

The Enlightenment concept of citizenship, rights and governance in Modern and Postmodern States

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Abstract

Citizenship is one of several Enlightenment concepts that together produce the moral / political rationale for the modern nation state. Claims about citizenship, democracy, rights and governance are today at the centre of debates about political hegemony, regime change, public opinion, school curricula and investment in education. This paper attempts to facilitate those debates. It provides an analysis of the concept of citizenship, based in the concept of rights, and an account of how the concept of citizenship operates in Cooper's modern and postmodern states. It is possible a new postmodern concept of citizenship will emerge, but so far attempts to extend the concept of citizenship to achieve this (for example Faulk's attempt) have required that its base links to rights and duties be corrupted, or that its relationship to 'democracy' and 'governance' be unacceptably weakened. One concept of citizenship, based primarily on rights, appears equally applicable in modern and postmodern states. The draft European constitution is based on the Enlightenment concepts and distinguishes between citizenship rights and other rights.

Introduction

Post September 11 and Enlightenment concepts - such as democracy, human rights, and nationhood - grab our attention. Here I examine one of those concepts, citizenship, and consider if it may legitimately be used to advance our thinking about international politics.

Both Samuel Huntington and Robert Cooper accept the political concepts of the Enlightenment as critical to any understanding of world political movements writ large (Huntington, 1993; Huntington, 1996; Cooper, 2000; Harrison and Huntington, 2000; Cooper, 2002a; Cooper, 2002b). Huntington sees the West threatened by "pre-national civilisations which had continued to flourish outside of the framework of the European Enlightenment". Cooper (Deputy Secretary of the Defence and Overseas Secretariat in the British Cabinet Office) sets out the difference between the European concepts of nationhood, statehood, and democracy on the one hand, and the concepts that pertain to modern nation states such as the United States of America and Iraq, on the other hand. The European concept he describes as a postmodern system that exhibits the following characteristics:

- "The breakdown of the distinction between domestic and foreign affairs
- Mutual interference in (traditional) domestic affairs and mutual surveillance
- The rejection of force for resolving disputes and the consequent codification of rules of behaviour, rules that are self-enforced because all EC states have an interest in maintaining the rule of law.

- The growing irrelevance of borders
- Security is based on transparency, mutual openness, interdependence and mutual vulnerability” (Cooper, 2000, pp.19-20)

Britain shows itself torn between the modernist and post-modernist *weltanschauung*, pulled by both America and Europe (Postscript in Peters, 2003).

The debate about citizenship was brought into education. Perhaps conscious of the wider play, but certainly mindful of the immediate domestic problems created by the Labour Party’s conclusion that Britain needs to integrate more with continental Europe, Blair’s government funded academic and educational work on “citizenship” and sought to make citizenship education compulsory in schools. “Throughout the world ... politicians ... have been quick to emphasize the role of the school in the promotion of global citizenship” (White and Openshaw, 2002, p.151). “Right now citizenship is a high profile educational concern in the United States and Britain, as well as in Australia” (Lankshear and Knobel, 1997, p.98).

“Citizenship” was never a central concept examined by philosophers concerned with modern social theory but it was always there, always essential as a part of a complex of concepts, and now it is prominent. Citizenship does not appear in the index of a standard textbook “Social Principles and Democracy” that was first published in 1959 (Benn and Peters, 1959). Forty years later, we read, “citizenship has become one of the most important political ideas of our time” (Foreword in Faulks, 2000).

Faulk’s book is used in British schools as an introduction to citizenship. The author of the present paper drew that conclusion at the University of Glasgow "Big Day" seminar series on citizenship, 26 May 2003. Faulks tries to construct a new concept of citizenship and his book is a convenient vehicle to raise the issues inherent in the concept of citizenship and its relationship to other Enlightenment concepts.

In this paper, I set out Faulks’ citizenship concept and summarise objections to his concept. Then, I argue that citizenship must be understood as a category that comes from the granting of certain rights (those related to democracy and governance structures) and this contrasts with accounts of citizenship that begin with it as a membership status that may be associated with a wide range of contingent rights. My concept is conceptually a part of a net of concepts that are the Enlightenment foundation of the modern state and it is revealed in the philosophy and constitutional documents of the Enlightenment. Finally, I ask, do we need to alter the modernist concept in the new circumstances that are Cooper’s postmodern state?

Faulks’ concept of citizenship

Faulks concept is that "citizenship is a membership status, which contains a package of rights, duties and obligations, and which implies equality, justice and autonomy" (Faulks, 2000, p.13). Groups that have sought or gained citizenship rights, according to Faulks, include: slaves, women, African Americans, and gays. He writes “I am in full agreement with Soysal upon the urgent need to reconceptualise citizenship in ways which break the link with the state. It is only in this way that the rights of citizenship can be extended in a

manner consistent with the liberal notions of the equal worth of individuals”(Soysal, 1994; Faulks, 2000, p.141).

Faulks’ construction of a postmodern concept of citizenship evidently entails the destruction of the modern concept. The modern concept is founded on liberalism. The aspects of liberalism that Faulks emphasizes as positive are equality, individual rights, perfectionism and universal citizenship (Faulks, 2000, pp.1-7 & p.170). However, “the notion of a social contract as the basis for citizenship is flawed” (Faulks, 2000, p.81). The heart of liberalism is that the individual gives up some liberties in return of security and hence we see exposed the opposition between the individual and community. Liberal citizenship displays ten dualisms (individual/community, agency/structure, private sphere/public sphere, market rights/social rights, sovereignty/human rights, science/nature) and these are unacceptable (Faulks, 2000, pp.56-57).

He says, we need to accept that the requirements and aspirations of a community will change over time and consequently the content of citizenship (the particular rights and duties involved) and the balance between rights and duties is a contingent matter (Faulks, 2000, p.81).

Faulks believes there have been sharp shifts in the meaning of citizenship. These seem to have followed changes in the notion of liberalism (specifically relating to equality) and changes in the definitions of people recognized as citizens in a particular regime (Faulks, 2000, p.163).

Following a discussion of the relationship between citizenship and ethnicity, particularly the 'headscarf affair' in France in 1989, he draws the conclusion: "... a developed sense of citizenship demands that each citizen develops empathy and understanding for other cultures and sensitivity to the interests and needs of others" (Faulks, 2000, pp.47-50).

Faulks says his approach to the concept of citizenship is deliberately post-modern being built for a diverse, changing, networked, highly interactive, and integrated globe. He accepts liberalism as a concept, as a values framework, and in its practical expression in Western states. He also says that the development of the liberal tradition is "synonymous with modernity" (Faulks, 2000, p.170).

One of the reasons Faulks gives to support his particular concept of citizenship is that he sees rights as being "crucial to the successful resolution of the problems of governance" (Faulks, 2000, p.74). Governance, according to Faulks, "refers to the inherent human need to create and maintain social order and to distribute material and cultural resources" (Faulks, 2000, p.5). Faulks defines governance as "the need to distribute resources fairly and to maintain social order" (Faulks, 2000, p.74).

Critiques of Faulks’ concept

Historian DeWiel argues Faulks would have done better to develop a postmodern theory of citizenship had he built upon Kant’s “Idea for a Universal History with a

Cosmopolitan Intent” (1784) for universal cosmopolitan citizenship, and Kant’s “Foundations of the Metaphysics of Morals” (1785) for autonomy (DeWiel, 2002).

DeWiel notes that Faulks critique of liberalism is familiar: “Liberalism is too individualistic to provide a theory of belonging, too patriarchal to be inclusive of women, too hierarchical to be emancipatory for minorities and the poor, and too market-oriented to provide protection against global destruction” (DeWiel, 2002, p.460). He also sees that the challenge to liberalism posed by the postmodernist is to overcome the dualism of individualism and collective belonging, this being the most important of the list of dualisms that Faulks says are inherent in liberalism (Faulks, 2000, pp.56-57).

If your aim is to construct a concept of citizenship outside of the liberal framework of concepts, then DeWiel provides some helpful thoughts. In the context of the practically oriented debate today, however, citizenship might be better cast in its relationship to current concepts that are the foundation of Western democratic nation states.

Faulks is not the only theorist to emphasise the membership aspects of citizenship. Those who will approach the definition of citizenship primarily by setting out a universal category - a membership status - are forced to confront the diversity of rights and diversity of peoples. They must develop further concepts to produce the outcome they seek which frequently is to use the notion of citizenship to achieve a wide range of rights for diverse groups (for example, Soysal, 1994). Olssen quotes Iris Marion Young’s notion of “differentiated citizenship as the best way of realising the inclusion of and participation of everyone in full citizenship” (Olssen, 2002, p.12). As Olssen says “the emergence of universal citizenship simply suppressed differences between people and acted on the basis of subgroup exclusions and oppressions” (Olssen, 2002, p.12).

My own concerns with Faulks’ concept are:

- (1) That he tries to make citizenship a lead concept when it is a subsidiary concept
- (2) As a result, he begins to detach citizenship from the Enlightenment network of concepts
- (3) He sees a wide range of rights and duties as being about citizenship when they have little or nothing to do with citizenship conceptually and their association with citizenship weakens a concept that is important because of its role in the network of Enlightenment concepts
- (4) He does not set out the scope of the citizenship concept proposed - does it apply to every kind of state, or only to some new and different postmodern structural entity, or to a utopia?

To establish my claims, I need to be explicit about rights theory, and to sketch the Enlightenment concepts. The pivotal role of governance in holding all these things together both in theory and in practice must be set out. Then it becomes clear that Faulks’ emphasises the wrong things. He appears to have been misled into making too much of the citizenship concept because citizenship claims have been used, and misused, in a wide range of political debates, and because of the link to the inadequate liberal tradition (DeWiel’s point), which, in turn, is itself associated with the political debates.

Rights theory

“Rights theory” has a settled conceptual base – there is good agreement about how the word ‘rights’ is properly applied and where the philosophical problems begin. Words such as “rights”, “duties”, and “obligations”, are used to prescribe conduct according to rules, and accordingly belong to normative discourse. When rules prescribe behaviour we say they impose “duties”. A ‘right’ is a claim that X may make that imposes a corresponding ‘duty’ on Y. This link between rights and their associated duties is a logical one, it is not itself a moral or a legal relation. It is about the concepts themselves (Benn and Peters, 1959, pp.88-106; Hart, 1983, particularly chapter 7). The development of the concept and its association with an essentially Western European understanding of the human, is set out by Pagden (2003).

There is a moral link involving “rights” that sometimes confuses people. It is the claim that my having a right imposes on me a duty. For example, if a child has a right to education, the child has a duty not to disrupt other learners. Such claims need to be established on their normative merits, and have nothing to do with the concept of rights itself. Conservative people with an interest in the active citizenship movement and moral character sometimes stress this relationship and imply that it is an example of the rights that are integral to the concept of citizenship (See for example, Williams, 1997). This tradition, encumbering those with legal rights with “civic duties”, goes to Rousseau who used the term "civic virtue" to describe the right and responsibility of the citizen to participate in the affairs of the state (Rousseau, 1762).

We distinguish between moral rights, legal rights and customary rights. “All assertions of rights ... are assertions about conclusive reasons”(Wenar, 2003, p.145). It is how these conclusive reasons are established or validated that determines whether a right is moral, legal, or customary. Thus, it is the context of decision that is important.

A woman stranded on a desert island cannot establish a rights claim. But, should there be two women on the island, and they can agree, a right with a corresponding duty may be established. It is a form of contract and entails a rule. Moghaddam describes rights in more complex cultural contexts: "Whether and how rights and/or duties are recognized and interpreted in such situations (he has described the Yanomamo Indians' practices), ... depends on cultural conditions. ... " (Moghaddam, 2000, p.292).

Moral rights need to be justified by moral/normative argument and they are thus “moral rules”. The problem with moral and customary rights is that you need to establish them to the point where you convince those who have the duty that there is a rule they must follow.

Moghaddam continues, "The term ‘human rights’ is traditionally taken to refer to those fundamental rights enshrined in formal documents such as the Universal Declaration of Human Rights ... , and the many other formal codes.... Such formal or ‘legislated’ rights are enshrined in ‘black-letter law’...." (Moghaddam, 2000, p.293). Moghaddam is correct to associate formal or legislated rights with black letter law, but his view of “human

rights” is debatable. He appears to confuse two different classifications of rules: classification by justification (form of argument), and classification by method of establishment.

The philosophical problems begin when you attempt to justify moral rights. The full range of normative arguments is available but it is not necessary to develop them for our purposes (many texts provide this material, for example Benn and Peters, 1965).

In summary, for any right we need to be able to:

1. Define the group that holds the right
2. Specify the entitlement (“bilateral liberty” (Hart, 1983))
3. Say who holds the duty to deliver the entitlement and the extent of the duty (“protective perimeter of duties” (Hart, 1983))
4. Indicate how the right was established (which vote, or what agreement)
5. Give the moral justification.

Black letter rights and governance

Legal rights become rights when an authority with power decides to grant those rights and enforce the corresponding duties. Austin lectured on this in London in the later 1800s (Bix, 2002). The term ‘legal rights’ comes from the classification of rules that stresses their establishment and maintenance. In Western democracies, this means Parliament gives rights to defined groups of people and government takes responsibility for the duties. The quality of the arguments is irrelevant: what counts is the vote in Parliament.

Churches, kings, companies, city councils, the United Nations, universities, street gangs, and incorporated societies – they all establish and enforce legal rights. They establish rights for categories of people and take upon themselves the duties that pertain - which often in practice means assigning the duties to others and providing enforcement.

In theory (but perhaps not sufficiently often in practice), rights established in the moral domain go on to become rights in the legal domain because the moral arguments convince the lawmakers. Austin considered “rights pathways” - the relationship between custom, conventional morality and positive law (the “commands of a superior enforced by sanctions”) (Austin and Campbell, 1885; Bix, 2002).

Establishing black-letter rights is a part of the business of governance (Lizee, 2000; Pierre and Peters, 2000; Peters and Pierre, 2003). There are three aspects to the business:

1. Establish the right (a decision)
2. Assign and accept the duties
3. Enforce the delivery.

Urging governors to establish legal rights is a popular political activity because the duties fall on people other than those who hold the right, and thus rights are valuable. The value of rights can sometimes be measured in monetary terms. (What a Government provides in response to the right for education is in a budget, but what parents provide in response to the same right is more hidden.)

Citizenship and other black letter categories

Citizenship has long been associated with rights and with governance entities. The Oxford English Dictionary says citizenship is “the position or status of being a citizen, with its rights and privileges”. From 1611 we have citizenship as the freedom of a city, 1792 citizenship in heaven, 1864 the City of London has as its highest honour the placing of your name on the roll of honorary citizenship (Oxford English Dictionary, 2000-).

Implicit in these early uses is the logical form of rights:

- (1) The group of citizens (in some way defined), has
- (2) An entitlement perhaps the freedom of a city or to have their name on a list, and
- (3) Other people have to provide something (often simply to refrain from doing something), with this all being
- (4) Established by a governance authority, perhaps a unit of local government (City of London) or perhaps God as she governs heaven, and
- (5) If we know some history we can reconstruct the moral arguments.

Legal rights are granted to diverse groups: members, taxpayers, children, ratepayers, residents, non-smokers, stockholders, customers, citizens, and clinically diagnosed people.

The rights that governance authorities give to people, may, or may not, be given to ‘citizens’. Consider the situation in local government. If you live in a particular suburb in London, and you are over a particular age, you will have rights voted by the Westminster City Council. You may say you are a citizen of Westminster and expect to vote, be eligible to stand for election, and participate in the processes of decision-making according to whatever are the rules of the day. Marshall would say you have political rights as a citizen (the second element of citizenship according to Marshall, 1997). Even if you do not live in the area, you gain rights from that Council (food hygiene regulations set out such rights, for example).

The rights that Parliaments give are not necessarily given to “citizens”. Visitors to the United Kingdom, have rights given by the Westminster Parliament. The police protect them, as do the statutes that relate to health and hospitals, and Marshall might say they have rights in his third element of citizenship (Marshall, 1997). But, visitors do not vote, and they are not citizens. It is only Marshall’s rights of political participation (and only some very specific ones at that) that are conceptually linked to citizenship and the link is a vital part of the concept of democracy. This link is stronger than a contingent matter - it is a necessary link.

Citizenship in the Modern State

Cooper’s modern states are the Western nations before the emergence of the “new approach” to domestic and foreign affairs outlined in the introduction to the present paper. They include today, India, Pakistan, China and the United States (Cooper, 2000; Cooper, 2002a; Cooper, 2002b). Historically, they included Britain, France and the United States.

What does history tell us about the concept of citizenship? Where, why, and how did the concept emerge? What use was it? To answer these questions we must consider the ideas that were used at the time and the constitutional documents of the West. The approach taken to concepts is that consistent with the latter Wittgenstein, which emphasises the use of concepts as political, practical tools (Wittgenstein, 1953; Hilmy, 1987; Janik and Toulmin, 1996; Peters and Marshall, 1999).

The Enlightenment philosophers developed a network of concepts that today form the base ideas of modern democratic nation states. Economically, Beliaev (2003, p.2) says "People, while they are joining into a society, erect the state and, as a consequence, constitute the nation (T. Hobbes); therefore, the sovereignty should remain with the people (J. Locke); and thus, the only proper government is a democratic one (J.-J. Rousseau). This is not the place to argue these concepts. It is sufficient for our purposes to argue below that "citizenship" appears in this particular configuration of concepts.

In our quest to identify citizenship in the constitutional documents we must be aware that many things influenced their final form. Today we would describe each of them as a "package deal" - negotiated to hold sufficient appeal to all the parties whose support was needed at the time. The constitutional documents are also strongly contextual, meaning that the concepts they do use hold significant presuppositions and assumptions.

Notwithstanding that, the practical change in the constitutional reforms is very clear: before the reforms the Sovereign set the rules and after the reforms it was a representative assembly that promulgated rules. This change was to a considerable extent based on the views of the new liberal thinkers, particularly Hobbes and Locke (see Uzgalis, 2003).

The practical, liberal concept of citizenship emerged as a necessary construct in the provisions that appear in the constitutional documents. Citizenship was more implicit than explicit before the French constitution, but the concept appears as a necessary presupposition to the extant concepts.

Britain's Bill of Rights (1689) declared "the Rights and Liberties of the Subject", and the "subject" formally became the "citizen" at this moment although you may not conclude that by a superficial reading of the quote.

The rights in the Bill may be grouped as negative rights, positive rights and implicit rights. First, the negative rights, the "liberties": no law shall be made, or levy of money shall be made, by regal authority; there shall not be excessive bail; excessive fines; cruel or unusual punishments. Second, there are two positive rights: the right to petition the King without penalty and the right to have a say in law making. "That the pretended power of suspending laws, or the execution of laws, by regal authority, without consent of parliament is illegal" (Article I of the Bill of Rights, 1689). (The latter positive right is worded in a negative way.) Third, there are implicit rights that derive from claims made about the body that promulgates the Bill. Those assembled are there "pursuant to their respective letters and elections". So some were elected, and there must be electors (a

defined group that enjoys the right to vote, or it may be more like an appointment with but one voter). Nothing is actually said about this in the Bill itself, but it must have been understood that there are citizens with the right to vote. The notion of a Parliament, also requires a citizenry.

The move from "subject" to "citizen" is more clearly set out when, in the regime change of 1789, when the French National Assembly approved the "Declaration of the Rights of Man and of the Citizen". The affairs of state were to be based on the needs of the people and the mechanism to achieve this was representative, parliamentary government. The negative rights are for "men" or "all" and they include are freedom, the right to hold property, be safe and be free from oppression. Some positive rights are explicit and for the benefits of citizens: "Law is the expression of the general will. Every citizen has a right to participate personally, or through his representative, in its foundation" (Article 6, National Assembly of France, 1789); and citizens must be represented if they are to be taxed "All the citizens have a right to decide, either personally or by their representatives, as to the necessity of the public contribution..." (Article 14, National Assembly of France, 1789). The term "citizen" is used only when ascribing some, quite limited, positive rights.

And finally, with regard to the United States of America we must consider three documents, The American Declaration of Independence, the Constitution and the Bill of Rights. The American Declaration of Independence in 1776 set out basically the same principles (essentially, negative rights) as in England and France and as in France applied them to "all men". However, enshrined for the first time, there is a positive right, earlier implicit in other constitutions, but now clear: "That whenever any Form of Government becomes destructive of these ends, it is the Right of the People to alter or to abolish it". In the full context, this is the right of "the People" to vote out those currently elected to govern. (Ordinary people do not acquire any further rights in the American Declaration, which is not surprising because that document is simply a declaration that for many reasons the country is no longer associated with the English Crown.)

The Constitution of the United States uses the word citizen after two references to "The People": "No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven Years a Citizen of the United States" (Article I, Section 3, 1781), and there is a corresponding clause for a senator but requiring 9 years of citizenship (Article II, Section 1, 1781). In the case of the President we have some new categories introduced, two of citizen and resident: "No Person except a natural born Citizen, or a Citizen of the United States, at the time of the Adoption of this Constitution, shall be eligible to the Office of President; neither shall any Person be eligible to that Office who shall not have attained to the Age of thirty five Years, and been fourteen Years a Resident within the United States" (Article II, Section 1, 1781). Citizens are again referred to in relation to judicial jurisdiction "to Controversies between two or more States; -- between a State and Citizens of another State; --between Citizens of different States; --between Citizens of the same State claiming Lands under Grants of different States, and between a State, or the Citizens thereof, and foreign States, Citizens or Subjects" (Article III, Section 2, Constitutional Convention in Philadelphia, 1781).

The Bill of Rights was specifically drafted at the time the US Constitution was established to ensure that centralist governance did not impose tyranny on individual people. It sets out the individual negative rights developed in England and France with some refinements (Amendment I: "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances." Amendment II "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." Amendment III: Protection of homeowners regards the military use of property. Amendment IV: Protection against unreasonable searches and seizures. Amendment V: Freedom from arbitrary arrest. Amendment VII: Freedom from delays in criminal proceedings. Amendment VIII deals with excessive bail, excessive fines, and cruel and unusual punishments). There is one positive right and that is the right to a trial by jury (Amendment VI).

Hence, it may be seen that whilst citizenship is not explicit in all the constitutional documents considered above, it is a necessary consequence of them. The establishment of Parliament and rules for the election of representatives by democratic means of necessity there must be citizens. Their rights are intimately, conceptually linked to Parliamentary Democracy.

Marshall identified three “aspects” of citizenship that depend on the nature of the rights at stake - civil, political, social. The civil element comprises the “rights necessary for individual freedom – liberty of the person, freedom of speech the right to own property and conclude valid contracts and the right to justice” (Marshall, 1997, p.294). The political element entails the “right to participate in the exercise of political power, as a member of a body invested with political authority or as an elector of the members of such a body” (Marshall, 1997 p.294). The social element entails rights to a “modicum of economic welfare and security to the right to share in the full social heritage and to live the life of a civilised being according to the standards prevailing in the society (Marshall, 1997, p.294).

Marshall would say his three categories apply to the modern state. However, it is the first two categories that relate to the practice of democracy as set out in the constitutional documents. It is only those things that relate to the concept of democracy in practice (Parliaments essentially) that conceptually require, and practically require, citizens.

Perhaps reviewing the constitutional documents help us to understand how some came to emphasise the membership status aspect of citizenship. In England, citizens are called “subjects” (with new rights), then they are citizens in France, and finally in America they are “the people” but actually they are a smaller group defined elsewhere as those with the right to practice democracy.

Citizenship in the Postmodern State

Europe is Cooper's postmodern state although he says Canada is also emerging. A review of Cooper's published work reveals nothing that might weaken the Enlightenment concepts in the context of these states. The new draft European Constitution provides us with another constitutional document to examine for evidence of our concept of citizenship and the role of this concept in democratic governance. We may also consider rights other than those that relate to citizenship, to make the distinction between different groups with rights that are established by the Europeans.

The statements of purposes, goals, or objectives are not relevant to the present discussion (Part One Article I-1 to Article I-6). Article I-7: Fundamental Rights, and the associated Charter of Fundamental Rights set out rights in the standard manner. A clear distinction is made between rights and citizenship rights. Titles I to IV are rights (in general), under the headings of Dignity, Freedoms, Equality, Solidarity.

Title V Citizens' Rights, specifically provides that "every citizen of the Union shall have the right to vote and stand as a candidate for the European Parliament in the member state in which he or she resides...." (Part Two The Charter of Fundamental Rights of the Union. Article II-39) There is included a specific set of citizenship rights that will assist the citizen to interact with the governance body. These are headed the Right to good administration, Right of access to documents, Ombudsman, Right to Petition (Part Two The Charter of Fundamental Rights of the Union. Articles II-41 to Article II-44).

The next two articles, still under the heading of Citizens' Rights, do not appear to relate to citizenship in the direct way that characterizes Articles II-41 to 44.

The firm conclusion is that this documents uses citizenship in a manner entirely consistent with the constitutions of Britain, France and the United States. Citizenship is again a category that falls out from the concept and practice of democracy. The Europeans establish other rights, not citizenship rights, in the areas such as requirements for dignity, solidarity and equality.

There is a natural question to ask at this point: Is acceptance of Enlightenment concepts a precondition for postmodernity as defined by Cooper? This is probably an empirical question.

Conclusion

We cannot separate out the concept of citizenship from the other Enlightenment concepts. Conceptually, citizenship is an adjunct to democracy - those who are entitled to participate in democratic governance processes hold citizenship. It entitles them to whatever is deemed appropriate to participate in democracy but it requires them to do nothing.

The duties conceptually associated with citizenship rights fall to those with the authority and power associated with Parliamentary governance. Practically, they must provide whatever is required for the citizens to exercise their rights *qua* citizens. Today the

specific package of rights relate to access to information, the right to stand for office, the right to have one's vote carry the same weight as that of other citizens, and the right of access to the governors and their professional advisors. The practical operation of the mechanism must hold the possibility that the governors are removed from their governance role. You cannot be a citizen in a dictatorship.

Citizenship is established for an individual in the context of establishing legal rights for the individual. But, not every legal right an individual holds relates to citizenship. The category of citizen may be convenient when a parliament, or a unit of local government, sets out new rights, but today those rights are frequently not citizenship rights *qua* citizenship. Those who hold rights in relation to the governance of a democratic state hold citizenship.

Individuals may hold many memberships and citizenships. There is nothing conceptually contradictory in participating in a range of governance structures simultaneously, although there remains the practical possibility of conflicting policies or requirements. In such cases the individual citizen must choose a side.

Faulks wants to base his thinking on citizenship on its being a membership category. He sees many legal rights being fought for and won, and he concludes that they are all conceptually a part of citizenship. He gets there by saying the content of rights and duties for citizenship is contingent, meaning that it changes from time-to-time as society changes. Then, he uses this fact to detach citizenship conceptually from its Enlightenment home. Concepts do change over time, but this is not an example of such a change, mainly because citizenship is so tightly interlaced with the complex of Enlightenment concepts and being used in practice. Faulks' evolving concept of citizenship depends on a form of the naturalistic fallacy.

We must remember what Wittgenstein has told us about concepts: they are found in their use. The new European constitution uses the concept of citizenship in relation to the Enlightenment concepts, and it sets out practical provisions for citizens that are distinguished from other rights that are granted in the constitution. This must make it very difficult to construct an alternative concept of citizenship. We may also conclude that Cooper's postmodern state is very Western in its practices.

NOTE

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