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# WORKING PAPER

**Post-colonial Citizenship and Decolonisation  
as a Turning Point: Continuities and  
Discontinuities in African states**

Bronwen Manby

European University Institute  
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## **Abstract**

This paper considers decolonisation as a turning point, or moment of change, in the history of the legal regulation of belonging and membership, with a particular focus on Africa. The paper compares the evolution of concepts of citizenship when African states gained independence with other decolonisations—of the Americas, South Asia, and former Soviet Union. It explores the many similarities between Africa and other post-colonial geographies, especially the frequent resilience of colonial institutions and the resentment of those whose presence in a territory is the result of population movements within the former empires. Yet it also shows how the particular experience of European imperial oppression in Africa created continental dynamics in the imagination and regulation of citizenship that are different from other regions. Finally, however, the paper warns against over-emphasising the differences from the debates over citizenship in Europe. Europe, after all, is also a post-colonial space: European borders established at the break-up of the Austro-Hungarian and Russian empires were equally viewed as artificial; while the legacy of European imperialism lives on in contemporary European immigration and citizenship policies. Although the challenges of imagining the community in Africa's post-independence states are obvious, the boundaries of community are as mutable as they are in other continents, and concepts of citizenship thus not so dissimilar to those in Europe or elsewhere.

## **Keywords**

Citizenship; decolonisation; Africa; borders

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## Introduction

The era of decolonisation, as the European powers gradually relinquished control of most of their overseas territories in the 1960s and 70s, marks an apparently obvious turning point, or moment of change, in the history of citizenship law and practice.

Decolonisation brought the universalisation of the legal and philosophical concepts of citizenship developed in Europe – but never applied to the majority of residents in their imperial territories. The newly independent states were now deemed to have become ‘nation-states’ according to an imagined European model, in which modern state structures would displace both the imperial administration and the continuing role of pre-colonial institutions in governing the population. The gap common to the age of empires between nationality as an international legal status on the one hand, and the enjoyment of full citizenship rights at national level on the other, was now closed. (Gaps between the status of men and women remained acceptable for some decades longer.)

At the same time, the legal regimes for citizenship in the new states were inevitably shaped by the colonial era, perhaps in Africa above all, the focus of this paper. Contemporary African citizenships are framed by colonisation: the carving up of the continent and the imposition or dissolution of political institutions and boundaries without respect for the pre-existing polities; the large-scale expropriation of land; the forced recruitment of labour from one region to another; the immigration of large numbers of workers, traders and settlers from within and without the continent; the racialised categories of membership at the level of each territory; and the intermittent adjustment of borders and jurisdictions among the colonial powers; followed by a sometimes violent and everywhere hasty transition to independence and reimposition of smaller political units. For regulation of the citizenship of the new states, just as Antony Anghie has argued for international law, ‘the enduring consequences of colonialism became a central and inescapable issue’ (Anghie, 2005, p. 197).

There are many similarities between Africa and other post-colonial geographies, especially the frequent resilience of colonial institutions and the resentment of those whose presence in a territory is the result of population movements within the former empires. Yet the particular experience of European imperial oppression in Africa created continental dynamics in the imagination and regulation of citizenship that are different from other regions. Struggles for citizenship in independent Africa were shaped by the anti-colonial struggle: by a sense of solidarity with those sharing the fight for liberation, both locally and globally; and by the desire to reverse the racial hierarchy of political and economic power that had existed under empire. At independence, the African continent was an imagined space in many ways more potent than the individual post-colonial state, and this imagination continues to influence citizenship law and policy today.

In some ways, therefore, decolonisation marks a more obvious turning point for the history of European frameworks of citizenship in global context, than it does for rules governing membership, participation, and belonging in former colonised states—more disrupted by the arrival of European empires than their departure. We should not, however, over-emphasise the differences between the debates in Africa and in Europe. New political actors have progressively reshaped the frameworks that they inherited, creating multiple different turning points in different countries rather than a single pivot. European borders are also not ‘natural’ but shaped by war and conquest. There are particular challenges created by Africa’s history, but the laws regulating citizenship are shaped by the same debates as exist elsewhere.

## Post-colonial Citizenship Over Time and Across Geographies

Africa is not the first region of the world to have been liberated from colonial rule, even if we restrict the inquiry to the modern era; nor the last, if we take the break-up of the Soviet Union and its satellite states as the most recent major episode of decolonisation. To understand the extent to which there is a common legal and political framing for citizenship in post-colonial states across geographies, we must set Africa's history within this broader context.

The first territories of the global European empires to be decolonised were in the Americas: the future United States, declaring independence from Britain in 1776; followed by the rebellion of what became Haiti from France in 1791; and, finally, the South American territories of Spain and Portugal in the first quarter of the 19<sup>th</sup> century.

At that time, differentiated categories of citizenship were prevalent everywhere; among social, racial or ethnic groups, and of course between men and women. That is, the separation of nationality from citizenship was the norm – rendering the question of legal nationality less politically sensitive where post-colonial hierarchies remained essentially unaltered from the colonial era. Expansive *jus soli* rights were accordingly provided in the both the US constitution of 1787 and the new states of Latin America three decades later, based on the contemporary rules in Britain and in the Spanish Empire's Cadiz constitution of 1812. The new leaders (almost all of European descent) could approve the automatic attribution of nationality to all those born in their territories (including indigenous Americans and those of African descent) without fear that they would thereby gain full citizenship and in the expectation that their labour could be easily exploited (Acosta Arcarazo, 2018, chaps 2 & 3; Miki, 2021). The political context of Haiti, however, produced a radically different framing (more similar to that in Africa), as the formerly oppressed struggled to establish control over the new state and its economy, creating preferences in favour of Blacks (*Noirs*) in citizenship acquisition and rights (Gaffield, 2007; Ferrer, 2012).

A century later, as new states and territories were created from the ruins of the Ottoman, Russian and Austro-Hungarian empires after the first world war, the international context was different again. The states gaining independence in the era of the League of Nations were created in a world in which nationality was envisaged as depending on cultural identity and descent. The borders of the new states in Europe were drawn, so far as possible, to create states in which one ethnic group was dominant, with protection for minorities (Mazower, 1997). Although the post-war treaties provided for nationality of the new states to be attributed in the first instance on the basis of habitual residence, adult men (on behalf also of their wives and children) had the right to opt for another nationality, based on ethnicity, language, or race. The echo of this framework remains in contemporary provisions in Egyptian nationality law (derived from the first law of 1926) for facilitated acquisition of nationality on the basis of Arab and Muslim identity. At the same time, the mandate systems created for the former Ottoman and German territories outside of Europe established the first limits on the previous absolute discretion of states to impose their nationality on colonised peoples, envisaging a (far-off) future in which 'peoples not yet able to stand by themselves under the strenuous conditions of the modern world' might achieve statehood (Article 22 of the Covenant of the League of Nations; see further Pedersen, 2015).

The creation of the United Nations after the second world war, with its commitment to self-determination, then brought the promise of independence for all colonised territories, and of international law's evolution into a truly universal normative framework.

The states gaining independence in the post-war period had multiple and varied histories of pre-colonial and colonial regulation and imagination of belonging. Almost all, however, reached statehood with borders perceived as arbitrary or unjust in one way or another, with latent or open tensions between dominant and less dominant ethnic or religious communities, pre-colonial (and colonial) polities split by new international borders, or with only a shared history of colonial oppression as a unifying idea for a state consisting only of minorities.

Unlike those European states where citizenship (as full membership of a political community) had been gradually (if not completely) achieved after centuries of contested civic space, independence in the end came rapidly: ‘the idea of citizenship was ... forged simultaneously with the idea of the nation’ (Jayal, 2013, p. 12). The new states were thus inevitably ‘born with unresolved tensions between civic and ethno-nationalist aspirations’ (Sadiq, 2017, p. 185); in which minority claims for recognition had to ‘negotiate their relationship to the history of colonialism’ (Chatterjee, 1993, pp. 18, 26). India and Pakistan were the first to gain independence in this new world; an independence that was twinned with the trauma of Partition. The conundrum of determining nationality in the post-Partition years, of deciding who belonged where, was framed and complicated by the mirrored identities of the two new states, as perceived at both elite and popular level (Shani, 2017, chap. 2; Ansari and Gould, 2019, chap. 4; Kapoor, 2021).

The boundaries of citizenship in African states, as they gained independence in the 1950s, 60s, and 70s, were shaped by different histories and demographics. In no more than a handful of cases could one ethno-linguistic group claim ‘ownership’ of the state. The debate over citizenship is thus radically different from the European model as imagined by the framework of the League of Nations treaties, in which there is an existing body of citizens – understood already to form a ‘nation’ in some way – which must accommodate recognised ‘national minorities’, as well as integrate new immigrants. The dynamic was also different from the typical context of the Hispano-American world; in Africa, solidarity among states of common heritage was seen from the perspective of the ‘native’ rather than the ‘settler’. Moreover, unlike South Asia – or the states formed at the break-up of the Austro-Hungarian, Ottoman, or Russian empires – the politics of the new African states were not (with exceptions) dominated by rivalry with their neighbours; but rather by the need for collaboration with neighbours in opposition to the risk of ongoing political and economic exploitation by the former colonial powers. Federation and cooperation with other African states were envisioned as foundations for the creation of ‘an international order free from domination’ (Getachew, 2019, p. 23). Advocacy during the lead up to independence was indeed against the ‘balkanisation’ of Africa, especially French West Africa (*Afrique occidentale française*, AOF), and for the creation of federal structures to combat ongoing power imbalances with the former colonisers (Neuberger, 1976; Benoist, 1979; Getachew, 2019, chap. 4). The radical concept of a ‘Union government’ for Africa did not take root; but a number of transcontinental initiatives were very rapidly consolidated within the Organisation of African Unity (OAU), formed in 1963 (Wallerstein, 1966). Nonetheless, a rhetorical aversion to colonial borders was immediately challenged by the need to mediate territorial claims from some member states with a larger historical footprint (notably Morocco and Somalia) against their neighbours. Within one year, the OAU had adopted a resolution to respect existing borders; the corollary being that a route to self-determination for sub-national groups was closed (Touval, 1967).

The newly independent states entered an international normative system that had been transformed since the end of the second world war, most significantly by the recognition of universal human rights. It was the language of human rights that was mobilised for political demands at international and national level, both before and after independence, rather than the discourse of citizenship that had developed in Europe. Human rights ‘were more capacious than competing utopianisms of classical political liberalism, doctrinaire socialism, and essentialist nationalism’, becoming a ‘perennial aspect of anti-imperial and postcolonial phraseology’ (Burke, Duranti and Moses, 2020, p. 6).



Within the discourse of human rights, the political leaders that brought Africa to independence – as India's leaders had also done (Khan, 2020) – emphasised above all the successful completion of the anti-colonial struggle as the precondition for the enjoyment of other rights (Getachew, 2019, p. 96). Economic and social rights were the next priority, challenging 'the assumed primacy of individual-centered civil and political rights' in Western thought (Ibhawoh, 2020, p. 41). At the same time, the colonial experience brought an insistence on an end to racial hierarchies of status and rights. Among the early initiatives of the newly admitted African and Caribbean members of the UN was to propose a convention on the elimination of racial discrimination – which in 1965 became the first human rights treaty to be adopted by the General Assembly (Jensen, 2016, chap. 4).

Thirty years later, with the end of the cold war, sovereignty was (re)attained by the former sub-units and satellites of the Soviet Union. Just as in Asia and Africa, these states had to grapple with the balance of civic or ethnic 'nationhood' as they established legal frameworks for membership and belonging. As in Asia and Africa, the simultaneous drafting of citizenship laws and attainment of independence created different dynamics in citizenship regulation from those in Western Europe or the immigrant-founded states of the Americas and Australasia. But in the broader European space, the conceptual starting point was still that of the League of Nations, in which each state had a 'titular majority', which had to find a way to accommodate minorities. The recognition of ethnic 'nationalities' within the Soviet empire was largely preferred over previous territorial traditions (Tabachnik, 2019, chap. 3). Among the central concerns in the post-Soviet territories were therefore the status and rights of former citizens of the prior larger state, including both co-ethnics elsewhere, and ethnic 'others' living within the newly sovereign territories (Shevel, 2017, p. 415). Compensatory provisions were put in place in some of the east central European states to right past wrongs, or recognise the rights of the diaspora (Liebich, 2009). The successor states to the former Yugoslavia retained or elaborated the complex cocktail of ethnic designations established under the Austro-Hungarian and Ottoman empires and the socialist period; but also added civic elements under pressure to manage the traumatic experience of break-up of the former federation and subsequent civil war (Dzankic, 2016).

The African continent thus shares many of the challenges for the regulation of citizenship with other post-imperial regions, even as the especially nasty, brutish, and short experience of colonisation in Africa created a unique historical context. The next sections set out the specific colonial frameworks for legal status in Africa, and their continued influence on regulation of citizenship today.

## Colonial Regulation of Membership in Africa

The partition of Africa by the Berlin Conference in 1885 expanded legal recognition (among Europeans) of European sovereignty over African territory from a few coastal enclaves to encompass the whole continent. Although control was not immediately consolidated, this partition of Africa marked the formal end to the pre-existing systems for regulation of membership of the multiple and diverse polities that had made up the African continent. It also marked the imposition of new rules of membership devised and adjudicated by the colonial authorities for their own purposes. There were important differences among the legal regimes imposed by the colonial powers, but all shared a set of assumptions about racial superiority and inferiority that regarded Africans as – at best – children, incapable of self-government, of citizenship in the broader sense (Lake and Reynolds, 2008).

The colonial empires elaborated and maintained a complex set of graded statuses among the residents of their newly annexed territories. These gradations of course principally divided those of European descent, to whom the common law or civil codes of the metropolitan power applied, from 'natives' (*indigènes* in French; *indígenas* in Portuguese), governed by a version of customary or religious law as ultimately applied by European judges, 'so far as it is not repugnant to natural justice, equity and good conscience' (the standard language in the British territories). In the interstices between 'native' and European were non-African immigrants from other parts of the empire: South

Asians in East Africa; ‘Lebanese’ from the French middle eastern mandate territories in AOF (Ghai and Ghai, 1965; Arsan, 2014). And then there was the need to separate nationals (of the relevant colonial power) and ‘aliens’ (whether European or ‘native’); or internal migrants (forced or voluntary) within a common imperial space: thus in the British territories legal definitions distinguished ‘natives’ from ‘native foreigners’, entailing different rights and obligations. The mixed race children of empire – largely of European men and (coerced) African women – created particular anxiety among the classifiers of status who had to decide which system of law to apply and on what basis to make distinctions (whether of ‘blood’ or degree of ‘assimilation’) (Barrera, 2004; Lee, 2005; Saada, 2007). This categorisation reached its notorious apogee in South Africa (Breckenridge, 2014).

In the British territories designated ‘protectorates’ the fiction was established, through the concept of ‘indirect rule’, that Africans continued to be governed by their own ‘tribal authorities’, as recognised (or imposed) by the British and falling under British ‘protection’. In the territories designated ‘colonies’, governed directly from Britain (of which some became self-governing ‘Dominions’), all those born in the territory became ‘British subjects’ (after 1948 renamed ‘citizens of the UK and colonies’), theoretically with the same status as a person of British descent born in Britain. Yet the British Nationality and Status of Aliens Act 1914 provided that nothing could prevent the government of any ‘British Possession’ from ‘treating differently different classes of British subjects’ (Karatani, 2002). Africans in these territories might be treated as British subjects (albeit subject to discrimination of other kinds) if they ever reached Britain, but in South Africa, Southern Rhodesia, or Kenya they were confined to ‘native reserves’, excluded from many civil and all political rights, and subject to tight controls on freedom of movement policed by the requirement to carry a ‘pass’. In the French territories, racial subordination was effected by legal distinctions between French citizens (*citoyens français*), who enjoyed full civil and political rights, and French subjects (*sujets français*) (Cooper, 2014). With the exception of residents of the famous *quatre communes* of Senegal (the four oldest colonial towns in AOF, whose residents were given full French citizenship in 1848), the status of French citizen was only attainable by showing adoption of French customs and renunciation of religious or customary civil status. Similar distinctions existed in the Belgian, Portuguese and Italian territories (Manby, 2018, chap. 3).

Only in the final years of colonial rule did a small number of western-educated and urban black Africans come together to demand – with some success – civil rights under the rule of law the colonisers claimed to apply, and even some extension of political rights (Ibhawoh, 2002; Cooper, 2012a). The independence struggles for citizenship (in its participatory sense) were in large part configured by this contest between the European authorities and these African elites, by the different administrative arrangements of the colonial powers, and by the size and degree of resistance from the European settler population in each territory. So long as the primary adversary was the colonial state, however, the relationship between the leaders of the independence movements and other residents of the colonial territories – or other forms of leadership – remained largely untested.

## **Decolonisation and the Challenge of ‘Nation-building’**

The OAU decision to respect colonial borders confirmed the task of moulding the former colonial units into political communities. The new states, presumptively democracies from their establishment, faced an acute version of the conundrum that ‘the democratic legitimacy of decisions affecting the boundaries of a “demos” (i.e. those citizens who are eligible to participate in democratic self-government) presupposes that the demos by whom or on whose behalf a decision is taken is already composed in a way that makes its boundaries legitimate’ (Bauböck, 2017, p. 61). Even at the practical level, those creating the first electoral rolls struggled to determine eligibility to vote when so many held no official identification documents of any kind (Cooper, 2012b; Willis, Lynch and Cheeseman, 2018).

A very large literature has dealt with the challenges of 'nation-building' in the absence of an easily grasped 'usable past' of nationhood (Ranger, 1976), both in the immediate aftermath of independence (for example, Zolberg, 1967) and more recently (two comparative collections are: Dorman, Hammett and Nugent, 2007; and Hunter, 2016). The invention of post-colonial state and nationhood required, in principle, the jettisoning of the layered statuses of *both* the colonial *and* the pre-colonial past, in favour of a conceptually unified and equal membership status (Lonsdale, 2016). Yet, as the glow of independence faded, 'movements from below resisted and repudiated the majoritarian, homogenizing, and exclusionary tendencies that appeared embedded in the structure of the nation-state' (Getachew, 2019, p. 179). Many commentators have focused on the resurgence of 'primordial' identities and 'neo-patrimonial' politics after the euphoria of the post-independence period (for surveys of this literature, see Lentz, 1995; Bach, 2011; Mkandawire, 2015). Traditional leadership institutions (even where largely invented by the colonial state) refused to wither away, adapting and evolving to remain important intermediaries between state and citizens. As democratisation and decentralisation following the end of the Cold War revitalised the pull of autochthony or indigeneity, the idea of national citizenship, previously 'a very icon of modernity' was itself called into question (Geschiere, 2009, p. 24). There is a great deal of agreement that the colonial creation of 'two publics', of citizens and of subjects, with (presumed) loyalties to the nation-state and the ethnic group, is somewhere at the heart of these challenges (Ekeh, 1975; Mamdani, 1996).

Some thus argued that Africa should 'liberate the post-colonial state by creating new consensual political entities' based on the pre-colonial order (wa Mutua, 1995, p. 1166), or recognise the reality of disintegrating and dysfunctional African states by greater 'experimentation with regard to new states' (Herbst, 2001, p. 266). Others called for the 'gradual dismantlement of the nation-statist legacy derived from imperialism' and the introduction of more regionalist frameworks (Davidson, 1992, p. 321). These visions have not proved feasible. In practice, the only new states that have gained international recognition since independence from colonial rule have been based on colonial boundaries. Attempts to argue that the right of self-determination established in the African Charter on Human and Peoples' Rights applied within the colonial borders, and not only to freedom from colonial rule, have been dismissed by the African Commission with the view that self-determination must be accomplished in a variant 'compatible with the sovereignty and territorial integrity' of the existing states (*Katangese Peoples' Congress v. Zaire*, 1995).

Others have emphasised that the colonial boundaries now have real meaning and have, in fact, created national communities, however fragile (Herbst, 2001, chap. 8; Dorman, Hammett and Nugent, 2007, p. 22; Bøås and Dunn, 2013, p. 33). Even in extreme circumstances 'states may entirely collapse without disappearing as nations in the social imaginary' (Young, 2007, p. 241). Thus, it is argued that citizenship theory should move beyond the dichotomy between African traditions and Western modernities, to 'accommodate a new set of societal tensions' induced by sub-national identifications, migration, economic reforms and democratic transitions (Halisi, Kaiser and Ndegwa, 1998). We can, moreover, see these tensions played out in the sphere of citizenship law.

## **The Role of Citizenship Law in Defining the Nation at Independence**

The citizenship laws adopted at independence abolished the racial hierarchies of membership that had been defined by the colonial era, and established a legal regime of equal rights. Yet the application of the principles of non-discrimination and equal citizenship was in tension with the desire to overturn the legacy of decades – or centuries – of political control and economic exploitation by external powers. Discrimination on the basis of sex in transmission of citizenship to children and spouses remained the norm, as it was across the globe in the 1960s.

The new laws largely followed the model of those in effect in the metropolitan territories of the respective colonial powers (but never applied in their colonies), creating half a dozen basic templates across the continent. In the British territories a standard framework was established by the negotiated independence constitutions: citizenship was automatically attributed at independence to the second generation born in the country (the principle of double *jus soli*), with rights to register during a transitional period for some other categories of resident (largely those whose origins were in another British territory), followed in almost all cases by *jus soli* attribution to all those born in the territory after independence – the same rule established by the British Nationality Act of 1948. Elsewhere, nationality was left to the new governments to establish in law, allowing for greater variation, but still much similarity in practice. In the French territories, the new laws revolved around the French nationality code of 1945; in West Africa mostly combining a descent-based system with double *jus soli*, and providing transitional rights to register for those originating from other French territories. The Belgian territories of Central Africa all adopted a solely descent-based framework in line with the Belgian model. The Portuguese territories that gained independence a decade and a half later equally followed the general framework of Portuguese law at that time, with strong rights based on place of birth; but also a much greater degree of gender equality, influenced by the development of international norms and the socialist leanings of their independence movements (see generally, Manby, 2018, chap. 4).

The similarities by legal system and recognition of common colonial ties could not, however, disguise the extent to which the status of those associated with the former colonial powers was immediately controversial; including the privileged ‘intermediary’ classes of Arab and Asian descent in East Africa, and Middle Eastern descent in West Africa. Measures introduced to promote the ‘Africanisation’ of the economy were paired with initiatives to restrict or block access to citizenship. In Liberia, founded by free American blacks, the constitution had since 1847 – likely inspired by the Haitian constitution of 1843 – restricted citizenship to those of ‘negro descent’; Sierra Leone copied this provision in constitutional amendments adopted within a year of independence to restrict birthright citizenship to ‘negro Africans’; and Malawi enacted a similar restriction in 1966. Following the same pan-African logic, a number of the new nationality codes in both former French and British territories adopted provisions facilitating recognition of citizenship for those originating from other African countries – as well as, or instead of, those from former territories of the same colonial power.

The most common way in which the newly independent African states sought to constrain access to citizenship by those ‘non-natives’ who had dominated the colonial economy was to adopt a partial or total ban on dual nationality – a strategy shared with other post-colonial geographies. At the same time, provisions designed in principle to allow incomers to acquire citizenship of the new states at independence were implemented with reluctance and delay.

## **Inclusion and Exclusion Over Time**

In the years following independence, rights based on birth in the territory were generally reduced. Most dramatically, the rule of absolute *jus soli* was rapidly removed across almost all the former British territories, and replaced by a purely descent-based regime. Several of the former French and Portuguese territories also diluted the role of *jus soli* in attribution of citizenship at birth; those with the largest populations of foreign origin (notably Algeria, Madagascar and Djibouti, when it finally gained independence in 1977), had done so from the first post-independence citizenship law. These amendments often implied a new emphasis on ethnicity in citizenship determination, especially at the procedural level. This implication was made explicit in half a dozen states by the adoption of substantive amendments to the citizenship law discriminating on the grounds of ethnic identity: in Somalia and the former Belgian Congo (now Democratic Republic of Congo) from the outset, and in Swaziland (now eSwatini), Nigeria, Uganda, South Sudan, and Rwanda over time (Manby, 2018, chap. 5). Conditions for naturalisation have generally become more restrictive (Manby, 2021a).



The general retreat from *jus soli* attribution of citizenship is in apparent conformity with the patterns observed in Europe for states with large ethnic minorities and unconsolidated borders (Weil, 2001, p. 33; Joppke, 2010, p. 51); and in contrast to the pattern observed in Central Asia (Shevel, 2017, pp. 417–418). Those states that have adopted more restrictive rules have often been those with obvious anxieties about challenges to sovereignty and territorial integrity, or those with the greatest colonial-era expropriation of land or importation of labour to farm it. Increasing population pressure on available agricultural land has reduced the welcome for migrants as workers or clients, especially, of course, at times of economic stress. Citizenship law has also been instrumentalised to bar from office individual politicians alleged to have origins in a neighbouring state (Whitaker, 2005; Manby, 2019), or generally to disenfranchise or constrain the economic power of historical migrant groups (Muzondidya, 2005; Aminzade, 2015; Ng'weno and Aloo, 2019); while the expulsion of alleged foreigners has been used almost as a tool of nation-building (Gray, 1998; Bezabeh, 2011). It is, however, hard to see an obvious pattern among those that chose to introduce explicit ethnic discrimination into the citizenship law, which include states amongst the most and least diverse on the continent (Manby, 2018, chap. 10).

We must nuance our analysis of the development of the formal law with a recognition of the deep-seated legal pluralism created by colonial rule, and the continuities in citizenship administration over the *longue durée*, including the emphasis on ethnic identity. Recognition as a member of the community – at both local and national level – has since the colonial era depended as much on the legal and institutional frameworks governing the authority of (neo)traditional leadership structures or land tenure as on the substantive content of citizenship law (Kuba and Lentz, 2006; Boone, 2014; Nugent, 2019, pt. II). Colonial-era systems and categories for identification, and the 'vetting' procedures for those of doubtful status that partially rely on such leaders, have remained remarkably resilient (Dalberto and Banégas, 2021a). These overlapping regimes have been adapted and mobilised for political and economic gain, eroding the vision of a single national citizenship.

It is also too simplistic to characterise the trends in the citizenship law itself as simply exclusionary. Attribution of citizenship based on double *jus soli* has been remarkably stable, remaining in effect in all the former AOF states where the rule was adopted at independence, even those where ethnic relations have been tense. In some contexts, moreover, a consideration of ethnicity could broaden rather than restrict access to citizenship, by creating pathways to recognition of citizenship for members of cross-border communities (part of the original intention in Nigeria, for example). In other places, explicit racial restrictions or preferences introduced at or immediately after independence were later removed (Malawi, Mali). The return of multiparty democracy in the 1990s brought not only a resurgence of ethnic tensions, but also the demand for independent electoral commissions and campaigns that increased voter registration among marginalised communities, a proxy for recognition of citizenship of the national state (Cheeseman, Lynch and Willis, 2020). There have been efforts to offer citizenship to descendants of pre-independence migrants left stranded at independence through special application procedures (for example in Kenya and Côte d'Ivoire), or to very long-term refugees (notably Tanzania). The post-apartheid governments in Namibia and South Africa put in place special procedures designed to allow those driven from or brought to each country by the previous regimes to access citizenship more easily. Several former British territories have introduced protection for children of unknown parents; others have provided rights through grandparents. Each of these changes reflects struggles for belonging at national level, and advocacy from a range of actors, including at international level (Manby, 2018, chap. 10).

The two most dominant trends in nationality law across the African continent have reflected global patterns: to reduce discrimination on the basis of sex and to increase tolerance of dual citizenship. Since 1990, gender equality has increasingly become the norm, especially in transmission to children – in which both the development of international norms and campaigns by women’s rights movements have played a key role (Seely *et al.*, 2013; Pailey, 2019). In part as a consequence, but also because of lobbying by those diaspora communities who had acquired citizenships outside of the African continent, rules on dual nationality show a similar trend towards a permissive position (Iheduru, 2011; Whitaker, 2011).

The anti-colonial and pan-African vision articulated by the generation of independence leaders is, moreover, still reflected in political and popular discourse (Falola and Essien, 2014). The transformation of the OAU into the African Union in 2000 brought the revival of efforts to create greater freedom of movement within Africa, and even the recognition in principle of an African citizenship, to include the African diaspora (AU Assembly of Heads of State and Government, 2013). Speaking in South Africa in 2019, in the context of attacks on African immigrants to the country, Achille Mbembe, one of the leading intellectuals of his generation, echoed Kwame Nkrumah of Ghana, perhaps the leading voice of pan-Africanism at independence, to say that: ‘I do not believe that any African, or for that matter any person of African descent, is a foreigner in Africa, the existence of 54 nominally sovereign territorial states notwithstanding’ (Mbembe, 2019). This sentiment is commonly heard across the continent. There are also majorities (including in South Africa) in favour of granting citizenship to children born in the country of two foreign parents, the equal right of men and women to transmit nationality to their children, and the right to become a citizen based on a contribution through living and working in the country. The continued salience of sub-national identities must also be qualified. Only 10 percent of Africans in 34 countries surveyed by Afrobarometer stated that they identify more with their ethnic group than their country or only with their ethnic group – while 40 percent stated that they identify only with their country, and another 40 percent identify equally with their country and ethnic group (Afrobarometer, 2013). Only in the case of dual citizenship is the trend towards liberalisation in law not supported by public opinion, reflecting tensions between a welcome for remittances and concerns over the role in national affairs of the African diaspora naturalised in Europe or North America (Pailey, 2021).

The significance of the legal regimes for citizenship is increasing, with major initiatives to introduce new identification systems in African states, and strengthened requirements to produce identity documents in order to access services, gain employment, or enjoy free movement. The blurred boundaries between citizens and non-citizens are coming into sharper focus, but the impacts on imaginings of the state and nation and on patterns of inclusion and exclusion are only just emerging (Dalberto and Banégas, 2021b; Manby, 2021b).

## **Conclusion: The Nature of Post-colonial Citizenship in Africa**

In Africa, citizenship law was inherited with the idea of the ‘nation state’ itself. Just as in the Americas, Asia, or in the post-Soviet world, the new laws and procedures for determining citizenship were shaped by the imperial legal regime. At first sight, indeed, the continuities between the legal regulation of colonial and post-colonial citizenship may seem more striking than the discontinuities.

Yet the end of European colonial rule represented an important turning point in the idea of citizenship in two ways. Firstly, decolonisation forced an end to the racial and religious hierarchies and hypocrisies of empire: distinctions between ‘different classes of British subject’, or between ‘citizen’ and ‘subject’, were abolished, and the promise of equal rights accepted for all nationals. Secondly, as the framing and vocabulary of European citizenship laws spread around the world, they left behind the historical context in which they had been drafted, and were adapted to new imperatives.

One common theme between Africa and other post-colonial states is the contested status of those whose presence in the territory was due to forced or facilitated movement within an imperial space. However, by contrast to the Latin American, Asian, and former Soviet states, the imagination of citizenship in Africa at independence and till today was also shaped by a solidarity born out of a shared history of oppression. The pan-Africanist ideals of the independence era remain deeply embedded, even as they may lose out at local level in competition over resources (land above all) or control of the state apparatus.

Developments in citizenship laws reflect the tensions between these contradictory influences, creating many different turning points in the political history of each post-colonial state. We see continuing divergence from the initial templates, shaped by struggles over the boundaries of inclusion and exclusion. In the first decades of independence the general trend was towards a closing of access; more recently, there are movements towards greater openness to rights based on gender equality, acceptance of dual citizenship (in law, albeit not fully supported in public attitudes), and even birth in the territory.

It is easy, however, to over-emphasise the differences from the debates over citizenship in Europe. Europe, after all, is also a post-colonial space. On the one hand, European nationalism and colonialism developed in lockstep (Mamdani, 2020), while the legacy of imperialism lives on in contemporary European immigration and citizenship policies (Weil, 2002; Patel, 2021). On the other, the problem of citizenship and statelessness at the dissolution of empire first came to international attention in post-imperial territories within Europe (Siegelberg, 2020). Indeed, Hannah Arendt, the first theorist of statelessness and coiner of citizenship as ‘the right to have rights’, framed her argument under the heading ‘Imperialism’, considering the destruction of the European political system by the 1914–18 war and ‘the liquidation of the two multinational states of pre-war Europe, Russia and Austro-Hungary’ (Arendt, 1958, p. 268). Arendt’s argument is familiar from the literature on artificial borders in Africa: ‘to assume that nation-states could be established by the methods of the Peace Treaties was simply preposterous’, since those ‘lumped together’ within a single state lacked the necessary ‘homogeneity of population and rootedness in the soil’ (Arendt, 1958, p. 270).

The challenges of imagining a ‘nation-state’ in Africa are thus not so dissimilar to those in Europe. The same issues arise in any geography around the relative weighting of cultural identity or practical contribution in recognition of membership; the boundaries of community are as mutable as they are in other continents, and the arguments are essentially the same. The more significant difference is perhaps the widespread recognition in Africa that a pre-existing ‘nation’ was not even a myth to call on as the basis for citizenship in the vast majority of states: the post-independence task was to get on with the business of ‘nation-building’ and the necessary compromises among different interest groups. The challenges of the radical diversity and weak capacity of Africa’s states are clear – and some have responded with campaigns of ethnic cleansing, or demands for new states. Yet this diversity has also facilitated an intellectual context in which ethnic purity at the national level is in most states impossible to demand, and pan-African solidarity is part of the assumed ideological scaffolding in relation to the status of most immigrants. Nonetheless, despite discussions of African citizenship at the continental level and the continuing reality of blurred boundaries at local level, what does not seem likely in the foreseeable future is a fundamental departure from the idea of the nation-state as the framework for managing these questions.

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