

Liberal Citizenship

PETER H. SCHUCK

The constitutive elements of a distinctively liberal conception of citizenship are clear enough in theory. It is far less clear how liberal citizenship can be achieved, and what its political consequences are likely to be. Indeed, those questions remain both open and profoundly elusive more than three centuries after liberal citizenship was first theorized in any systematic way – and despite our increasing knowledge growing out of an intensive quest for liberal citizenship.

This chapter first traces the essential principles upon which liberal citizenship is conceived. These principles speak to the nature of individuals, groups, civil society, the state, and supranational regimes, and to the relationships among them. The chapter then considers certain problematics of liberal citizenship – the challenges that confound it conceptually, politically, and institutionally. These challenges arise out of enduring social conditions, including the privatistic and materialistic tendencies of liberal citizens, the inequalities endemic even to relatively egalitarian liberal societies, the decentralizing tendencies of pluralistic politics, and the permeability, incapacities, and attempted neutrality of liberal states. The chapter concludes with a brief and frankly normative assessment of the aspirations and achievements of liberal citizenship.

Several preliminary definitions, observations, and qualifications are in order.

Contemporary political discourse uses the term ‘citizenship’ very loosely, often treating it as little more than an empty vessel into which speakers may pour their own social and political ideals (Schuck, 1998: Ch. 8). Citizenship has become the normative category of choice, invoked by critics of the status quo – on both the Left and the Right – as a vehicle for demanding that the state do more, or less, to advance equality, justice, and participation in the civil society, economy, or polity.

By using ‘citizenship’ here to denote the status of full membership in a society, I effect only a slight improvement. After all, this definition, like others, begs two key questions: what are the relevant determinants of membership? and what are the indicia of fullness? In his magisterial approach to these two questions, T.H. Marshall emphasized the political, social, and economic dimensions of membership and elaborated his own understanding of the conditions necessary to fully achieve them (Marshall, [1950] 1992). But Marshall’s idea of citizenship, published in 1950 at a time of heady enthusiasm about the welfare state among many intellectuals and others, has achieved no more canonical status than has any other.¹ Indeed, given the high stakes in how a society conceives of citizenship, any particular formulation – especially in a discussion as brief as this one must be – is readily contestable.

By ‘liberal citizenship,’ I mean a distinct conception and institutionalization of citizenship whose primary value is to maximize individual liberty. Needless to say, different liberal theorists have defined the nature and requirements of liberty rather differently, and the incidents of liberal citizen turn on which particular version is being invoked. In Isaiah Berlin’s canonical formulation, one can view different accounts of liberalism as ranging from ‘negative liberty’ ideals that emphasize individuals’ right to be left alone and to pursue their own projects free of state compulsion, all the way to ‘positive liberty’ notions. Common to positive liberty accounts is the claim that the state should act affirmatively to create or secure those substantive entitlements (e.g. income, health care, and education) that individuals need in order to lead the dignified, independent lives essential to their freedom (Berlin, 1969).

Different versions of contemporary liberal theory employ different methodologies for deriving principles of justification for state action and citizenship. Theorists defend these principles as being neutral, consensual, or otherwise consistent with liberal values, if not being required by them. Some of these methodologies are neo-contractarian (Nozick, 1977). Other versions are discursive or dialogic in nature; they rely upon propositions defining the particular, constrained forms of argument that might be capable of justifying assertions of power over free individuals (Ackerman, 1980). Still others are hybrid theories, employing a mix of approaches (Rawls, 1971).

The discussion here draws largely upon the debates over liberal citizenship in the United States, where the individualist and state-limiting aspects of liberalism have been most fully reified and the consequences of these aspects most severely criticized (Hartz, 1955; Smith, 1997). The word ‘liberalism,’ to be sure, has acquired a malodorous quality among politicians and many political commentators in the USA since the 1960s. Nonetheless, the fact remains that almost all mainstream political discourse in the USA, regardless of the speaker’s party,

proceeds as if the traditional liberal values of individual freedom, autonomy, consent, and limited state power were universally embraced, with the only differences being the means for achieving them. Indeed, disputants who advance non-liberal visions such as communitarianism and state-expanding ideals of social justice often redefine them in order to make them compatible with liberal discourse.

This overwhelmingly liberal discursive consensus, of course, has long been a profound source of frustration and criticism by liberalism’s opponents, especially on the left, who seek more radical change than they think liberalism can deliver (Wolff, 1969; Marcuse, 1991). Other chapters of this book, in elaborating non-liberal notions of citizenship, address explicitly or implicitly many of the most important of liberalism’s perceived limitations. Hence, I can limit my review of the challenges to liberal citizenship accordingly.

THE LIBERAL CONCEPTION OF CITIZENSHIP

Liberal theory, whether of citizenship or of anything else, begins with the individual. Liberalism’s view of the individual shape its views of all other social aggregations, including the state. Yet its (and our) understanding of the nature of individuals is both dynamic and woefully incomplete. In particular, new advances in the fields of psychology, evolutionary biology, human genetics, and social science constantly unsettle received understandings about how individuals apprehend the world, about their motivations, rationality, spirituality, and behavior, and about the causal relationships that determine how these factors operate, and with what effects, in the real world. Partly for this reason, liberal theory has had to take individuals much as it finds them on the surface, while the scientists proceed with deeper investigations. This inability of liberal theory to advance an authoritative and

convincing account of the individual poses a fundamental challenge to its coherence, one that I discuss below.

The most influential early expositors of systematic liberal theory were John Locke and John Stuart Mill. Locke ([1690] 1960) viewed individuals as endowed with and animated by reason, characterized as the 'Voice of God,' through which they can discern and act upon the dictates of divinely given natural law. From birth, all are equally endowed with this reason, which is the basis for their decisions to leave the state of nature, to enter into civil and political society, and to act in the community. Individuals may and often do act irrationally – that is, they debase their natural faculties and misapprehend what natural law requires – but Locke seems to suppose that most people most of the time will exercise their reason, making a just law and government possible. Indeed, natural law and the reason to apprehend it incline individuals to consider not only their own interests but those of others and thus to value social cooperation and self-restraint. In this way, they exhibit a kind of natural political virtue not altogether derivable from simple self-interest. Freedom under government, to Locke, is not simply the absence of external restraint but also living in conformity with a predictable, non-arbitrary law to which one has directly or indirectly consented. It is 'to have a standing Rule to live by, common to every one of the Society, and made by the Legislative Power erected in it ...' (Locke, [1690] 1960: 324).

To Locke and to the liberal theorists who followed him, private property is an essential condition for individual freedom, as well as a principal goal of its exercise. Locke's theory of property, which has received much attention from commentators, need not detain us beyond a recognition of three elements that are central to liberal citizenship. First is the notion that individuals create property (which Locke defines broadly as 'Lives, Liberties, and Estates' ([1690] 1960: 395)) and gain dominion over it by investing it with their

labor; second, the protection of property against public and private invasion is the most important function of law and government. Third the lawful exercise of property rights naturally produces inequalities without injustice.

These elements together constitute the Lockean version of what C.B. Macpherson has called a theory of 'possessive individualism.' Under this theory, individuals define themselves, attain social status, and relate to others largely through the institutions of private property, contract, and market that help to create wealth but also generate and legitimate persistent inequalities (Macpherson, 1962). On the other hand, Locke believed, as already noted, in a natural human sociability and concern for the interests of others that might mitigate these inequalities. Peter Laslett, describing Locke's theory of property as 'incomplete, not a little confused and inadequate to the problem as it has been analysed since his day,' has viewed that theory as quite consistent with state-mandated regulation and redistribution, perhaps even nationalization, of private property and wealth. More generally, according to Laslett, Locke was perhaps the first philosopher to regard 'citizenship ... as a specific duty, a personal challenge in a world where every individual either recognized his responsibility for every other, or disobeyed his conscience' (Locke [1690] 1960: 117–20, 135).

John Stuart Mill, writing in the mid-nineteenth century, advanced Locke's liberal philosophical project with a more systematic theory of liberty – its nature, the manner of its exercise, its relation to human welfare and to the discovery of truth, and the role of the state in limiting the freedom of individuals. Mill's theory, even more than Locke's, regarded individuality and self-interest, properly understood, as the source of social, not just personal, progress and well-being. Mill insisted that untrammelled freedom of individual thought, inquiry, worship, and expression is the surest path to truth and social improvement. And while Mill readily conceded that individuals' freedom of

action could be limited more than their freedom of thought, he proposed a rule that would create and defend a very broad domain of individual autonomy and self-promotion, while minimizing the scope of government intervention.

Mill's theory of the relationship between individual liberty and the state can be generally summarized in a few propositions, albeit with considerable oversimplification. First, individual liberty and state action tend to be opposed; increasing the latter reduces the former. Mill does identify categories of situations in which state action can in fact enhance individual liberty – law enforcement and public goods, for example – but the conflict is in his view endemic. This tendency reflects several factors: the myopia, corruptibility, and other defects of state officials exercising coercive powers, the better outcomes when individuals pursue their own ends, and the natural sociability of private actors in a liberal culture. Spontaneity and free choice, in the Millian view, are the instruments of individual liberty; as spurs to action, they are more socially desirable than legal compulsion or other forms of coercion.

Mill's second, and closely related, proposition is based on a fundamental distinction between activities that affect 'chiefly' individuals' own interests and those that also affect the interests of others beyond those (e.g. one's own children) who are not yet regarded as independent, autonomous beings. In a liberal society, he insists, the pursuit of one's own interests that do not affect others is entirely the province of the individual, within which one must be free to do as one pleases without the law's interference. Where others' interests are affected, however, the state may be justified in regulating the activity – although even there it should recognize the presumptive superiority of private ordering and often stay its hand, out of prudence and a concern for individual liberty (Mill, [1859–61] 1951). Obviously, these two domains of the private and public are neither self-defining nor easy to measure empirically. More to the point,

the permissible scope of the modern state turns on precisely where and how the boundary line between them is to be drawn, an issue discussed more fully below.

These, then, are the bedrock principles of classical liberal theory: the primacy of individual liberty understood primarily as freedom from state interference with one's personal development and projects; a very broad protection of freedom of inquiry, speech, and worship; a deep suspicion of state power over individuals; the restriction of state coercion to those areas of activity in which individuals' conduct affects others; and a strong though rebuttable presumption in favor of privacy, markets, and other forms of private ordering. In the last century and a half, of course, countless political, social, and economic theorists have built upon the foundations laid by Locke and Mill while glossing, challenging, or refining virtually all of their claims. In applying the principles of classical liberal theory to questions of citizenship, I shall discuss some of the contemporary critics.

GROUPS, CIVIL SOCIETY, THE STATE, AND SUPRANATIONAL FORMATIONS

We have already seen both that the individual is the cynosure of classical liberal theory, and that the nature and determinants of individuality are elusive and, given the limits of science, are likely to remain so. Indeed, poets like Walt Whitman and novelists like Henry James have artfully plumbed and explored this mystery of personality, and some theorists recognize this as among the most important justifications of liberal principles.

The strong propensity of individuals to combine into groups, and of groups to constitute a civil society that is more or less distinct from both individuals and the state, or at least stands between them, is a fact to which liberal theory has given much prominence, especially recently. This propensity is part of what it means to be an

individual in society, and nothing in liberal theory suggests otherwise. Profound tensions arise within the liberal tradition, however, when the state accords legal rights or duties to groups *qua* group that may override those of individuals, or when it grounds individuals' rights or duties on their group membership, especially membership that the state imputes to them without their consent (Kymlicka, 1995). These tensions are further discussed toward the conclusion of this chapter.

Groups affect the process, outcomes, and all other aspects of a liberal state, thereby affecting in turn citizens and non-citizens in the polity. James Madison was perhaps the first thinker in the United States to write about the role of groups in politics; his *Federalist* #10 is today a canonical commentary on the subject² (Madison, [1787] 1992).

Early in the twentieth century liberal sociologists and political scientists began to develop systematic theoretical and empirical accounts of the formation and behavior of social groups, especially in politics. These 'pluralist' scholars noted the ease with which individuals sharing common interests and values coalesce into groups, classified the varied resources available to groups in politics, and traced the fluidity of the group bargaining processes that shape governmental decisions. Many of these accounts were normative as well as descriptive. Viewing pluralist bargaining as successful in integrating even marginal groups into the social and political mainstream, these analysts came to define the public interest in politics in processual not substantive terms, in effect legitimating whatever bargains emerged. According to the pluralist logic, if the process is fair then its outcomes should be regarded as democratically acceptable, if not necessarily just. The state, in this view, is simply one more group, albeit one with special rules of membership and unusual powers to enforce its bargains.

Especially in the USA, the broad consensus applauding this pluralist system – what political scientist Theodore Lowi called 'interest

group liberalism' (Lowi, 1979) – came under enormous stress with the civil rights, welfare rights, anti-war, and environmental movements of the 1960s, and many academics attacked the system on both descriptive and normative grounds. Those on the left, like Lowi, emphasized the inequalities that the process preserved and promoted, while those on the right (led by economists such as George Stigler and James Buchanan) emphasized the distortions that interest-group incentives and behavior created in the polity and economy. This odd intellectual alliance of Left and Right was soon joined by the egalitarian, often populist critical legal studies movement, which argued that legal doctrine was deformed by some of the same organizational and political incentives and dynamics identified by the political scientists and economists. In the 1970s, these 'public choice' critiques of the role of interest groups began to dislodge pluralism as the ruling academic paradigm, while discrediting its procedural, functionalist, and often reductionist conception of the public interest. Such critiques, however, generally failed to offer a convincing alternative. And there the debate rests, both within liberalism and against it.³

During the late 1980s and 1990s, much concern among both liberal and non-liberal theorists shifted from a focus on group formation and the integrity of pluralist politics to a widespread anxiety about the role and quality of the social groups and institutions that stand between isolated individuals and the state – what are termed 'mediating' groups and institutions or (in a bow to Hegel) 'civil society.' These anxieties have prompted a flood of theoretical and empirical analyses directed at several issues that are highly salient to the character of liberal citizenship. Some analysts, led by political scientist Robert Putnam, claim that the number of informal groups through which democratic citizens can come to know one another, develop political skills, identify their interests, and engage in common efforts to pursue those interests has declined, along with the frequency and quality of their

interactions (Putnam, 2000). Others emphasize the importance to an effective democratic polity of what has come to be called 'social capital' – the accumulation of trust among citizens who can view each other sympathetically as co-venturers and cooperate in joint projects rather than succumb to cynicism, isolation, and free-riding incentives – and to lament its erosion in contemporary society (Fukuyama, 1999). Still others maintain that certain other social developments have undermined the foundations of liberal citizenship, particularly the ideal of individual responsibility and efficacy, the rule of law, and the principle of limited government. A long list of possible causes is offered: mass media, soulless markets, mindless consumerism, the legalization and bureaucratization of traditionally informal relationships, a weakening of family and religious ties, a coarsening of politics, judicial activism, and the intrusion and blandishments of the contemporary welfare state.

This last – the state⁴ – is especially important in the characterization of liberal citizenship. According to liberal theory, state power's inevitable diminution of individual liberty is the dread disease, for which the only preventative and cure is a robust and vigilant civil society. Liberalism holds that the state, while necessary for many social ends, constantly and remorselessly seeks to expand its authority and resources, driven by the self-interest of politicians, bureaucrats, and private groups that stand to gain by increasing state power. The task of liberal constitutionalism is to confine that power through public institutions and public values, and the task of a liberal civil society is to vindicate and reify that constitutionalism by nurturing an independent citizenry capable of resisting state power grabs, solving problems with minimal government intervention, and maintaining close oversight of its necessary activities. Liberalism's difficulties in meeting these challenges occupy most of the rest of this chapter.

Before turning to these difficulties, however, we must consider a final level of affiliation that increasingly confronts the liberal

citizen: supranational regimes. Since World War II, states have increasingly created supranational formations such as the United Nations, European Union, General Agreement on Tariffs and Trade, North American Free Trade Agreement, the International Criminal Court, and many others. In most cases, these formations have entailed the surrender by member states of some of their national sovereignty. Some supranational regimes, however, are not state-created at all. Non-governmental actors concerned with human rights, international standards, cultural issues, and so forth now play an increasingly prominent role, constituting what some view as a kind of 'international civil society' (Spiro, 1996).

What is the relationship of the liberal citizen to these regimes? Do citizens owe a legal duty only to their national state or does their obligation extend to the larger formation as well? In most if not all cases, the regime's rules are binding on the citizens of the member states either directly or indirectly (i.e. through their own state); enforcement of the regime's rules, however, is almost always left to the member states, which have to enforce rules against their own citizens. The situation is somewhat clearer with respect to rights created by the supra-national regime. Some of these rights – for example, under the European Charter of Human Rights and similar instruments – are enjoyed directly by citizens (or legal aliens) of member states, who can enforce them against their states. Apart from legal duties and rights, is the liberal citizen likely to feel a growing sense of loyalty or affective identification with the supra-national regime, as many young and cosmopolitan Europeans are said to feel toward the EU? Answers to this question will only emerge over time (Caporaso, 2000).

THE PROBLEMATICS OF LIBERAL CITIZENSHIP

The advantages of liberal citizenship – at least for those who regard them as

advantages – are easy to see. Individuals' ability to be free to form their own opinions, pursue their own projects, and transact their own business untrammelled by the state's political agenda and coercive power, except in so far as individual actions implicate the interests of other members of society, has been an enormously powerful wellspring of human progress, prosperity, and creativity. Although the precise causal pathways linking liberal cultures, market economies, and democratic politics remain uncertain, it is clear that the linkages are powerful and enduring. Liberal democratic polities tend to be relatively stable and tolerant regimes internally, while also peacefully co-existing with other liberal states – perhaps because their citizens' aggressive and competitive urges are channeled into more productive and pacific realms, especially the pursuit of wealth.

Liberal citizens are thus left to their own devices without much guidance from the state. They must decide for themselves how to use their constitutionally secured freedoms. Along with their fellow citizens – subject to their influence, perhaps, but not their coercion – they must make up their own minds about what to think, what to value, whether and how to worship, and how to structure their relationships with other individuals, groups, and the state itself. In short, they must decide what kind of citizen to be – including the possibility that they will decide to forswear any political activity at all, preferring to retreat into an entirely private world of family, friends, market transactions, and self-absorption and gratification, into a world largely indifferent to any public goods not generated within these parochial domains.

This picture of the liberal citizen, in at least one of the many possible incarnations, will have its attractions to many people. In a liberal culture, after all, politics is only one particular expression of human value, striving, or possibility. A few liberal citizens of a certain inclination will feel a genuine vocation in politics. A larger number will

devote some time to political activity but it will not be a dominant aspect of their lives. Others will exhaust their political interest in voting in key elections, joining the local PTA, and watching the evening news. Still others will not even bother to register to vote or join a community group.

In appraising liberal citizenship, an important empirical question is what the proportions of these groups are in liberal polities. If the vast majority of citizens viewed politics as their vocation – if they derived most of their pleasure and income from imposing or exercising coercive authority over others – there might be good reason to doubt whether their society would continue to be liberal or even democratic (though this last is more uncertain). On the other hand, if few citizens are willing to devote much time or attention to politics, power will become an instrument of the few rather than of the many, and the polity's very survival in a democratic form will be endangered. In reality, and certainly in any robust democracy, the distribution of interest in politics falls somewhere in between these two extremes. In the United States, for example, citizens participate intensively in non-governmental organizations, many of which are politically active, but voting in elections, especially at the local level, is comparatively low. The pattern in most other nations is generally the reverse.

It may be that liberal cultures tend to discourage certain forms of political participation as compared with more communitarian cultures. Liberal polities do not merely permit their citizens to retreat into their private pursuits if they wish; liberal ideology, as we have seen, affirmatively valorizes the privatization of personality, commitment, and activity. Liberal market economies, moreover, facilitate the pursuit of wealth and the indulgence of material pleasures. This not only leaves less time available for politics and other public-regarding activities but also diminishes the social prestige that such activities enjoy relative to wealth-seeking and consumption.

Liberal societies tend to be less egalitarian than more communitarian ones – both as

a matter of fact and as a matter of preference. This is particularly true in the USA, where income and wealth are less equally distributed than in other postindustrial economies. In fact, Americans value economic equality less than Western Europeans do, preferring higher absolute levels of consumption to lower but more equal ones. Such attitudes toward economic equality help to explain why liberal societies view consumption of private goods as socially desirable while more communitarian ones sometimes impose high taxes on income and wealth and use sumptuary laws to discourage conspicuous, envy-inducing opulence. The different taxation practices of different societies, of course, have complex effects on both economic behavior and public values, making it almost impossible to disentangle cause and effect. For example, low tax rates help to generate more wealth, which permits a privatistic society to maintain lower tax rates, tolerate greater inequality, and enjoy higher absolute consumption, which in turn cultivates a political culture that supports these practices.⁵ In this way, policies and institutions shape citizens' values, as well as the other way around.

These observations suggest neither that liberal societies are wholly privatistic, materialistic, and indifferent to inequalities, nor that more communitarian ones are the opposite. Both cultures and ideologies are far more complicated than this. The human impulse to enjoy life's physical goods and comforts, although gratified in relatively few societies, appears to be nearly universal, as is the primacy of family, religion, and other private domains. By the same token, politics, broadly understood, is a natural activity and disposition that in all societies affects the lives and interests of everyone, even the most privatistic liberal. At least in postindustrial political cultures, the differences between liberal and communitarian citizens with regard to their values, interests, and activities are largely differences in degree – although in the aggregate these differences produce recognizably distinct civil and political societies. The political cultures

and economies of USA, Sweden, and Japan, for example, have much in common but are also strikingly different from one another.

For all of these reasons (and others), liberal citizenship is easier to acquire and harder to lose, and demands less from both the individual and the state than other kinds of citizenship. US citizenship, for example, can be acquired through birth on US territory, descent from US citizen parents, or naturalization. In each case, the requirements for citizenship are relatively easy to satisfy.

Birthright citizenship (*jus soli*) is a right protected by the Citizenship Clause of the Fourteenth Amendment to the US Constitution. Judicial interpretation of this Clause has long been understood as extending this status to native-born children of aliens who are in the country, even if present illegally or on a temporary visa. This interpretation has never been seriously questioned in the courts, although it has recently come under scrutiny, and some criticism, from politicians, commentators, and scholars⁶ (Schuck and Smith, 1985). Citizenship through descent (*jus sanguinis*) has steadily expanded over time, and the US Supreme Court has invalidated a number of gender-specific limitations on parents' ability to transmit it to their birth-, adoptive, and illegitimate children. (*Nguyen v. I.N.S.*, 2001). Naturalization is also relatively easy; it requires only that a legal permanent resident have resided in the USA with that status for five years, be of good moral character, demonstrate an ability to speak, read, and write English, and demonstrate a basic knowledge of US government and history (Schuck, 1998: 185).

Plural citizenship is quite common in the USA due to the combination of the American *jus soli* rule with the various *jus sanguinis* rules of other countries. Although aliens who naturalize in the USA must renounce their prior allegiance, this renunciation may or may not actually terminate the individual's foreign citizenship under the foreign state's laws, and US naturalization law does not require that the renunciation actually be

legally effective. In an important trend most countries of origin from which the largest groups of immigrants to the USA come recognize as citizens, children born to their nationals abroad. As a result plural citizenship among Americans is rapidly increasing. Following several US Supreme Court decisions, citizens cannot lose their American citizenship without their express consent, unless they have procured their naturalization wrongfully (Schuck, 1998: 185–6).

The USA is by no means alone in adopting inclusive citizenship acquisition rules. Indeed, something of a convergence toward the US model has recently occurred as traditionally more restrictive states have moved toward easier preconditions for naturalization, greater acceptance of dual nationality, and broader *jus soli* and *jus sanguinis* rules. The most notable examples of this development in Europe are France and Germany, which both liberalized their citizenship laws in the late 1990s.⁷ Even earlier, a number of states in Asia and Latin America whose nationals migrate to the USA in large numbers also eased their restrictions on dual nationality in order to facilitate the migrants' naturalization in the USA and to maintain the states' ties with those migrants and their descendants living in the USA (Weil, 2001; Schuck, 1998: Ch. 10).

The USA, like most liberal polities, imposes few *duties* on its citizens other than a general obligation to obey the law (which of course applies to aliens as well) and jury duty. Voting is not required (unlike in Australia, for example), and compulsory military service was abolished in the 1970s. By the same token, almost all of the *rights* of US citizens are also enjoyed by legal resident aliens. The main exceptions – rights that attach to citizens only – are the right to remain in the USA without fear of possible deportation; the right to vote (although some localities have extended the franchise to aliens as well); citizens' greater right to sponsor alien relatives for immigration to the USA; access to certain high-level appointive and elective governmental positions; and the right to

certain public welfare benefits denied to legal aliens (although most of these have been restored to those who resided legally in the USA in August 1996 when Congress limited aliens' benefits) (Schuck, 1998: 186–90).

Many commentators have denounced this disparity between the generous endowment of rights enjoyed by citizens (and aliens) and the imposition of only the most minimal duties on them. In criticizing liberal citizenship as too thin to support a healthy social order, these critics would de-emphasize individual rights and protect the larger society's more diffuse interests by cultivating a spirit of social solidarity – in part, through imposition of common civic duties and limits on deviant behavior in public places (Mead, 1986; Glendon, 1991; Etzioni, 1999). The fact that strong social forces oppose imposing on individuals even modest new duties reveals how pervasive the privatism, individualism, and anti-statism of liberal culture has become. Requiring work (or a genuine effort to find it) in lieu, or as a condition, of receiving welfare benefits was perhaps the most controversial element of the 1996 welfare reform law. Compulsory public service for young people has never been politically acceptable. Laws that mandate AIDS testing even of exposed pregnant women and informing of sex partners have been highly controversial and, when enacted, weakly enforced. Curbing the rights of individuals to use parks, subways, libraries, and other public spaces in ways that the vast majority of people find offensive has proved to be very difficult due to civil liberties and other constitutional values protected by the courts (Ellickson, 1996).

I have already noted that the USA and other liberal polities tolerate inequalities in wealth and income that more communitarian societies might find unacceptably large. As economic disadvantages express themselves in the social and political realms as well, these inequalities among citizens are extended and compounded. Liberal states, moreover, attract migrants, both temporary

and permanent, legal and illegal, for reasons relating to the liberal cultures and markets of such states. These migrants tend to be poorer than citizens (at least for some time after their arrival), which creates additional inequalities that are often ethnically defined and hence exacerbate social divisions. This greatly complicates the political and administrative problems surrounding ethnically-based preferences and other rectification policies (Schuck, 1998: Ch. 14).

Precisely because of the persistence of inequalities among liberal citizens and between them and aliens, however, they are bound to engender much social and political conflict. Indeed, this persistence tends to dispirit and even de-legitimate a liberal polity that prides itself on the existence of genuine equal opportunity for individuals. This is not as paradoxical as it might seem. We have seen that liberalism tends to justify inequalities that arise out of differences in individual talents, values, and choices – differences, moreover, that the state cannot seek to efface without endangering citizens' liberties. On the other hand, liberalism's legitimation rests on society's conviction that individuals in fact enjoy an equal opportunity to develop their talents, acquire good values, and exercise free choices. Equality, however, is always incomplete, often glaringly so, and the gap between the pretense and the reality may become too large to sustain the ideological consensus. And technology constantly generates new kinds of inequalities; an example is the current concern about unequal access to the Internet. Indeed, social science evidence suggests that as differences diminish, those that remain become more intolerable than before, a phenomenon sometimes referred to as the 'narcissism of small differences' (Horowitz, 1985: 182–3). This has certainly been the American experience; doubtless, it is more universal (Fogel, 2000).

Perhaps the most daunting challenge to liberalism, then, is to reduce inequalities to levels and kinds that the society, and especially those who suffer relatively disadvantage, view as socially acceptable and

politically sustainable, if not altogether just – while at the same time vindicating the liberal commitment to the protection of individual liberties. For several reasons, however, liberalism may actually increase economic and certain other kinds of inequalities rather than reduce them – unless and until the benefits of market-driven economic growth 'trickle down' to the socially disadvantaged. Liberalism extols free markets, which reward values and skills that are unequally distributed in the population. It does not merely produce the inequalities that arise from such differences; it justifies them so long as it can sustain the belief that they result from individuals' free choices, not from coercion (Sowell, 1975). Liberal citizens, inured to such inequalities and inclined to devote their energies to private pursuits, may not support changes designed and executed by the state rather than occurring through the decentralized, less self-conscious dynamics of civil society and markets.

Structurally, as well as ideologically, liberal states make redistributive policies difficult to enact, implement, and legitimate. In a liberal social system, the private sector controls most of the incentive systems that drive and shape individual and group behavior; these systems are largely immune from state control. More fundamentally, liberalism contrives to keep the state weak and permeable to private interests, institutionalizing its endemic fear of state power through political structures and practices that widely disperse and carefully confine the state's influence. In the USA, these include independent courts exercising legislative review, separation of powers, constitutional protection of private property and individual rights, federalism, and many others. Together, they make it difficult for the state to effect large social changes in the absence of a broad national consensus or sense of crisis. These power-dispersing structures of the American liberal state bespeak a conception of the public interest not as a set of independent substantive outcomes but as the competitive processes of those

interests as they work to bend the state to their purposes (Lowi, 1979). This primacy of private interests in turn magnifies the risk that state intervention should it occur, will produce unforeseen and often perverse consequences (Schuck, 2000a: Ch. 13).

Certain kinds of inequalities plague liberal states in another, more threatening way. Where inequalities within a state are distributed along ethnic or geographical lines and those ethnic or geographic groups come to identify themselves as such, groups that think of themselves as being advantaged or disadvantaged relative to other groups in the state often demand some level of autonomy or even independence (Horowitz, 1985). Liberal states may be especially vulnerable to this threat; more than communitarian or republican polities, liberal ones facilitate, tolerate, and perhaps even encourage their citizens to identify with multiple values, traditions, or even states. For example, liberal polities should in principle be more willing to permit their members to acquire multiple citizenships than states that require of their citizens a more exacting, exclusive, and 'thick' allegiance (Schuck, 1998: Ch. 10). In any event, inequality-driven group demands may force a state to fragment its citizenship, creating rights that some citizens enjoy but others do not. Such discriminations among citizens, however, may not be an enduring solution; instead, it may simply presage the division of the state itself, as in the cases of Pakistan–Bangladesh and Ethiopia–Eritrea. Alternatively, the state may create a federal system, as in the USA, in which members possess both national and subnational citizenships. This too may turn out to be a mere prelude to division and independence (Schuck, 2000b).

Finally and relatedly, classic liberalism posits a state that maintains substantial normative neutrality. In this conception, the liberal state should neither choose among competing visions of the good society nor place its thumb on the scales in other ways, such as redistributive policies, that favor particular visions. It should instead play a far more modest, suppletive role, facilitating

individuals' pursuit of their own projects or visions. Just how modest the liberal state's role should be has always been, and certainly remains, a matter of great controversy. At the most minimal, libertarian end of the philosophical spectrum is Robert Nozick's 'watchman state,' which should confine itself largely to enforcing the criminal law and private law entitlements. More interventionist, efficiency-minded conceptions would have the state also provide public goods and regulate externalities. At the most activist end of the spectrum are egalitarian visions that justify state efforts, more or less constrained, to employ wealth transfers and regulation to secure to individuals equal dignity, life chances, and opportunity (Rawls, 1971; Ackerman, 1980; Ackerman and Alstott, 1999; Dworkin, 1977).

In the event, it has proved impossible for the state to maintain neutrality. In the USA, for example, state action and inaction inevitably ignites political disputes reflecting the tension between the liberal commitments to individual liberty, autonomy, and constrained state power, on the one hand, and people's equally ardent convictions about the social conditions necessary to maximize that liberty and autonomy, on the other. They often regard these conditions as the state's responsibility to establish and maintain. The state, responding to political entrepreneurship, group pressures, ideological impulses, and genuine concerns about programmatic effectiveness, seeks to pursue its equalization project at wholesale rather than retail, using the group and not just the individual as the site of legal rights, subsidies, and other forms of advantage. And when the state confers advantages on groups, it is impelled to regulate them, if only to assure political accountability to the public for how the groups are using those advantages. This regulation inevitably entangles the state, groups, and individuals in ways that may threaten the autonomy and integrity of individuals and groups and hence endanger the liberal project itself.

Whether the policy in question is the curriculum in public schools, the regulation of hate speech, taxation, welfare reform, foreign affairs, affirmative action, vouchers redeemable in private religious schools, or countless other issues, the state is widely viewed as taking sides, promoting certain values and groups over others, and arrogating to itself the political authority and resources needed to implement that policy. The more diverse the society, the more controversial its policies (Schuck, 2003). The more ambitious and redistributive the agenda for state action, the more it strains against the ideological and institutional limits of the traditional liberal settlement with politics. Liberal citizens who come to regard the principled neutrality that constitutes the state's *raison d'être* as a pretense and an illusion will view politics as little more than a series of power plays by the dominant interests, decisions to which the losers may perforce have to submit but that enjoy no legitimacy.

CONCLUSION

These struggles over the role of the state constantly re-shape the contours of liberal citizenship. In the USA, citizens value social and economic equality but value market and other individual liberties even more. Believing that the state threatens these liberties, Americans seek to keep it permeable, weak, and neutral. In other liberal polities, of course, the balance among these values is different, as are their definitions and their views about the state's capacity and legitimacy.

Environmental pressures and humanitarian emergencies, including the spasmodic immigration flows discussed earlier, pose great challenges to liberal states, demanding a larger state role in allocating scarce resources, rights, and statuses among competing interests often bearing compelling moral claims. But what is truly transforming liberal citizenship in all societies is the

growing crisis of the welfare state. This crisis is especially grave in Western Europe and other states whose welfare commitments are both deeply entrenched and steadily expanding under pressure from militant trade unions, strong socialist parties, and even centrist and conservative groups moved by collectivist and egalitarian traditions. Yet rapidly aging populations, slow economic growth, rigid labor markets, growing global competition from low-wage producers, and other conditions mean that this problem will only grow worse in these societies, while widespread xenophobia rules out large-scale legal immigration as a possible solution.

The promise of liberal citizenship – its vision of social and political membership based on the paramount value of individual freedom and the need to limit state power – continues to inspire many throughout the world. At the same time, the materialism, inequality, and normative neutrality that are often associated with liberalism are often repellent, even to some of the same people who admire its achievements. The rise of religious fundamentalism coupled with arbitrary and autocratic state power poses a particularly acute threat to liberal citizenship. In the end, the allure of liberal citizenship will be assessed – at least by those polities whose politics and economies leave them free enough to consider it – according to how effectively and fairly their states govern, their markets create and distribute wealth, and their societies define and value freedom.

NOTES

1. Marshall's essay was the subject of an American Political Science Association annual meeting panel, dated 31 August, 2000, on 'The 50th Anniversary of T.H. Marshall's "Citizenship and Social Class"', in which several commentators spoke. My remarks focused on Marshall's failure to anticipate three developments significantly affecting the concept of citizenship: (1) the challenge to the modern social welfare state, (2) the rise of multi-ethnic societies in postwar Europe, and (3) the changing understanding of the public and private realms and of the boundaries and relationships between them.

2. The significance of Madison's analysis is discussed in Schuck, 2000a: Ch. 7. Kramer (1999) demonstrates that the celebration of Federalist #10 is a relatively recent phenomenon.

3. The leading analyses by the pluralists and their critics are summarized and cited in Schuck, 2000a: 210–15.

4. For present purposes, we can assume that the state is a unitary nation-state in which the citizen belongs neither to a substate polity, as in a federal system, nor to an ethnic nation within the state, as with Indian tribes in the United States. See generally Schuck (2000b).

5. Most economists accept this account, not merely 'supply-siders'; the real difference among economists – and it is a crucial difference – concerns the magnitudes (or elasticities) of the economic effects and the way one should evaluate those effects.

6. Whether *jus soli* citizenship is liberal or not is an interesting and controverted question. For opposing views, see Schuck and Smith (1985), Neuman (1994: 248–9), Schuck (1994: 324–5).

7. In the German case, much political opposition to the new law persists among the conservative parties. See Cohen (2000).

REFERENCES

- Ackerman, Bruce A. (1980) *Social Justice and the Liberal State*. New Haven, Conn.: Yale University Press.
- Ackerman, Bruce A. and Alstott, Anne. (1999) *The Stakeholder Society*. New Haven, Conn.: Yale University Press.
- Berlin, Isaiah (1969) *Four Essays on Liberty*. London: Oxford University Press.
- Caporaso, James A. (2000) *The European Union: Dilemmas of Regional Integration*. Boulder, Colo.: Westview Press.
- Cohen, Roger (2000) 'Germany's Financial Heart Is Open but Wary', *New York Times*, Dec. 30, 2000, p. A1.
- Dworkin, Ronald M. (1977) *Taking Rights Seriously*. London: Duckworth.
- Ellickson, Robert C. (1996) 'Controlling Chronic Misconduct in City Spaces: Of Panhandlers, Skid Rows, and Public Space Zoning', *Yale Law Journal*, 105: 1165.
- Etzioni, Amitai (1999) *The Limits of Privacy*. New York: Basic Books.
- Fogel, Robert W. (2000) *The Fourth Great Awakening and the Future of Egalitarianism*. Chicago: University of Chicago Press.
- Fukuyama, Francis (1999) *The Great Disruption: Human Nature and the Reconstitution of Social Order*. New York: Free Press.
- Glendon, Mary Ann (1991) *Rights Talk: The Impoverishment of Political Discourse*. New York: Free Press.
- Hartz, Louis (1955) *The Liberal Tradition in America*. New York: Harcourt Brace.
- Horowitz, Donald L. (1985) *Ethnic Groups in Conflict*. Berkeley. University of California Press.
- Kramer, Larry D. (1999). 'Madison's Audience', *Harvard Law Review*, 112: 611–79.
- Kymlicka, Will (1995) *Multicultural Citizenship*. Oxford: Oxford University Press.
- Locke, John ([1690] 1960) *Two Treatises of Government*, ed., Peter Laslett. New York: New American Library, revised ed.
- Lowi, Theodore J. (1979) *The End of Liberalism: the Second Republic of the United States*. 2nd edition, New York: W.W. Norton & Co.
- Macpherson, C.B. (1962) *The Political Theory of Possessive Individualism: Hobbes to Locke*. Oxford: Oxford University Press.
- Madison, James ([1787] 1961) 'Federalist # 10', in Clinton Rossiter (ed.), *The Federalist Papers*. New York: New American Library.
- Marcuse, Herbert (1991) *One-Dimensional Man: Studies in the Ideology of Advanced Industrial Society*, 2nd edition, New York: Routledge.
- Marshall, T.H. ([1950] 1992) *Citizenship and Social Class*. London: Pluto Press.
- Mead, Lawrence M. (1986) *Beyond Entitlement: The Social Obligations of Citizenship*. New York: Free Press.
- Mill, John Stuart ([1859–61] 1951) *Utilitarianism, Liberty, and Representative Government*. New York: E.P. Dutton & Co.
- Neuman, Gerald L. (1994) 'Justifying U.S. Naturalization Policies', *Virginia Journal of International Law*, 35: 237–78.
- Nguyen v. I.N.S.* No. 99–2071. 121 S.Ct. ____ (2001).
- Nozick, Robert (1977) *Anarchy, State, and Utopia*. New York: Basic Books.
- Putnam, Robert D. (2000) *Bowling Alone: The Collapse and Revival of American Community*. New York: Simon & Schuster.
- Rawls, John (1971) *A Theory of Justice*. Cambridge, MA: Harvard University Press.
- Schuck, Peter H. (1994) 'Whose Membership Is It, Anyway? Comments on Gerald Neuman', *Virginia Journal of International Law*, 35: 321–31.
- Schuck, Peter H. (1998) *Citizens, Strangers, and In-Betweens: Essays on Immigration and Citizenship*. Boulder, Colo.: Westview Press.
- Schuck, Peter H. (2000a) *The Limits of Law: Essays on Democratic Governance*. Boulder, Colo.: Westview Press.
- Schuck, Peter H. (2000b) 'Citizenship in Federal Systems', *American Journal of Comparative Law* 48: 195–226.
- Schuck, Peter H. (2003) *Diversity in America: Keeping Government at a Safe Distance*. Cambridge, Mass: Harvard University Press.
- Schuck, Peter H. and Smith, Rogers M. (1985) *Citizenship Without Consent: Illegal Aliens in the American Polity*. New Haven, Conn.: Yale University Press.

- Smith, Rogers M. (1997) *Civic Ideals: Conflicting Visions of Citizenship in U.S. History*. New Haven, Conn.: Yale University Press.
- Sowell, Thomas (1975) *Race and Economics*. New York: Longman.
- Spiro, Peter J. (1996) 'New Global Potentates: Non-governmental Organizations and the "Unregulated" Marketplace', *Cardozo Law Review*, 18: 957–69.
- Weil, Patrick (2001) 'Endowment for cultural international peace', in Alexander, T. and Aleinikoff, D.K., *Citizenship Today: Global Perspectives and Practices*. Washington D.C.: Carnegie Endowment for International Peace.
- Wolff, Robert Paul (1969) *The Poverty of Liberalism*. Boston: Beacon Press.