

'The Whole Is Other Than The Sum Of Its Parts': Cases Of Centrifugal Citizenship

Abstract

This piece looks at what happens to citizenship when multilevel polities fall apart. Introducing the notion of 'centrifugal citizenship' to describe such cases, it uses the experience of the former Yugoslav republics to show all the possible consequences for individuals from the loss of status and the associated rights. The last section of the piece briefly contextualises such centrifugal citizenship in the debates related to the United Kingdom's departure from the European Union.

Introduction

Citizenship is a structured relationship between an individual and their polity, be it a city, sub-state entity, state, or a supranational organisation (Miller 2000). It entails reciprocity of rights and obligations. Citizens ensure the legitimacy and intergenerational continuity of the polity. They also sustain its day-to-day functioning by paying taxes and deciding on its political future. In return, they receive protection inside and outside of its borders and a bundle of socio-political rights, including the right to vote and welfare protection. Against this background, the objective of this contribution is to look at how citizenship issues play out in disintegrating multilevel polities. The experience of the former Yugoslav republics offers insights helpful for understanding the debates related to the United Kingdom's (UK) departure from the European Union (EU). Both in the domain of the status and of the rights of citizenship, the relationship between the polities that were once in a 'citizenship constellation' defines the rules for inclusion and exclusion.

Citizenship in Multilevel Polities

Citizenship is particularly complex in multilevel polities as it regulates the position of individuals in two or more overlapping political communities. Rainer Bauböck (2010: 848) has described such a circumstance as a 'citizenship constellation'. A 'citizenship constellation', can either be horizontal (individuals linked to two or more polities through migration) or vertical (in states formed by subnational polities, such as federations, confederations, unions of states; or in supranational polities established by states, including the European Union, the Union of South American Nations). In vertical 'citizenship constellations', matters of status and rights are determined by the relationship between the encompassing polity (e.g., the EU) and its constituent parts (e.g., Member States).

This structure opens up avenues for the individual to navigate in the new political space crafted out of rights and obligations beyond the borders of his or her 'original' polity. That is, while 'the whole' exists, it is 'other than the sum of its parts'. Not greater, but different in nature. As the Gestalt psychologists from whom this phrase originates argued, the relationship between the 'whole' and its 'parts' is binary and concentric. On the one hand, the composition of the parts determines how we will see and experience the whole; on the other hand, the way in which the whole is seen will determine the interpretation of its constituent parts. As a consequence, individuals are at the centre of political structures containing several layers of legal statuses that determine rights within and beyond their borders. If their core polity (i.e. the polity that determines all of their other statuses) detaches from the nested polity, or the latter falls apart completely, the questions of status and rights become highly salient. Hence I refer to 'centrifugal citizenship' as processes of attribution of status and determination of rights in cases of secession or disintegration of multilevel polities.

Individuals confined to the borders of their core polity at the time of its departure from 'the whole' continue to exercise their rights in the core polity and commonly have a secure status after secession. Their position is reasonably straightforward. By contrast, individuals who have established themselves outside the borders of their core polity owing to the rights of multilevel citizenship are in a more complex position. As will be illustrated by the case of the former Yugoslavia, status and rights of these people are commonly malleable and determined by the relationship between the rump and the seceded polity.

Centrifugal Citizenship in the Former Yugoslavia

The former Yugoslavia had two-tiered citizenship, consisting of the federal and republican levels. As in most federal states, the republican citizenship was derived from the federal level, which had primacy in the hierarchy of citizenships. This had two practical implications. First, a simultaneous acquisition of the status of citizenship at both levels was necessary and automatic. That is, any holder of the federal Yugoslav citizenship would at the same time be a citizen of *one* of its republics.

In many cases, but not always, the republican citizenship would be linked to the place where the person had settled. Dual citizenship among republics was not allowed. Second, the rights of citizenship originated from the federal level, but their implementation depended on the republics. This implies that the two levels of citizenship were tightly coupled.

As a consequence, experiences and legacies of the 'citizenship constellation' of the former Yugoslavia have shaped the citizenship of its successor states. This 'centripetal citizenship' was most manifest during the Yugoslav break-up in the early 1990s, when the initial determination of the status depended on the republican citizenship (Stiks 2006). This approach differentiated the post-Yugoslav states from the countries carved out of the Soviet Union, since the latter applied the 'zero option' for citizenship. The 'zero option' for citizenship meant that all persons legally residing in a country at the time of its independence would automatically receive its citizenship. Yet driven by nationalism that underpinned the Yugoslav break-up, the first wave of the post-Yugoslav states (Slovenia, Croatia, Bosnia and Herzegovina, Macedonia, and the Federal Republic of Yugoslavia) granted citizenship automatically to those who were registered as citizens of the respective republics, but not to those who were residents. For example, a person who was a registered citizen of Macedonia but resided in Croatia would be granted a Macedonian citizenship. This approach proved to be highly exclusionary, due to high intra-republican migration in the socialist Yugoslavia, which was not adequately recorded by the republics' authorities. Thus, those people most at risk were those who spent decades in a republic other than that of their citizenship but never registered residency there, or changed their republican citizenship. In fact, registration was not key to the exercise of individual rights in cases of free movement among republics, as many rights could be enforced in the space covered by the 'citizenship constellation'.

Perhaps the most famous such case was that of the 'Erased' in Slovenia. These were citizens of the other former Yugoslav republics who had long term factual residence in Slovenia and another republic's citizenship at the time of independence. Under Article 40 of the 1991 Citizenship Act of Slovenia, they were granted six months to apply for Slovenian citizenship. If they failed to do so, they were removed from the Register of Permanent Residents with long-term consequences on the exercise of their rights, including the franchise, welfare, and education.^[1]

Citizenship issues also featured prominently in the disintegration of the State Union of Serbia and Montenegro (successor to the Federal Republic of Yugoslavia between 2003 and 2006). Unlike in the former Yugoslavia, multilevel citizenship in this state was not federal. The State Union of Serbia and Montenegro never formally established its second tier of citizenship, but relied on citizenship regimes of the constituent states (Article 7 of the Constitutional Charter of Serbia and Montenegro). That is, each of the two constituent states had its own citizenship legislation, and decided on its membership. As noted by Dzankic (2010) and Rava (2010), the citizenship laws of Serbia and Montenegro diverged significantly (e.g., while Serbia is open to dual citizenship, Montenegro is not). This is similar to the structure of the nested EU citizenship, whereby membership in the encompassing polity is conditional upon membership in the differently regulated national polities.

The 2006 independence of Montenegro resulted in difficult circumstances for a number of people who lived in Montenegro with the citizenship of Serbia. To gain citizenship in the newly established state, most were required to renounce their Serbian citizenship, or re-register as permanent residents. In some cases, such as the Roma or refugees from Kosovo, this registration process was cumbersome. Having sought refuge in Montenegro in the late 1990s, these people did not possess the documents necessary to cross the (newly international) border between Montenegro and Serbia. As they were unable to obtain physical evidence of citizenship renunciation, they could not register as citizens and access the related rights.

EU Citizenship and the Departure of the UK

Citizenship of the European Union (EU Citizenship) is a multilevel citizenship. It was established in 1992 through provisions of the Maastricht Treaty which codified the rights of citizens of the Member States across the Union. These rights include, among others, the freedom of movement and residence, the right to non-discrimination on grounds of nationality, voting rights in municipal and European Parliament elections, consular protection by another EU country, etc. They are exclusive to individuals possessing the nationality of one of the Member States. That is, EU Citizenship is additional to and dependent on

national citizenship (Article 20 of the Treaty on the Functioning of the European Union, TFEU).

In June 2016, a majority of citizens in the UK voted in favour of the UK withdrawing from the EU. Given the dependence of the status of EU Citizenship on the country's membership of the Union, the departure of the UK inevitably raises the question of what will happen to individuals who have exercised their freedom of movement to or from the UK while the country was still a Member State. According to the United Nations' Department of Economic and Social Affairs (2015), there are 3.3 million EU citizens living in the UK and 1.2 million UK citizens living in other EU Member States. Negotiating what status and rights these 4.5 million people will have after the decoupling of national and EU Citizenship, therefore, will be an important aspect of the two-year negotiations foreseen under Article 50 of the TFEU.

As in other cases of centrifugal citizenship, it is unlikely that the negotiated statuses will apply to those who decide to exercise freedom of movement past a certain date (presumably the day when the UK ceases to be an EU Member State). While there have been initiatives and petitions to secure a personal associate EU Citizen status for all UK nationals, such a motion would require a proportionate action by the UK government. Hence the transitory provisions that will be negotiated are most likely to apply to individuals who have acquired rights in the UK or in the EU through free movement of persons. These will include rights related to the prospect of residence or citizenship rights, as well as participation in local and European political processes.

In Lieu of a Conclusion

Secession and state disintegration raise a number of conceptual and legal questions. Citizenship is the core one, not the least because it is at the heart of a democratic polity, but also because it affects lives of individuals. The experience of the disintegration and secession in the post-Yugoslav space provides a valuable lesson in this respect. That is, that centrifugal citizenship might result in marginalisation or exposure to statelessness. Therefore, avoiding adverse consequences for UK citizens in the EU, and EU citizens in the UK, needs to be an important concern (rather than a bargaining chip) for both UK and EU policymakers negotiating the former's exit from the Union.

Suggested citation: Džankic, J. 2017. 'The Whole Is Other Than The Sum Of Its Parts: Cases of Centrifugal Citizenship'. 50 *Shades of Federalism*. Available at: <http://50shadesoffederalism.com/policies/whole-sum-parts-cases-centrifugal-citizenship/>

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Further reading

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[1] In the 2010 judgment *Kuric and others v. Slovenia* (26828/06), the European Court on Human Rights (ECtHR) ruled that the removal of applicants from the register constituted a violation of the right to private and family life and the right to an effective remedy (articles 8 and 13 of the European Convention on Human Rights and Fundamental Freedoms).