—constituting 27 percent of the total population—were foreign nationals with permanent residency. [178] After Luxembourg, this makes Switzerland the European country with the second-highest proportion of non-citizens—a reality that continues to prompt frequent and heated public debate.[179] Among foreign nationals, those from EU/EFTA countries make up the vast majority, accounting for approximately 80 percent. Within this group, the largest communities originate from Italy (14%), Germany (13.4%), Portugal (10.6%), and France (6.8%).[180] While the Italian population played a central role in shaping post-war migration patterns in Switzerland, the presence of other EU/EFTA nationals is more closely tied to Switzerland's adoption of the Free Movement of Persons principle in 2002, which facilitated labor mobility and cross-border migration.[181] Among non-EU/EFTA nationals with permanent residency in Switzerland, the largest communities originate from Kosovo (4.8%), Türkiye (3.1%), and North Macedonia (2.9%).[182]

In line with the majority of European states, Switzerland adheres to the principle of *jus sanguinis*, enshrined in Article 1 of the Federal Act on Swiss Citizenship (SCA). Of the 2.42 million permanent foreign residents, approximately 441'000 were born in Switzerland to non-citizen parents, while the vast majority—around 1.98 million—were

[178] Federal Statistical Office, 'Zusammensetzung der ausländischen Bevölkerung' (BFS, 2023) <https://www.bfs.admin.ch/bfs/de/home/statistiken/bevoelkerung/migration-integration/auslaendische-bevoelkerung/zusammensetzung.html> accessed 23 June 2025;
According to Eurostat metadata, the permanent resident population in Switzerland refers to all persons who live or are expected to live in the place of enumeration for a continuous period of at least 12 months: Eurostat, *Demographic balance and crude rates at national level – Metadata: Switzerland (CH)* (23 May 2024) <https://ec.europa.eu/eurostat/cache/metadata/EN/demo_gind_esms_ch.htm> accessed 2 July 2025.
[179] OECD, *International Migration Outlook 2024* (OECD Publishing 2024) 52, fig 1.23
[180] Federal Statistical Office, 'Permanent foreign resident population, on 31.12.2023' (updated 5 June 2024) <https://www.bfs.admin.ch/bfs/en/home/statistics/population/migration-integration/foreign/composition.html> accessed 26 June 2025
[181] Matthew Allen, 'Meet the Foreigners Who Make Up a Quarter of the Swiss Population' *SWI swissinfo.ch*, (6 September 2024) <https://www.swissinfo.ch/eng/workplace-switzerland/meet-the-foreigners-who-make-up-a-quarter-of-the-swiss-population/87503615> accessed 26 June 2025
[182] Federal Statistical Office (n 102)

born abroad.[183] According to the Swiss Federal Statistical Office, place of birth serves as a key indicator for distinguishing between first-generation migrants and subsequent, "Swiss-born" generations. [184] In addition, both place of birth and length of stay are viewed as central variables for assessing the degree of "rootedness" or long-term settlement among the permanent foreign-resident population.[185] Notably, the data show that nearly one-quarter of foreign-born residents have lived in Switzerland for over twenty years,[186] highlighting both the long-term presence of non-citizens and the extent to which a significant number of individuals without Swiss citizenship are deeply embedded in the country's social fabric.

3.2 Naturalization

As discussed in detail in previous sections, long-term residence often fosters stronger civic identification and, for a variety of reasons, may prompt individuals to pursue legal membership through citizenship acquisition or naturalization. For non-citizens, naturalization constitutes the primary legal pathway to access Swiss citizenship. The in 2018 revised Swiss Citizenship Act (SCA) regulates the acquisition, retention and loss of Swiss Citizenship and was introduced with the intention to harmonize existing laws and policies within the country. Switzerland provides for two distinct pathways to naturalization: the *ordinary* and the *facilitated naturalization procedure*. The latter applies primarily to specific categories, such as individuals married to Swiss citizens or members of the so-called second or third generation born in Switzerland to non-citizen parents,[187] and may be pursued after a minimum of five years of residence. In contrast to ordinary naturalization, facilitated procedures fall under the exclusive competence of the federal authorities[188] —an important, if not decisive, distinction between the two procedures, as will be subject of further discussion. This thesis will focus on the

[183] Federal Statistical Office, *Migration and integration by place of birth* (22 August 2024) <https://www.bfs.admin.ch/bfs/en/home/statistics/population/migration-integration/by-place-birth.html> accessed 1 July 2025
[184] *ibid*
[185] *ibid*
[186] *ibid*
[187] Additional facilitated procedures exist for certain groups, such as stateless persons: State Secretariat for Migration (SEM), *Becoming Swiss* <https://www.sem.admin.ch/sem/en/home/integration-einbuergerung/schweizer-werden.html> accessed 30 May 2025
[188] State Secretariat for Migration (SEM), *Becoming Swiss* https://www.sem.admin.ch/sem/en/home/integration-einbuergerung/schweizer-werden.html accessed 30 May 2025

ordinary naturalization procedure, which remains, statistically, the principal route through which long-term residents acquire Swiss citizenship.[189]

3.2.1 The 'Ordinary' Naturalization Procedure

Ordinary naturalization in Switzerland is governed by both federal and cantonal legal frameworks and is available to foreign nationals who have resided in the country for a minimum of ten years – three of which must fall within the five years preceding their application and who hold a permanent residence permit – and who hold a permanent residence permit. The application must be submitted to the applicant's commune or canton of residence, where the process is initiated under cantonal procedure. Federal law provides that years spent living in Switzerland between the ages of 8 and 18 count double toward the total residency requirement, although the applicant must have effectively lived in the country for at least six years in total. In calculating the qualifying period, the type of residence permit held by the applicant plays a decisive role. Time spent in Switzerland with a temporary residence (B permit) or a permanent residence (C permit) is fully counted. Periods lived in the country under provisional admission status (F permit) are only credited at half value toward the naturalization residency requirement. This status applies to individuals who have been issued a removal order but whose return to their country of origin has been deemed unlawful, unreasonable, or impossible—often due to ongoing conflict, risk of serious harm, or lack of safe return mechanisms.[190] As a form of temporary protection, the F permit functions as a substitute for enforced departure. It is most commonly held by individuals who have received a negative decision on their asylum application but who nevertheless cannot be deported for legal or humanitarian reasons. By contrast, time spent in Switzerland with a short stay permit (L permit) or during an ongoing asylum procedure (N permit) does not count toward the residency requirement at all.[191] The residency requirement as well as

[189] According to State Secretariat for Migration a total of 40,291 individuals were naturalized in 2024. Of these, 33'495 were granted citizenship through the ordinary naturalization procedure and 6'582 through the facilitated naturalization or re-naturalization procedure: Staatssekretariat für Migration (SEM), *Jahresstatistik Zuwanderung 2024* (February 2025) 12, fig 4.1

[190] State Secretariat for Migration, 'Ausweis F (vorläufig)' (SE c, 2025) <https://www.sem.admin.ch/sem/en/home/themen/aufenthalt/nicht_eu_efta/ausweis_f__vorlaeufig.html> accessed 20 June 2025

[191] This exclusion is particularly problematic in cases where asylum procedures extended over several months or even years in the past. Although recent reforms have shortened average processing times, some non-citizens have still spent prolonged periods in legal limbo. Despite having resided continuously in

the permanent residence status are referred to as “formal requirements” of the ordinary naturalization procedure and are enshrined in Article 9 SCA.

The applicant's eligibility is assessed through mechanisms and bodies established by the cantons and communes. Depending on the canton in question these assessments may include further integration criteria that go beyond the federal minimum requirements. Most notably, cantons generally require an uninterrupted residence period within the canton and commune of between two and five years. Additionally, most cantons assess the integration criteria set out in Article 12 SCA through a combination of language [192] and civic knowledge[193] testing, evaluation of economic self-sufficiency[194], and demonstration of local ties and commitment—the latter often considered advantageous but not strictly mandatory. Many cantons and communes also conduct interviews with applicants as an additional mode of assessment. Since the naturalization process is partially regulated at the cantonal level, procedural details and assessment mechanisms differ across cantons. As mentioned earlier, the competent cantonal authority is responsible for verifying whether the appliants meets the formal requirements in Article 9 SCA as well as the material requirements of Article 11 SCA; namely being

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Switzerland throughout their asylum process, the years these individuals spent awaiting a decision remain uncounted toward the required period of residence for naturalization. Consequently, prolonged asylum procedures render individuals ineligible for naturalization despite having resided in the country for years (which highlights a discrepancy between de facto integration and formal recognition).

[192] Many cantons require applicants to demonstrate language proficiency in the local language at level B1 for oral and A2 for written communication. This requirement must typically be fulfilled through recognized certificates—such as school reports, academic transcripts, or attestations from language schools—or through fee-based language tests conducted as part of the naturalization procedure. For example, see the language requirements of the Canton of Bern: *Sprachnachweis – Ordentliche Einbürgerung*, Canton of Bern, <https://www.einbuergerung.sid.be.ch/de/start/einbuergerung/ordentliche-einbuergerung/sprachnachweis.html accessed> 2 July 2025

[193] Many cantons require applicants to demonstrate knowledge in areas such as Swiss geography, history, society, and politics at the federal, cantonal, and communal levels—typically assessed through fee-based tests. For example, see the *Grundkenntnistest* (‘basic knowledge test’) of the Canton of Zurich: *Grundkenntnistest – Einbürgerung im Kanton Zürich*, Canton of Zurich, <https://www.zh.ch/de/migration-integration/einbuergerung/grundkenntnistest.html> accessed 2 July 2025; and the *test de connaissances* (‘knowledge test’) of the Canton of Vaud: *Test de connaissances – Demande de naturalisation ordinaire*, Canton of Vaud, <https://www.vd.ch/population/population-etrangere/naturalisation/demande-de-naturalisation-ordinaire/test-de-connaissances> accessed 2 July 2025

[194] Many cantons assess the ‘participation in economic life’ (Art 12(1d) SAC) based on three main criteria: Whether the applicant has received social welfare support in the years preceding the application (“Non aver fatto capo all’aiuto sociale nei dieci anni precedenti la domanda”); whether taxes have been duly paid (“Essere in regola con il pagamento delle imposte”); and whether any debt enforcement proceedings or bankruptcy declarations (“Non avere in corso alcuna procedura all’Ufficio esecuzione e fallimenti”) are pending. For example, see the requirements of the Commune of Bellinzona: Città di Bellinzona, *Requisiti e documenti per la naturalizzazione ordinaria* (Bellinzona.ch) <https://www.bellinzona.ch/index.php?node=1182&lng=1&rif=5c9b72a500> accessed 2 July 2025.

"successfully integrated", familiar with the 'Swiss way of life'", and not posing a risk to Switzerland's internal or external security.[195] Article 12 SCA intends to give substance to the requirement of "integration" under the preceding Article 11. It states:

> [1] Successful integration is demonstrated in particular by:
>
> a. showing respect for public security and order;
> b. respecting the values enshrined in the Federal Constitution;
> c. being able to communicate in a national language in everyday situations, orally and in writing;
> d. participating in economic life or acquiring an education; and
> e. encouraging and supporting the integration of one's spouse, registered partner, or minor children.

The assessments are then formalized in a naturalization report. Once the cantonal authority and, if applicable, the commune approve the application is forwarded to the State Secretariat for Migration, which is responsible for issuing the federal naturalization license. This license is granted only if the applicant fulfills all formal and material conditions under federal law. If these conditions are met, the SEM will issue the federal license and transmit it to the cantonal authority for the final naturalization decision. The canton must issue its decision within one year. However, if new information emerges during this time that would have prevented the canton from recommending naturalization, it retains the authority to refuse the application. Thus, the applicant acquires Swiss citizenship only when the cantonal decision becomes legally binding. Naturalization is subject to administrative fees at all three levels.[196]

While Switzerland's legal framework sets out clear procedural steps and requirements, the concrete implementation of naturalization varies considerably across cantons and communes. The fact that primary decision-making authority rests with the cantonal and communal levels is closely tied to Switzerland's unique historical concept of the *place*

[195] State Secretariat for Migration, 'Ordentliche Einbürgerung' (Swiss Confederation, 2025) <https://www.sem.admin.ch/sem/de/home/integration-einbuergerung/schweizer-werden/ordentlich.html> accessed 20 June 2025 (emphasis added).
[196] *ibid*

of origin (*Heimatort*).[197] In the Swiss context, individuals do not acquire Swiss nationality in a singular, centralized manner; rather, they are granted citizenship of a specific commune and canton, through which national citizenship is conferred. Thus, the State Secretariat for Migration explicitly states that after the canton's legally binding positive decision, Swiss citizenship is granted in its tripartite form – communal, cantonal, and federal.[198] This bottom-up structure—whereby communal and cantonal citizenship serve as the foundation for acquiring Swiss nationality—helps explain why the ultimate authority over ordinary naturalization remains with subnational entities such as the cantons and communes. Their participation and discretion in this process are not merely procedural but continue to express a deeply rooted historical prerogative. Martina Bircher, who served as a member of the National Council[199] until December 2024, justified this distribution of authority by stating: "[The cantons] are closer to the people and conduct the interviews themselves. They are aware of canton-specific issues and know what to pay particular attention to."[200] Her statement underscores not only a widely held societal belief but also the principle of subsidiarity and the enduring federalist logic underpinning the Swiss naturalization regime, in which membership is anchored locally before being recognized nationally. This view is supported by research increasingly suggesting that questions of belonging are not primarily situated within a national frame of reference. Instead, identity tends to be anchored regionally, with integration occurring primarily at the local level.[201]

3.2.2 Civic Aspirations

Switzerland's ranking in international indices reflects a restrictive approach across key areas of civic inclusion. According to the *Migrant Integration Policy Index* (MIPEX), political participation is assessed as only "halfway favorable," with Switzerland

[197] See Thomas Stevens, 'Heimatort, sweet Heimatort: the unique Swiss concept of home' *SWI swissinfo.ch*, (22 March 2025) <https://www.swissinfo.ch/eng/swiss-oddities/heimatort-sweet-heimatort-the-unique-swiss-concept-of-home/88975277> accessed 2 July 2025
[198] State Secretariat for Migration (n 195)
[199] Switzerland's Federal Assembly consists of two chambers: the *National Council*, representing the population, and the *Council of States*, representing the cantons.
[200] *Einbürgerung: Volksinitiative will strenge Schweizer Verfahren erleichtern*, *SWI swissinfo.ch*, (26 May 2023) <https://www.swissinfo.ch/ger/politik/einbuergerung-volksinitiative-will-strenge-schweizer-verfahren-erleichtern/48540114> accessed 2 July 2025
[201] Johanna Probst (ed), *Kantonale Spielräume im Wandel: Migrationspolitik in der Schweiz* (SFM Studies 73d, Forum suisse pour l'étude des migrations 2019) 32

performing close to the Western European average in areas such as voting rights, support for immigrant-led civil society, and the presence of consultative bodies. Likewise, Switzerland's system of permanent residence is considered one of the weakest integration tools in Western Europe, placing the country among the bottom ten internationally. The long and demanding path to secure legal status delays equal opportunities and leaves many non-EU citizens in a precarious position. Moreover, the country offers only limited pathways to full integration, with policies deemed "slightly unfavorable" in terms of access to nationality, as non-citizens and their descendants face lengthier, more complex, and costlier procedures than in most Western European and OECD countries.[202] Thus, despite a gradual increase, overall naturalization rates remain relatively modest, with Switzerland's rate of 1.7% falling below the EU average of 2.6%.[203] Comparative studies have shown that Swiss legislation ranks among the most restrictive in Europe when it comes to acquiring citizenship, whether by birth on the territory or through long-term residence. [204] This is due, among other factors, to the significant variations in requirements across cantons, [205] as well as to the residency requirement of ten years, which, according to MIPEX, accounts for one of the longest and most demanding residence requirements in Europe. According to the 2022 *Migration-Mobility Survey* (MMS), a study aimed at improving the reception and integration of foreign nationals in Switzerland, [206] approximately 40 percent of newly arrived migrants in Switzerland express a desire to naturalize, while 34 percent remain undecided, and 27 percent report no interest. [207] Among those who arrived in 1998, 22 percent had acquired Swiss citizenship within ten years, rising to 53 percent after 23 years of residence.[208]

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[202] Migrant Integration Policy Index, *MIPEX – Switzerland* (MIPEX) <https://www.mipex.eu/switzerland> accessed 9 July 2025
[203] Eurostat, *Acquisition of citizenship statistics* (Statistics Explained, 19 February 2025) <https://ec.europa.eu/eurostat/statistics-explained/index.php?title=Acquisition_of_citizenship_statistics> accessed 8 July 2025
[204] Migrant Integration Policy Index, 'Access to Nationality' (MIPEX, 2020) <https://www.mipex.eu/access-nationality?utm> accessed 23 June 2025; see also NCCR On the Move (n 177)
[205] NCCR On the Move (n 176)
[206] NCCR On the Move, *Migration Mobility Survey* (Research Overview page, 2024) <https://nccr-onthemove.ch/research/migration-mobility-survey/> accessed 6 July 2025
[207] NCCR – on the move, *Do Migrants Want To Become Naturalized?* (19 April 2023) <https://nccr-onthemove.ch/indicators/moechten-sich-die-migrantinnen-einbuergern-lassen/?lang=de> accessed 2 July 2025
[208] *ibid*

In their January 2025 study on the intention to apply for Swiss citizenship, De Athouguia Filipe et al. argue that, despite existing limitations, many migrants in Switzerland do express an interest in naturalization. [209] In fact, an average of roughly 40,000 foreign nationals have acquired Swiss citizenship through the naturalization procedure each year over the past two decades. [210] De Athouguia Filipe et al. suggest that the residency requirement may indicate that non-citizens who pursue naturalization are likely those who feel a strong sense of belonging and have established—or are willing to establish—social ties within the country. Their study refers to these dimensions as *soft factors* of belonging. [211] Building on the earlier claim that, alongside instrumental factors, soft factors play an important role in the decision to seek citizenship, the authors highlight how such factors signal both commitment to the cultural values of the host society and a sense of identification with the national community.[212] Altogether, their findings demonstrate that soft factors are associated with a higher probability of intent to naturalize.[213]

As Galeano et al. show in a longitudinal study, between 2011 and 2017, only around 23 percent of eligible foreign residents—both from EU/EFTA and non-EU/EFTA countries—obtained Swiss nationality. This aggregate figure, however, conceals marked disparities between origin groups, underscoring that access to citizenship remains unevenly distributed. Galeano et al. observe that naturalization appears to be more attractive to individuals from non-EU/EFTA countries—an interpretation that echoes earlier findings.[214] Galeano et al.'s research findings on the Swiss context, support the earlier made claim[215] that for individuals from non-EU/EFTA countries, acquiring Swiss nationality may serve as a means of offsetting some of the constraints associated

[209] *ibid*
[210] Staatssekretariat für Migration (SEM), *Einbürgerungen seit 1987* (Excel file, last updated 20 January 2025) <https://www.sem.admin.ch/dam/sem/de/data/publiservice/statistik/auslaenderstatistik/einbuergerungen/einbuergerungen-jahr-d.xlsx> accessed 6 July 2025
[211] De Athouguia Filipe Sara et. al., 'Do Spatial Political Focus, Feelings of Belonging, and Social Networks Affect the Intention to Apply for Citizenship? Evidence from Switzerland' (NCCR On the Move Working Paper Series 38, 2025) <https://nccr-onthemove.ch/wp_live14/wp-content/uploads/2025/01/WP38_Hackathon.pdf> accessed 6 July 2025
[212] Bloemraad and Sheares (n 123)
[213] de Athouguia Filipe et al. (n 211) 19
[214] Alessandro Monti, 'Re-emigration of Foreign-Born Residents from Sweden: 1990–2015' (2020) 26 *Population, Space and Place*
[215] See Birkvad (n 42)

with their original citizenship, particularly in relation to intra-European mobility. [216] From a policy perspective, it is particularly significant that naturalization rates vary substantially between immigrant groups, especially when disaggregated by country of origin—even within broader categories such as EU/EFTA and non-EU/EFTA. These patterns reflect not only procedural hurdles, but also the symbolic and practical considerations that influence individuals' sense of belonging and their willingness to formalize it through legal membership.[217]

3.3 Contemporary Contestations of Swiss Citizenship

Over the past decades, questions of naturalization and the boundaries of political community have remained a recurrent theme in Swiss politics. Far from constituting a settled legal domain, access to Swiss citizenship continues to be negotiated and contested—reflecting the broader struggles over who belongs and on what terms. Switzerland generally takes pride in its democratic system with strong deliberative practices that is best known for its various forms of popular votes which allow citizens to shape legislation directly. Among these tools, the popular initiative holds a prominent place. It enables Swiss citizens that are part of the Federal electorate[218] to trigger a nationwide vote on a proposed amendment to the Federal Constitution by collecting 100'000 verified signatures within 18 months.[219] Numerous such popular initiatives, alongside parliamentary motions[220], and legislative reforms have sought to redefine the criteria and significance of citizenship over the past decades. Proposals in recent years have ranged from restrictive reforms—such as the tightening of naturalization criteria with the Swiss Citizenship Act in 2018 and the so-called *Einbürgerungsinitiative*

[216] Juan Galeano, Aurélie Pont and Philippe Wanner, 'A Longitudinal Analysis of Naturalization and International Migration in Switzerland, 2011–2017' (2021) 23(2) Journal of International Migration and Integration 903; see also Andrea Monti, 'Re-emigration of Foreign-born Residents from Sweden: 1990–2015' (2020) 26 *Population, Space and Place* e2285
[217] *ibid*
[218] See Section 3.1.1 *Federalism, Democracy and Political Belonging in the Swiss Polity*
[219] Vera Leysinger, Benjamin von Wyl and Pauline Turuban, 'Wie funktioniert das System der direkten Demokratie in der Schweiz?' *SWI swissinfo.ch*, (3 March 2025) <https://www.swissinfo.ch/ger/schweizer-demokratie/wie-funktioniert-das-system-der-direkten-demokratie-in-der-schweiz/88768620> accessed 31 May 2025
[220] In the Swiss political system, a motion is a formal parliamentary instrument used to instruct the Federal Council (executive) to draft legislation or implement specific measures. See: Swiss Parliament, "Parlamentarische Initiativen, Standesinitiativen, Vorstösse: Motion," <https://www.parlament.ch/de/über-das-parlament/parlamentsportraet/beratungsgegenstaende-und-parlamentarische-verfahren/parlamentarische-initiativen-standesinitiativen-vorstoesse/motion> accessed 24 June 2025

[naturalization initiative] of 2008[221] —to more facilitative efforts aimed at improving access for second- and third-generation immigrants. The latter include, most recently, Motion 21.3111 'Swiss citizenship for individuals born in Switzerland (*ius soli*)', [222] Motion 21.3112 'Naturalization for foreign nationals of the second generation', [223] and Motion 22.404 'For a genuinely facilitated naturalization of the third generation'[224]. In parallel, initiatives such as the 2016 *Ausschaffungsinitiative*[225] [deportation initiative] reveal how debates over inclusion often intersect with discourses of criminality and security, and effective exclusion. Other recent contestations engage with heritage and identity as further dimensions of citizenship—such as the petition *Nacionalidad Suiza Para Descendientes*, submitted by Argentinian descendants of Swiss emigrants, which called for facilitated access to citizenship or residence rights based on historical ties, thereby challenging the legal finality of past exclusions.[226] Similarly, the court case of Cate Riley, who was denied recognition despite her Swiss parentage due to administrative interpretation of adoption laws, highlighted the affective and symbolic stakes involved in claims to membership.[227] Though distinct in form, both examples reflect how the right to belong continues to be contested not only by those navigating

[221] Bundesamt für Justiz, *Volksabstimmung vom 1. Juni 2008: Ausschluss von Einbürgerungsentscheiden an der Urne* (1 June 2008) <https://www.ejpd.admin.ch/ejpd/de/home/themen/abstimmungen/2008-06-01.html> accessed 24 June 2025;
Swissinfo.ch, *Regierung stellt sich gegen Einbürgerungs-Initiative* (30 April 2008) <https://www.swissinfo.ch/ger/schweizer-politik/regierung-stellt-sich-gegen-einbuergerungs-initiative/6619258> accessed 24 June 2025

[222] Parlament.ch, *Motion 21.3111 – Schweizer Bürgerrecht, für Menschen die in der Schweiz geboren sind (Ius Soli)* <https://www.parlament.ch/de/ratsbetrieb/suche-curia-vista/geschaeft?AffairId=20213111> accessed 2 July 2025

[223] Parlament.ch, *Motion 21.3112 – Die Einbürgerung von Ausländerinnen und Ausländern der zweiten Generation (erleichterte Einbürgerung)* <https://www.parlament.ch/de/ratsbetrieb/suche-curia-vista/geschaeft?AffairId=20213112> accessed 24 June 2025

[224] Parlament.ch, *Motion 22.404 – Für eine wirklich erleichterte Einbürgerung der dritten Generation* <https://www.parlament.ch/de/ratsbetrieb/suche-curia-vista/geschaeft?AffairId=20220404> accessed 24 June 2025

[225] Bundeskanzlei, *Volksinitiative «für die Ausschaffung krimineller Ausländer (Ausschaffungsinitiative»)* <https://www.bk.admin.ch/ch/d/pore/vi/vis357.html>accessed 24 June 2025;
Eidgenössisches Justiz- und Polizeidepartement (EJPD), *Ausschaffungsinitiative* <https://www.ejpd.admin.ch/bj/de/home/sicherheit/gesetzgebung/archiv/ausschaffung.html> accessed 24 June 2025

[226] See Melanie Eichenberger, 'Lost Swiss Citizenship a Surprising Reality for Many' *SWI swissinfo.ch* (30 March 2025) <https://www.swissinfo.ch/eng/swiss-abroad/lost-swiss-citizenship-a-surprising-reality-for-many/89073762> accessed 25 June 2025; see also *Nacionalidad Suiza Para Descendientes* <https://www.descendientesdesuizos.com/> accessed 25 June 2025

[227] See Melanie Eichenberger, 'Aussie Adoptee Gains Swiss Citizenship at 54 Thanks to Old Envelope' *SWI swissinfo.ch* (8 January 2025) <https://www.swissinfo.ch/eng/swiss-abroad/aussie-adoptee-gains-swiss-citizenship-at-54-thanks-to-old-envelope/88680899> accessed 26 June 2025

integration, but also by those seeking recognition across generations and borders—underscoring how citizenship and belonging remain active sites of negotiation in Switzerland.

3.3.1 "Demokratie-Initiative" 2024/2025

However, a very recent initiative aiming to reform legislation concerning the acquisition of Swiss citizenship is the so-called *Demokratie-Initiative* [Democracy Initiative]. By calling for a uniform naturalization procedure across the country, the initiative directly seeks to address issues of alleged inequality and arbitrariness in current decision-making practices. It proposes a constitutional amendment that would transfer legislative competence over naturalization from the cantons to the federal level. In doing so, the initiative seeks to replace the existing patchwork of cantonal and communal procedures with a set of clear, standardized criteria applied equally to all applicants. According to the initiative committee, the goal of the reform is to base naturalization on "fair criteria instead of arbitrariness." [228] In concrete terms, the proposal introduces a legal entitlement to naturalization for non-citizens after five years of lawful residence, provided they meet basic conditions: a clean criminal record, no threat to national security, and proficiency in one of the national languages. [229] The most significant legislative changes are, notably, the reduction of the required residence period from ten to five years and the abolition of additional cantonal criteria, particularly the requirement to demonstrate proficiency in the language— or in one of the official languages in bilingual cantons—of the respective canton of residence.

The initiative committee successfully submitted the required number of signatures by November 2024, which the Federal Chancellery confirmed in January 2025. [230] As of now, no date has been set for the popular vote, as the formal political process is still ongoing. The Federal Parliament's position is likewise pending and is typically published once the date for the vote is officially announced. However, in February

[228] SP Schweiz, 'Demokratie-Initiative für ein modernes Bürgerrecht unterschreiben' (SP Schweiz) <https://www.sp-ps.ch/kampagne/demokratie-initiative/> accessed 31 May 2025
[229] Federal Department of Justice and Police, *Der Bundesrat empfiehlt «Demokratie-Initiative» zur Ablehnung* (19 February 2025) ‹https://www.news.admin.ch/de/nsb?id=104193› accessed 2 June 2025
[230] Swiss Federal Chancellery, *Bundesblatt* [Federal Gazette], 'Eidgenössische Volksinitiative "Für ein modernes Bürgerrecht (Demokratie-Initiative)"' (29 January 2025) *Bundesblatt*, FedGazette <https://www.fedlex.admin.ch/eli/fga/2025/273/de> accessed 7 July 2025.

2025, the Federal Council issued its official position, recommending the initiative's rejection. [231] It justified this recommendation by stating that the proposal significantly interferes with cantonal competences and the federal structure underlying the ordinary naturalization procedure. While not binding, such recommendations often influence parliamentary debate and shape public opinion. [232] Also, Samuel Schmid from the Department of Political Science at the University of Lucerne considers the prospects for the *Demokratie-Initiative* to succeed at the ballot box as slim. While the proposed reform would likely contribute to higher naturalization rates and, in turn, strengthen the democratic legitimacy of the Swiss polity through broader inclusion, Schmid identifies two principal and interrelated reasons for its likely rejection. First, many Swiss voters—particularly in rural areas—want to retain "the function of gatekeepers for national belonging". [233] The decentralized structure of naturalization, with its emphasis on local discretion and communal autonomy, is deeply embedded in the culture and thus fiercely defended, as Schmid argues.[234] Second, the prevailing understanding among the electorate conceives of citizenship not as a means of fostering integration but rather as its culmination. From Schmid's perspective, the notion of granting naturalization rights on the basis of only basic linguistic proficiency—regardless of whether the language corresponds to that of the canton or municipality of residence—for many appears inadequate as a foundation for democratic participation.[235] Much will depend, Schmid argues, on how such provisions would be implemented in practice, particularly with regard to language acquisition support and the standards adopted for objective testing. More broadly, linguistic integration is often perceived as a proxy for cultural assimilation and thus remains a central expectation placed upon immigrants by large segments of the Swiss population—an expectation underscored by initial public reactions to the launch of the initiative.[236] In addition, Schmid states, the prospects of the initiative must also be read in the context of a broader international trend whereby

[231] Medienmitteilung des Bundesrats, *Bundesrat empfiehlt Ablehnung der Demokratie-Initiative* (19 February 2025) <https://www.news.admin.ch/de/nsb?id=104193 >accessed 25 June 2025.
[232] *ibid*
[233] Samuel D Schmid, 'Democratizing Switzerland: The Significance of the New Naturalization Initiative' (Verfassungsblog, 2 June 2023) <https://verfassungsblog.de/democratizing-switzerland/>accessed 10 July 2025
[234] *ibid*
[235] *ibid*
[236] *ibid*

many democracies have either maintained or tightened their integration conditions for naturalization, moving towards increasingly restrictive models over the past decades.[237] Nonetheless, Schmid underscores the political significance of the initiative. Even if it ultimately fails, it places the issue of democratic exclusion at the center of public debate. Importantly, it also opens space for alternative narratives—challenging the prevailing assumption that only those deemed "sufficiently integrated" are entitled to democratic rights.[238]

The *Demokratie-Initiative*, along with earlier reform efforts, reflects a persistent civic impulse to reshape the boundaries of political membership in Switzerland and to challenge the discretionary barriers that continue to govern access to citizenship. The regular reappearance of naturalization-related issues in public debate underscores the extent to which citizenship functions not only as a legal status, but also as a powerful symbol of democratic participation and societal recognition. As one of the most recent and visible expressions of this broader contestation, the initiative exemplifies how access to citizenship remains a key—if unresolved—site of democratic inclusion. It also reveals the enduring structural tensions between local autonomy and national coherence within Switzerland's federal system, particularly in relation to the fragmented landscape of naturalization procedures. Taken together, these developments reaffirm the centrality of citizenship in the Swiss context, where it operates as both a legal category and a contested marker of belonging and social legitimacy.

Having laid out the broader conceptual dimensions of citizenship and belonging in the first chapter, and having explored the country-specific legal, institutional, and political landscape shaping access to Swiss citizenship in the second, the following chapter turns to a critical review of the normative and practical implications that emerge from this context. It synthesizes the insights gained thus far to assess how current legal frameworks and political practices in Switzerland affect the realization of the right to belong, and how these align—or diverge—from broader human rights standards and principles of democratic inclusion.

[237] *ibid*
[238] *ibid*

4. Review: A Reoccurring Theme of Exclusion

This chapter reflects on what has been outlined so far, shedding light on the points where scholars, and myself, have identified structural shortcomings and potential strengths within the Swiss citizenship regime. In particular, it focuses on how certain practices perpetuate exclusion and ultimately hinder the ability of non-citizens to "genuinely belong," thereby undermining core liberal democratic principles. Having concluded the previous chapter with the current *Demokratie-Initiative* which signals an implicit critique of the status quo from within society—this chapter builds on that momentum. It brings together criticisms voiced by human rights monitoring bodies, scholars, experts, and my own analysis, and situates them within the broader normative arguments and conceptual foundations articulated throughout the scope of this thesis, ultimately leading to final reflections on the implications of the findings for long-term non-citizens.

4.1 Exclusion by Design: The "Golden" Swiss Passport?

As has been demonstrated over the previous chapter, current data suggest that Switzerland is not making significant efforts to include a greater share of its non-citizen population. Instead, its exclusionary practices have drawn criticism from institutions such as the non-governmental organization Freedom House. In its 2020 country report, Freedom House observed that Switzerland's restrictive citizenship laws and procedures tend to exclude many immigrants and their children from political participation. Roughly a quarter of the population is composed of non-citizens who are not entitled to vote in federal elections and only have limited voting rights at the cantonal level. [239] Still largely considered to fall within the traditional domaine réservé, Switzerland has faced relatively little overt criticism from international human rights monitoring bodies regarding the restrictive access to its citizenship. While the country was previously condemned for the use of local plebiscites in deciding naturalization applications, this practice was abolished following a ruling by the Federal Supreme Court in 2003. [240]

[239] Freedom House, *Freedom in the World 2020: Switzerland* (Freedom House, April 2020) <https://freedomhouse.org/country/switzerland/freedom-world/2020> accessed 10 July 2025
[240] Veysel Özcan, 'Swiss Court Halts Local Plebiscites on Naturalization' *Migration Policy Institute* (Migration Information Source, 1 October 2003) <https://www.migrationpolicy.org/article/swiss-court-halts-local-plebiscites-naturalization> accessed 10 July 2025

One notable exception is the European Commission against Racism and Intolerance (ECRI), which in its 2020 report raised concerns about Switzerland's revised Citizenship Act, particularly in relation to its potential discriminatory impact.

> 76. ECRI believes that people are most likely to become integrated if they obtain the citizenship of the country in which they live and have the same rights as nationals. Naturalisation is also an important factor in improving migrants' well-being and states should facilitate the process rather than set obstacles. A new Swiss citizenship law entered into force in January 2018. It reduces the duration of residency required from 12 to 10 years and time spent in the country between the age of 8 and 18 years counts double. On the other hand, the eligibility criteria have been tightened with respect to "successful integration". The SEM makes a preliminary assessment within eight months and the cantonal authorities must then make a decision within 12 months. Cantons and municipalities have their own requirements that must be met and these vary considerably, as does the duration of the process. ECRI considers that *these factors create uncertainty and inequalities and should be streamlined*. ECRI also regrets that there is n*o provision for facilitated naturalisation of refugees*.[241]

Thus, the report emphasizes its concerns regarding the non-uniform standards across the cantonal legislation and practices. It also draws on the critical notion of "successful integration". Indeed, the implications of the Swiss Citizenship Act are one of the key areas in which uneven interpretation and implementation, and thus unequal treatment, becomes particularly evident. Although, according to MIPEX, the Act in fact provided clearer standards on language requirements and thereby improved immigrants' path to nationality,[242]it has since its implementation been met with critique, particularly for its set of integration criteria and its implication on assessments thereof. Latter has been subject of a recently published study which confirms that the new legislation due to its

[241] European Commission against Racism and Intolerance (ECRI), *ECRI Report on Switzerland (sixth monitoring cycle)* (adopted 10 December 2019, published 19 March 2020) <https://rm.coe.int/ecri-report-on-switzerland-sixth-monitoring-cycle-/16809ce4bd> accessed 10 July 2025 (emphasis added)
[242] Migrant Integration Policy Index, *MIPEX – Switzerland* (n 202)

increasingly selective practices has characterized naturalization as a "privilege".[243] While the new rules provide a "more precise legal framework" for naturalization, the 26 Swiss cantons still enjoy significant freedom in setting the explicit legislation for application, explains Manuele Bertoli, president of the Federal Commission on Migration (FCM).[244] Since the revised SCA entered into force, the proportion of highly educated and economically secure applicants has risen significantly, while naturalizations among individuals with lower educational and socioeconomic backgrounds have declined. Thus, the ECRI's in 2020 articulated concern, regarding the creation of uncertainty and inequalities, has proved to be accurate.

Additionally, the fact that in the ECRI's evaluation and recommendation, as well as in merely any official documentation or reporting the terms "successful integration" are always marked by quotation marks, already hints at the bigger underlying issue of Article 11 SCA. It becomes nearly impossible for the reader or interpreter of the provision in question to apprehend the practical meanings of two out of the three material requirements enshrined in Article 11; "successfully integrated" and "familiar with the 'Swiss way of life'". These notions remain fluid and are applied inconsistently across cantons and communes. As outlined in the previous chapter, cantonal and communal authorities are responsible not only for verifying the formal prerequisites outlined in Article 9 SCA but also for assessing the less clearly defined integration criteria set out in Article 12. However, with the exception of paragraph (c), the article relies on broad and open-ended formulations—such as "showing respect," "participating," and "encouraging and supporting"—which are inherently difficult to measure and assess. While the use of integration criteria in itself has come under scholarly scrutiny—Carens, for instance, argues that "it is not morally permissible for a democratic state to make access to citizenship contingent upon what a person thinks or believes" [245]—such vague language leaves significant room for legal interpretation and, in practice, enables cantonal and communal authorities to apply divergent standards.

[243] Medienmitteilung der Eidgenössischen Migrationskommission, *Neue EKM-Studie: Einbürgerung als Privileg* (23 May 2024) <https://www.news.admin.ch/de/nsb?id=101105> accessed 2 July 2025
[244] Domhnall O'Sullivan 'Golden passport? Certain groups struggle to obtain Swiss citizenship, study shows' *SWI swissinfo.ch*, (23 May 2024) <https://www.swissinfo.ch/eng/swiss-politics/golden-passport-certain-groups-struggle-to-become-swiss-study-shows/78300965> accessed 7 July 2025
[245] Carens (n 44) 52

Assessments are typically operationalized through written tests and personal interviews, that are often conducted by communal bodies, so-called "naturalization commissions". As a result, the threshold of Article 11 SAC deemed sufficient for acquiring Swiss citizenship is shaped to a considerable extent by cantonal and communal legislation and policy frameworks—and ultimately by the discretionary judgments of the authorities tasked with their application. In turn, the standards and expectations that applicants face are directly influenced by the political orientations and policy agendas of elected representatives at the cantonal and communal levels.[246] Thus, it is unsurprising that the lowest naturalization rates are found in regions where the Swiss People's Party (SVP), as the dominant force on the political right, maintains a strong voter base. [247] Echoing Shachar's concept of the "birthright lottery," naturalization in Switzerland increasingly resembles a "residence lottery," shaped by the applicant's place of residence and its particular set of mechanisms and assessing authorities.

In the past, Switzerland has regularly justified slow implementation, non-implementation or rejection of recommendation with cantonal competences and thus federal constraints. Concerns may be appropriate, when and if Switzerland's is instead using its federalistic structure as "slipping through the backdoor" argument, in order to fully retain its state discretion and ultimately undermine recommendations. In the same manner, one could question statements in the Federal Council Dispatch on the Total Revision of the Federal Act on Swiss Citizenship when it assessed that the newly drafted Swiss Citizenship Act is "in principle" in alignment with European law. Regrettably, the assessment whether the revised Swiss Citizenship Act as of the time of its drafting was actually "in principle" in alignment with European law at that time, or whether the newly drafted Citizenship Act was underpinned more political motives, goes beyond the scope of this thesis.

[246] Dragan Ilic, *Naturalization and Prejudice: What We Know, and What Is Uncertain* (NCCR – On the Move, in a nutshell #5, February 2017) <https://nccr-onthemove.ch/wp-content/uploads/2023/04/NCCR_Nutshell5_engl.pdf> accessed 2 July 2025

[247] Compare Swiss Federal Chancellery, *National Council Elections 2023: Strongest Party by Canton* (Elections.admin.ch) <https://www.elections.admin.ch/en/ch/national-council/election-results.html accessed> 2 July 2025; and NCCR – On the Move, *Where in Switzerland are migrants naturalized most often?* (Migration-Mobility Nexus) <https://nccr-onthemove.ch/indicators/where-in-switzerland-are-migrants-naturalized-most-often/> accessed 2 July 2025

Another important criticism of Switzerland's federally organized naturalization system concerns the lack of comprehensive and easily accessible data from cantonal and communal authorities.[248] While Switzerland has been commended for the availability of detailed statistics on naturalization and international migration, [249] drawing substantiated conclusions about potential arbitrariness in decision-making—whether toward individuals or specific groups of foreign nationals—is hindered by the fragmented and incomplete nature of the data. Although such figures undoubtedly exist, they are not made publicly available. As a result, transparent analysis and comparison at the national level remain largely inaccessible to the public, academic researchers, and civil society actors, thereby impeding broader assessments of the naturalization regime as a whole. However, it should also be noted that the Swiss government shows effort to address concerns about arbitrariness by supporting research and data-driven evaluations. For example, the Federal Commission on Migration has commissioned studies examining procedural disparities and potential discrimination,[250] while research initiatives such as the SWISSCIT Index and publications of the National Center of Competence in Research (NCCR)[251] seek to shed light on contemporary phenomena related to migration and mobility including cantonal variation and promote greater transparency in naturalization practices. Nevertheless, the detailed data on naturalization applications at the cantonal and communal levels remains unpublished. Without data on submitted and rejected applications—including whether they were denied for failing to meet formal requirements, material requirements, or both—it is difficult, if not impossible, to evaluate the Swiss naturalization regime as a whole or to draw meaningful regional or international comparisons.

[248] Ilic (n 246)
[249] See Galeano et al. (n 216)
[250] Medienmitteilung der Eidgenössischen Migrationskommission (n 243)
[251] The National Center of Competence in Research (NCCR) for migration and mobility studies aims to enhance the understanding of contemporary phenomena related to migration and mobility in Switzerland and beyond. Connecting disciplines, the NCCR brings together research from the social sciences, economics and law. Managed at the University of Neuchâtel, the network comprises eleven research projects at eight universities in Switzerland. The *Working Papers Series* is an online platform for academic debates by members and cooperating partners of the NCCR. See National Center of Competence in Research (NCCR) <https://nccr-onthemove.ch/all-publications/working-papers/> accessed 3 July 2025

4.2 Exclusion from Legal, Political and *full* Social Membership

Over the course of this thesis, it has been established that citizenship is not only a condition for full membership and thus genuine belonging, but also a prerequisite for access to specific rights that are exclusively bestowed upon citizens. In his analysis of the broader significance of the *Demokratie-Initiative*, Schmid underscores the importance of the proposal in light of its implications for democratic legitimacy. He argues that a state which excludes more than one-fourth of its permanent population from political participation cannot claim to be a full-fledged democracy. In this sense, he contends that the *Demokratie-Initiative* ultimately seeks nothing less than to "fundamentally transform the exclusive and peculiar Swiss citizenship system and paradigm to do nothing less than restore Swiss democracy." Although there is broad consensus that easing naturalization requirements is not the *only* means of fostering inclusion, it is surely *one* way—and, within today's system of nation-states, most likely *the* way—to ensure genuinely equal access to rights and opportunities, and thus greater justice. As mentioned early on, this thesis does not engage with alternative conceptual frameworks grounded in more cosmopolitan conceptions of citizenship and belonging.

Schmid argues that a successful increase in naturalization rates, brought about by easing regulations, would not only foster greater inclusion but ultimately enhance the legitimacy of Swiss democracy.[252] Defining the electorate, after all, is a foundational step in establishing democratic institutions.[253] Yet both the concept of democracy and the legal construction of the Swiss "people" remain rooted in an inherently exclusionary logic, as Studer argues.[254] Article 136 excludes a significant part of the population, namely minors, those deemed legally incapable of discernment, and non-citizens – the exclusion of interest for this thesis. Thus, the constitutional notion of "the people" limits participation to Swiss citizens—an approach that reflects a long-standing[255], though increasingly contested, assumption shared by many legal systems "according to which only citizens would share a 'sufficiently strong' sense of loyalty towards their State to

[252] *ibid*
[253] Andreas Auer, Giorgio Malinverni and Michel Hottelier, *Droit constitutionnel suisse* (3rd edn, Stämpfli 2013) para 618
[254] Studer (n 142) 9; see also Holland-Cunz (n 174) 135
[255] Déloye (n 25) 28 ff.

participate in decision-making."[256] However, this observation is increasingly questionable given the growing importance of multiple citizenship, which, as studies show, does not necessarily translate into a lack of engagement with any of the states of which a person is a citizen.[257] On a conceptual level access to citizenship is thus built on the construction of an alterity relationship among members of a population presumed to be homogeneous.[258] As Boillet and Demay aptly conclude, the notion of citizenship carries an implicit logic of prioritization and standardization: while some members of the population are granted access to norms and take part in shaping them, others remain mere addressees of these norms. Although most fundamental rights in Switzerland are nowadays granted regardless of citizenship status[259], political rights — along with the freedom of establishment and protection from deportation[260] — remain tied to Swiss citizenship. This distinction raises fundamental concerns about the compatibility of such exclusionary structures with the democratic principle enshrined in the Swiss Constitution.[261]

Early on, Arendt emphasized the importance of recognition within the political community, arguing that individuals without it are deprived of "a place in the world which makes opinions significant and actions effective."[262] The right to belong—to be heard, "to co-create," as Baer has put it[263]—is thus not merely one right among others, but a foundational precondition for the exercise of all other rights, across all levels of governance. As Kälin and Künzli point out, the right to take part in public affairs, including the right to vote, holds a distinct status reserved for citizens of the respective

[256] Boillet and Demay (n 143) 233 (emphasis added); see also Véronique Boillet, 'Le corps électoral fédéral' in Oliver Diggelmann et al (eds), *Verfassungsrecht der Schweiz* (Dike 2020) para 24
[257] Joachim Blatter, Martina Sochin D'Elia and Michael Buess, *Bürgerschaft und Demokratie in Zeiten transnationaler Migration: Hintergründe, Chancen und Risiken der Doppelbürgerschaft* (Study commissioned by the Federal Commission for Migration, Bern 2018) 57 ff.
[258] Carl F Stychin, *Governing Sexuality: The Changing Politics of Citizenship and Law Reform* (Hart Publishing 2003) 7
[259] Siobhàn Mullally, 'Gender Equality, Citizenship: Status and the Politics of Belonging' in Martha Albertson Fineman (ed), *Transcending the Boundaries of Law* (Routledge 2011) 193
[260] Céline Gutzwiller, 'Article 37' in Vincent Martenet and Jean-Baptiste Dubey (eds), *Commentaire romand de la Constitution fédérale de la Confédération suisse du 18 avril 1999* (Helbing Lichtenhahn 2021) para 8 ;
Boillet and Demay point out that this is true even in terms of access to social assistance, since the fact of having benefited from such assistance can be a reason for expulsion: Boillet and Demay (n 143) 234
[261] Boillet and Demay (n 143) 233
[262] Arendt (n 9) 296
[263] Baer (n 134) 257

state. [264] To date, avenues of active participation in political life and in the development of law remain largely inaccessible to non-citizens. Indeed, their participation in public discourse is limited to other participatory rights, such as the right to petition or freedom of association. [265] Thus, non-citizens find themselves being governed rather than governing. Such conditionality of rights, however, becomes deeply problematic—both from a moral and legal rights perspective, particularly when considering the sustained denial of political participation to individuals regarded as long-term residents. Such conditionality on rights, however, becomes deeply problematic—both from a moral and legal rights perspective—when considering the sustained denial of political participation to individuals considered as long-term residents. On this basis, this thesis aligns with the positions advanced by Benhabib, Rubio-Marín, Carens, and Shachar, who advocate for a membership entitlement for non-citizens that derives from durable residence.

Shachar has convincingly argued that the dominant principles of *jus soli* and *jus sanguinis* constitute fundamentally arbitrary criteria for allocating membership, as they confer significant advantages based on inherited status and ultimately serve to perpetuate global inequalities. These principles stand in direct tension with the core values that human rights and liberal democracies claim to uphold, and as such, cannot be normatively justified. To address this system of structural injustice, she proposes a complete rethinking of the foundations of political membership through her concept of *jus nexi*, which grounds membership in the actual social attachments formed between an individual and a given society.[266] This notion of *genuine connection* resonates with the evolving jurisprudence of the European Court of Human Rights, which, in recent years, has increasingly affirmed the link between legal status and belonging. Von Rütte refers to this trend as the Court's "social identity approach," referring to the recognition of a non-citizen's social identity—understood as the web of personal, social, and familial ties established through long-term residence, integration, or close family links in the host state. [267] Ultimately, this evolving practice amounts to "an implicit recognition of a

[264] Kälin und Künzli (n 136) 607
[265] Boillet and Demay (n 143) 231
[266] Shachar (n 12) 96, 164 f
[267] von Rütte (n 105) 152

right to remain, a right to a legal status, and a right to citizenship for non-citizens on the basis of their centre of life", as von Rütte concludes. [268]

Evolving legal practices—particularly at the regional level—also illustrate the gradual erosion of the traditional *domaine réservé* with regard to nationality matters. As shown, international law has progressively imposed legal constraints on states' discretion, embedding nationality within an increasingly fragmented yet expanding international legal framework. The long-standing view that nationality lies solely within the sovereign domain of states has thus become increasingly untenable. This normative evolution highlights that access to nationality is no longer governed exclusively by sovereign prerogative, but increasingly shaped by the principles of legality, equality, and human dignity. [269] Thus, liberal democracies, like Switzerland, that are on the one hand founded on those very principles, and on the other have pledge to uphold them in form of international covenants including the Universal Declaration of Human Rights, over the course of time, cannot uphold sustained denial of rights, such as rights with a distinct status reserved for citizens. To do so, means to undermine the very ground they stand on, risking not only credibility and internal societal cohesion.

4.2.1 Implication: The Right to Belong for Swiss-Born Non-Citizens

Switzerland has so far refrained from implementing the recommendation issued by the Committee on the Elimination of Racial Discrimination (CERD) in its 2021 country report, namely:

> "Provide the possibility for all stateless children born in the State party to acquire Swiss citizenship at birth and *facilitate access to Swiss citizenship for all other children born in Switzerland, regardless of their residency status*."[270]

[268] *ibid*
[269] von Rütte (n 22) 76 ff.
[270] UN Committee on the Elimination of Racial Discrimination, Concluding observations on the combined tenth to twelfth periodic reports of Switzerland (CERD/C/CHE/CO/10-12, 27 December 2021) para 26(g) <https://www.ecoi.net/en/file/local/2070823/G2139600.pdf> accessed 10 July 2025 (emphasis added)

Based on what has been established over the course of this thesis—particularly with regard to the specific legal provisions and the additional layer of protection afforded to the child's right to nationality and identity[271], the ECtHR's jurisprudence linking legal status to social ties, and Shachar's concept of a genuine connection between the individual and the society in question—there appears to be no substantial legal or moral justification for denying a child born in Switzerland, who possesses such ties, the legal, political, and thus full social membership. I therefore argue that children born in Switzerland ought to have their "right to belong" acknowledged, recognized, and manifested through the granting of citizenship. Alongside von Rütte and Shachar, I further contend that adult non-citizens should similarly be granted access to citizenship wherever a genuine connection—as articulated through the principle of *jus nexi*—can be demonstrated.

[271] General Comment No 17 (n 72) para 2

5. Conclusion: Rethinking Belonging—From Legal Status to Lived Recognition

This thesis has traced the contours of citizenship in Switzerland, examining how access to legal membership shapes—indeed, conditions—the experience of belonging in a liberal democracy. It has shown that Switzerland's naturalization regime, though formalized through a revised legal framework, continues to exhibit practices that entrench inequality and foster exclusion. The persistent disparity across cantonal and communal practices, the vague and discretionary application of integration criteria, and the absence of meaningful legal or moral justification for the exclusion of children born and raised in Switzerland—all point to a citizenship regime that is, in practice, exclusion by design.

Although Switzerland formally adheres to democratic principles—participation, equality, rule of law—these principles lose coherence when nearly a quarter of its population remains without political rights. While citizenship acquisition may not be the only avenue toward social cohesion or democratic renewal, it remains, in the context of a state-based international system, the principal mechanism through which full membership is granted. For many, it is the one form of belonging that determines whether their voices are heard, their rights protected, and their futures secured.

The implications of this are twofold. First, liberal democracies like Switzerland must confront the growing tension between foundational democratic ideals and exclusionary citizenship practices. Second, international human rights law must evolve to better reflect the social realities of identity and belonging. The European Court of Human Rights' emerging "social identity" approach and the erosion of the traditional *domaine réservé* signal a slow but notable shift—one that calls for a deeper re-evaluation of how legal systems conceptualize membership.

It is in this light that the notion of *jus nexi*—membership grounded in genuine social ties—gains normative force. As Shachar has argued, inherited or territorially determined forms of membership such as *jus sanguinis* or *jus soli* are increasingly arbitrary in a world marked by migration, plural identities, and transnational communities. To continue grounding full civic inclusion in these principles is to uphold a system that

contradicts the values liberal democracies purport to protect: equality, dignity, and freedom.

The refusal to grant Swiss-born non-citizens access to citizenship, even when they demonstrate deep-rooted social connections, highlights the disjuncture between law and lived experience. When children who grow up as *de facto* members of society are denied *de jure* recognition, democracy becomes selective and belonging conditional. As this thesis has argued, there is no defensible legal or moral ground to withhold from such individuals the rights and responsibilities that citizenship entails. Their right to belong must be acknowledged—not only as a symbolic gesture, but as a substantive political act.

This conclusion invites further reflection on the legal, social, and democratic consequences of exclusion in contemporary citizenship regimes. Future research might explore whether current international legal frameworks could evolve to better accommodate non-traditional forms of membership, including dual or transnational citizenship, or alternative political participation models such as alien enfranchisement. It would also be worthwhile to examine how individuals excluded from citizenship perceive their own status—whether they seek naturalization, what barriers they face, and what meanings they attach to legal belonging. Qualitative research that centers the lived experiences of long-term residents, stateless individuals, and Swiss-born non-citizens could offer valuable insight into how exclusion operates on a personal and systemic level. As demographic realities shift and public trust in liberal institutions wanes, a deeper understanding of citizenship's evolving role—socially, economically, and politically—becomes not only desirable, but urgent.

At stake is more than the legal architecture of naturalization—it is the soul of democratic life. The "right to have rights," as Arendt famously put it, depends not merely on formal status, but on recognition as a participant in the political community. Without such recognition, rights remain fragile promises. And while international human rights treaties have not yet adopted a "living instrument" doctrine akin to the one embraced by the European Court of Human Rights, perhaps the time has come to view them as such—dynamic, evolving, and responsive to the shifting realities of those they are meant to protect.

In a world increasingly characterized by fragmentation, retreating solidarities, and contested sovereignties, rethinking citizenship through the lens of belonging is not a luxury—it is a necessity. For if we hold that democracies are measured not only by how they treat their citizens, but also by how they treat those who seek to become citizens, then the path forward must be one of inclusion grounded in justice, not exclusion sustained by tradition.

Citizenship, then, is not merely a legal threshold. It is a moral horizon—a commitment to a shared future. And perhaps, as Socrates once hinted, the real measure of one's place in the *polis* is not where one was born, but whether one is *allowed to belong*.

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