Citizenship Studies
Publication details, including instructions for authors and subscription information:
http://www.informaworld.com/smpp/title~content=t713411985

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Online publication date: 01 July 2010

To cite this Article Murphy, Michael and Harty, Siobhán(2003) 'Post-Sovereign Citizenship’, Citizenship Studies, 7: 2, 181 — 197
To link to this Article DOI: 10.1080/1362102032000065964
URL: http://dx.doi.org/10.1080/1362102032000065964

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Post-Sovereign Citizenship

MICHAEL MURPHY and SIOBHÁN HARTY

Debates about the validity of traditional forms of citizenship in the context of globalisation and resurgent sub-state nationalism have yielded three new approaches for conceptualising relations between states and members of the polity: liberal-nationalist, post-nationalist and cosmopolitan. We argue that while these approaches strive to create more just, equal, and inclusive polities, they threaten to politically subordinate the marginalised groups they are intended to benefit by either persisting with a view of domestic sovereignty whereby ultimate political authority resides with the state or failing to recognise the significance of territory. As an alternative, we endorse a newly emergent concept of 'post-sovereign' citizenship, which we develop through a discussion of its four constitutive principles as they apply to aboriginal and sub-state national groups: democracy, equality, trust and territory. We argue that post-sovereign citizenship can better address the political demands of sub-state nations through forms of multiple, concurrent or shared sovereignty at the domestic level. The advantage of our approach is that it can promote political equality and justice among nations without resorting to secession.

Over the last decade and a half, the political and social transformation of the nation-state wrought by increased transnational interdependence has spurred important theoretical developments in the study of citizenship. Historically, membership in a national community held the key to a series of citizenship rights and entitlements that are the foundation of liberal society (Marshall, 1950). The territory of the state bound these communities whose members were recognised as such because of the values or traits they held in common, such as language, race, culture or history. However, thanks to the increased enforcement and monitoring of international and European human rights conventions, national communities are increasingly penetrated by non-members who have a legal right to state benefits and limited citizen participation. Rights related to universal personhood or European citizenship, which are transportable across state borders, have broken the state’s monopoly on granting membership rights. Normatively speaking, this development is advantageous for certain types of
people, such as refugees or labour migrants, who would normally be denied access to basic rights and community under a regime that grounds citizenship in an exclusive principle of nationality. Therefore, some loss of state sovereignty to external sources of authority is counterbalanced by gains in personal security and social rights for stateless peoples.

The argument has also been made that states have ceded some of their domestic sovereignty to another group of stateless peoples in response to demands for political autonomy: sub-state nations. Although these groups, which are the focus of this paper, are often labelled ‘stateless nations’ (Keating, 1996) or ‘nations without states’ (Guibernau, 1999), they are distinguished from other stateless peoples, such as refugees or migrants, by their claim to a portion of the state’s territory with which they have been historically associated. This claim is closely linked to another: that the nation is a self-governing community, the members of which have a right to make decisions about their collective future. In other words, the basic elements of democratic government—political mobilisation, interest aggregation and political representation—are territorially-based (Keating, 2001). Recent constitutional changes in Europe and British settler societies have introduced new forms of political authority for those parts of the state’s territory populated by sub-state national communities. Despite the new relationship between territory, authority and community that these changes have produced, the state continues to hold a monopoly on the citizenship practices of these communities. The state retains ultimate political authority, which can have negative implications for the ability of sub-state nations to make decisions about their collective futures. Therefore, constitutional change has not been founded on the principle of the co-equal rights of nations within the state’s borders (including the majority nation) and has failed to resolve fully questions of justice and equality between nations.

The purpose of this paper is to argue that equality between nations within the state’s borders is possible if we reconceptualise our understanding of citizenship to allow for its existence in multiple or shared forms that correspond with different territories. Recent developments in citizenship theory relating to sub-state nations do not go far enough in promoting equality between nations because they uphold a hierarchical concept of authority, with the state at the top. Historically, secession was the only solution for sub-state nations seeking full control over their territory but we argue that their demands can be accommodated within the existing state structure if we are prepared to accept that there can be multiple sources of non-hierarchical legal political authority in a state. New arrangements for organising domestic sovereignty, by breaking with the notion of the state’s ultimate authority, can promote a just co-existence between national groups through equal political rights and decision-making powers. We refer to these equal political rights as ‘post-sovereign citizenship’. We neither invented the concept of post-sovereign citizenship nor are we the first to advocate its potential benefits as a means of addressing the political demands and justice claims of sub-state nations (MacCormick, 1996, 1999; Keating, 2001). What we do offer in this article is, first, an explanation of the shortcomings of some of the dominant contemporary approaches to citizenship and sub-state nationalism and, second, a more detailed
account of the specific contours of post-sovereign citizenship as it applies to the circumstances of sub-state nations.3

Our paper proceeds as follows. We review the recent literature on citizenship and nationalism in order to underscore in what way it fails to promote equality between nations before introducing a principled argument for post-sovereign citizenship in section two. In the third section, we explain post-sovereign citizenship through a discussion of its four constitutive principles—democracy, equality, trust and territory—illustrating our discussion with examples taken from among contemporary indigenous and sub-state national groups. In the conclusion, we consider the implications of post-sovereign citizenship for established approaches to state sovereignty and citizenship.

**Contemporary Citizenship Theory**

Three dominant approaches to citizenship have advanced important new ways of conceptualising the increasingly complex relationship between state, nation and belonging at the turn of the twenty-first century: liberal nationalism, post-nationalism and cosmopolitanism. Political theorists working in the by-now established area of liberal nationalism have been at the forefront of these debates, emphasising the need to develop group-differentiated forms of citizenship to meet the explosion of demands for the self-determination of national and cultural groups at the sub-state level. The pioneers in this regard were theorists who argued the merits, even the necessity, of liberal forms of nationalism and multinational citizenship (Tamir, 1993; Kymlicka, 1995). By the late twentieth century, compelling arguments had emerged for granting minority nations special rights of representation and limited powers of autonomous self-government, opening the door to a fresh discussion of the normative and institutional implications of multicultural and multicultural forms of citizenship in the liberal state (Kymlicka, 1995; Kymlicka and Norman, 2000).

More recently, these liberal nationalists have been followed by theorists emphasising a post-national or cosmopolitan citizenship that is grounded in our shared humanity rather than a shared national identity (Soysal, 1994, 1996; Linklater, 1998). While liberal nationalists remain faithful to the position that our primary political obligations are to the nation-state, theorists of post-national and cosmopolitan citizenship challenge this view, albeit for different reasons. Post-nationalists argue that we are witnessing a shift towards forms of identity and citizenship that are progressively less grounded in territory, state boundaries and political membership, and which emphasise civic and social (as opposed to political) rights that emanate from international law. A wide variety of perspectives currently go by the name of cosmopolitanism (Connolly, 2000; Lu, 2000; Waldron, 2000), but our critique targets two versions of this broader school of thought. The first of these claims that we need to re-imagine and actively transcend our existing political communities and citizenship practices by developing forms of membership and participation that extend beyond nations and states. Only in this way can we take account of our increasing obligations towards humanity at large and our collective responsibility for global issues (Heater, 1996; Linklater, 1998; Preuf, 1998). A second version maintains that
since ‘political communities have rarely, if ever, existed in isolation as bounded geographical totalities’, democracy in the era of globalisation must promote the criss-crossing loyalties and multiple overlapping networks of interaction that have built up around different locations and types of power (Held, 1999). Consequently, claims to territory on the part of national or ethnic groups are less valid in an age when territorial borders are increasingly less significant. Local government of the sort that sub-state nations seek should not exist as a fulfilment of demands for self-determination but rather as a form of democratic participation that complements global democracy (Held, 1995).4

From the perspective of sub-state national groups, the forms of citizenship proposed by post-nationalists and cosmopolitans are unsatisfactory in both a theoretical and political sense. Post-national citizenship theorists argue that stateless peoples can be granted civil and social rights through international legal instruments, and that this is a positive development. But it is the state that continues to hold exclusive control over the granting of political rights (Bhabha, 1999). Post-national citizenship plays down the importance of political rights, thereby avoiding any discussion of the individual’s right to representation and participation. Moreover, post-national citizenship theorists have dispensed with the need for domestic constitutional innovations since they argue that membership and belonging are no longer exclusively controlled by the nation-state. Cosmopolitan citizenship is focused on issues of global concern—and minority rights is clearly one such issue—but many sub-state national groups are not seeking the types of solutions that emerge from global political action. International minority rights conventions will no more guarantee an automatic right to self-determination than did Woodrow Wilson’s Fourteen Points in the inter-war period (Preece, 1997; Krasner, 2001). Moreover, sub-state nationalists may be happy to have representation in democratic transnational institutions, but not at the expense of autonomous territorial self-government founded on the principle of self-determination. For these groups, citizenship as post-national or cosmopolitan individuals is no substitute for territorial autonomy and secure access to political power.

In making these critiques, we clearly have some common cause with liberal nationalists, but there are also crucial differences between our two approaches. In particular, liberal nationalists support the implementation of sub-state self-determination through a variety of forms of autonomous self-government suited to different national groups and varying multinational contexts (Tamir, 1993; Kymlicka, 1995). Nevertheless, in establishing culture or cultural distinctiveness as the theoretical lintel supporting the recognition of forms of multinational citizenship, liberal nationalists, despite their better intentions, help perpetuate a normative double standard. Nations which currently enjoy the right to self-determination are not similarly required to justify that right in terms of their cultural distinctiveness, something which many nations would likely find difficult, if not impossible to do (Murphy, 2001). A more just and equitable alternative, as we argue in the next section, is to recognise that sub-state nationalists are claiming the same democratic and political right to self-determination that majority nations already comfortably assume for themselves, a right which still can be realised via a host of institutional variations short of outright independence.
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Reconstructing Citizenship

As an alternative to these three citizenship paradigms, we adopt a concept of post-sovereign citizenship anchored in the principles of democracy and the co-equality of what is often termed ‘competing’ national groups. In order to be considered equal to majority nations, sub-state nations need to exercise some measure of both domestic and what Krasner refers to as ‘Vattelian’ sovereignty (2001, 20). In contemporary usage, these two forms of sovereignty are associated with the state. Therefore, it has been assumed that those sub-state nations that aspired to exercise them have championed statehood through secession. But since secession is neither a preference nor an option for many sub-state nations (Dion, 1996), there is a real need to consider alternatives that have not been adequately explored in either liberal or citizenship theory in order to address the question of equality for sub-state nations.

Post-sovereign citizenship is one such option in that it retains the political and territorial dimension of citizenship on which nationalists are unwilling to compromise while experimenting with alternative power and authority arrangements at the domestic level, such as concurrent or shared sovereignty, which appear to be emerging norms, particularly in the European Union (MacCormick, 1999). Therefore, it is possible to locate a sub-state community of citizens with the exclusive authority to choose their own political representatives, who in turn will exercise decision-making powers that are not subject to unilateral interference or override by an external authority. These powers can be exercised through institutional designs that include some combination of joint, segmented or exclusive jurisdiction over particular issues, territories or peoples, so long as they enshrine the basic principle of equal consideration of the multiple national identities they are intended to serve. This approach would deliver greater autonomy to sub-state national groups while accommodating traditional state demands relating to stability, social cohesion and multi-level inter-communal interdependence. Below, we consider two sets of arguments in favour of post-sovereign citizenship.

The Empirical Dimension

Many theorists argue that globalisation has wrought a series of structural changes to the international system of states that are reducing the political salience of territorially concentrated national identities and forms of citizenship in favour of those that are complex, overlapping, and which transcend the borders of nations and states (Linklater, 1998; Held, 1999; Tambini, 2001). In more provocative terms, some liberal cosmopolitans argue that most of us already have multiple and mixed identities, hence to demand political rights to preserve and promote a particular distinctive national identity is fundamentally out of touch with reality (Waldron, 1995). This challenge is not to be dismissed lightly; nevertheless, there are vigorous debates as to the inexorability or pervasiveness of this phenomenon, and its precise impact on the future of both nations and states. In fact, there is little hard evidence to suggest that territorially centred national identities have drastically retreated in the face of globalising
forces and transnational interdependence, and in fact national identities remain remarkably resilient at the state and sub-state levels (Smith, 1995; Shaw, 1997; Joppke, 1999; Kymlicka, 1999; Miller, 2000). For example, Eurobarometer polls from the early 1970s onwards show little evidence of a shift away from local, regional or national identities towards a European one (Norris, 2000). Indeed, globalisation may even serve to reinforce rather than dissolve distinctive national identities and loyalties and, the forms of citizenship they underpin. This can take the form of a defensive reaction to preserve a distinctive national culture against forces of cultural homogenisation or simply a democratic desire to defend the autonomy of the particular national community. This sort of defensive nationalism is often portrayed as irrational or bloody-minded tribalism (Barber, 1992; Held, 1999) but, as we argue below, it can also be viewed as a democratic wish to preserve and promote what is valuable and essential to any national community.

As Kymlicka argues for the North American case, increasing economic and cultural interdependence has not diminished the desire of Mexicans, Canadians or Americans to retain their own national identities and citizenship practices, and to develop distinctive domestic and international policy agendas (Kymlicka, 1999). Taking Canada as an example, recent polls indicate that as continental free trade and globalisation have increased Canadians have actually become both more confident in and attached to their independent national identity; hence they are much less desirous of political union with the United States and less convinced that such a union is an inevitability than they were some 35 years ago (CRIC, 2001). National communities may even view a degree of economic and political integration, and a corresponding form of dual or multi-level citizenship, as an advantage to be actively pursued in defence of their right to national self-determination. This argument has been made persuasively in the case of the member states of the European Union (Millwood, 1992; Mayall, 1999), and also in the case of their sub-state nations such as Catalonia, Flanders, Scotland and Wales (MacCormick, 1996; Requejo, 1999). Echoes of this point of view are similarly audible in recent attitudinal surveys on the subject of globalisation and national identity in the province of Quebec (CRIC, 2001). Often, the key for sub-state nations is that this process of transnational integration be seen to support rather than detract from their goal of national self-determination, and that it be accomplished with their consent as citizens expressed collectively through their own representatives and autonomous representative institutions (Kymlicka, 1999; Wendt, 1999). This logic is no different than that which applies to the view which sub-state nations take of their political relationship with the larger state, in a federal or quasi-federal relationship (Taylor, 1993; Tully, 1995).

In summary, we may accept that national identities are political-historical contingencies that may someday run their course and be superseded by different forms of global or post-national identity, but this is neither the world we face at present nor in the near to medium future. Hence, as a practical political fact, in the foreseeable future sub-state nationalism will continue to be a key feature of the contemporary global scene, posing a challenge that multinational states will need to address in symbolic, institutional and policy terms.
The Normative Dimension

We contend that the persistence of distinctive national identities and citizenship practices can be grounded in fundamental normative principles linked to freedom and democracy, but this is not a view shared by many proponents of cosmopolitan or post-national citizenship. Although some of these theorists are willing to acknowledge the practical salience of sub-state national identities, many will nevertheless argue that there are no convincing reasons why these identities are more deserving of our recognition and respect than any of a plurality of other alternative identities. Therefore, they challenge the assumption that sub-state nations, and not any other sort of identity groups, enjoy a ‘special’ right to national self-determination. Many post-nationalists and cosmopolitans are, in fact, inclined to argue that our primary identity or allegiance should be to humanity at large rather than to particular and morally arbitrary groupings based on language, ethnicity or nationality (Soysal, 1994, 1996; Preuf, 1998).

In our view, this normative argument perpetuates an unfair double standard in assessing demands for self-determination by sub-state nationalists. In demanding to know what is so special about sub-state national identities that they are entitled to a right to self-determination, these theorists appear to forget that the nationality principle has long served as the dominant means of demarcating the political units over and on behalf of which states exercise sovereignty, and within which political participation and democratic self-government are realised (Tamir, 1993; Nodia, 1994). Nations as communities of fate and solidarity have also played a key role in facilitating the proper functioning of liberal democratic institutions, stable governance, the assignment and protection of citizen rights and responsibilities, and the realisation of individual autonomy (Tamir, 1993; Kymlicka, 1995; Miller, 1995; Philpott, 1995). Moreover, cosmopolitan and post-national theorists have failed to demonstrate either that states themselves have given up on the national principle and the sovereignty of nation-states (Preece, 1997; Mayall, 1999) or that some other form of post-national community is ready and waiting to replace nations as the framework of association supplying the essential conditions for citizenship and democratic self-government in the modern world (Smith, 1995).

One of the great ironies here is that while most of the principles in the preceding paragraph tends to be comfortably, and often unconsciously, assumed in the case of dominant nations that control states, they are simultaneously denied to sub-state nations in their midst, whose demands for a similar degree of self-determination are called unrealistic, unreasonable or simply unnecessary. It is easy to lose sight of the importance of national identities and the institutional means whereby they are preserved and promoted if one is a member of a dominant nation whose identity and citizenship practices are not under threat and in fact are firmly protected and promoted by state institutions. Indeed, the relative security of dominant national identities plays a large part in the self-confidence with which many liberal cosmopolitans and post-nationalists are willing to celebrate the mongrelisation of identities, and which causes them to overlook the fact that sub-state nationalists are fighting for a right to something they can easily take for granted (Ignatieff, 1994; Canovan, 2001).
In terms of political practice, despite some minor shifts in international norms regarding the rights of national minorities, states continue to hold firm to the principle of exclusive sovereignty and mono-nationality; hence they are disinclined to agree to a substantial right to sub-state national self-determination in international law and attendant forms of plurinational or post-sovereign citizenship (Preece, 1997; Mayall, 1999; Keating, 2001). This question of the subordination of national minorities in existing states tends to be bypassed by those who oppose sub-state national self-determination as a form of political favouritism (Walker, 1997; Buchanan, 1998). However, a more legitimate question, from a sub-state nationalist point of view, is: what is the justification for denying them the same right to national self-determination which majority nations continue to claim and exercise for themselves via control of a sovereign state? Why should they automatically subordinate their national project and identity to some alternative project at the state, transnational or cosmopolitan level? This sentiment should not automatically be interpreted as a reactionary retreat behind the walls of a closed and inward looking national community. It would be a mistake to see sub-state national self-determination as necessarily opposed to forms of national and transnational integration. Post-sovereign citizenship, as we conceive it, is compatible with interdependence, cooperation and exchange among sub-state, state and transnational communities, so long as these processes can be rendered democratically accountable to the national communities on whose interests they have an impact. In the next section we sketch the main features of our conception of post-sovereign citizenship and self-determination.

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If the preceding arguments are valid, an account of post-sovereign citizenship must respond to the continuing resilience of national identities, and the normative claims which are made on their behalf. It must also come to terms with the realities of interdependence and the fact that in many cases it is neither viable nor desirable for all nations to become states. Our aim is to harmonise these objectives in such a way that does not perpetuate the normative or political subordination of sub-state nations existing within multinational states. We do so by emphasising four dimensions of post-sovereign citizenship: democracy, equality (non-domination), trust and territory.

In normative terms, national self-determination is best understood as a democratic rather than a cultural claim. That is, it finds its firmest normative roots, not in the desire to preserve a nation’s cultural distinctiveness, but more fundamentally in a nation’s desire to govern itself more independently (Philpott, 1995; Harty, 1999; Murphy, 2001). Of course, with self-determination nations gain the right to make choices about culture, but the content of these choices, and specifically whether or not nations choose to remain culturally distinctive, has no normative bearing whatsoever on nations’ continued entitlement to that right. In this formulation, democracy for sub-state nations should not be understood merely as the right to participate or be represented as equal individual citizens in state level or transnational institutions, but instead as a claim to autonomous and collective forms of self-government. It is this essential
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political dimension of self-determination that provides nations with the capacity
to engage in collective decision-making to determine their own laws, priorities
and policies, as free as possible from external interference and domination. This
democratic sentiment has also been described as the desire for control over our
lives (De-Shalit, 1996) or for emancipation from outside control (Philpott, 1995).

The democratic dimension of post-sovereign citizenship means that members
of sub-state national groups must have the capacity to choose their own
representatives and to hold them accountable for their decisions. Examples
where this has been achieved in practice include the Quebec National Assembly,
Scottish Parliament and the Legislature in Canada’s majority-Inuit territory of
Nunavut. It also entails some capacity to design the institutional context that will
both structure and facilitate the national group’s legal and political decision-
making authority. Indigenous groups in particular frequently complain that
governments require them to adopt institutions and styles of decision-making
that were conceived without either their input or consent. This argument has
been voiced by the James Bay Cree regarding the municipal-style institutions
they were granted in the James Bay and Northern Quebec Agreement (GCC,
1998), and by Aboriginal peoples in Australia with reference to the Aboriginal
and Torres Strait Island Commission (ATSIC), a government designed adminis-
trative and advisory body on Aboriginal affairs composed of indirectly elected
indigenous representatives from across the country (Sullivan, 1996).

Our conceptualisation of the democratic dimension of post-sovereign citizen-
ship is perfectly compatible with the fact that sub-state nations may wish to share
or coordinate sovereignty with other nations or even delegate some of their
sovereign authority to an external governing authority. These forms of intergov-
ernmental cooperation and coordination are particularly useful, in some cases
even essential, given the realities of complex interdependence and corresponding
jurisdictional overlaps relating to policy issues, populations and territories.
Nevertheless, the continuation of such coordination or delegation remains
contingent on the consent of the sub-state national group, who claim the right to
judge whether or not it continues to serve their interest as a nation (Tully, 1995;
Kymlicka, 1999). We recognise the fact that interdependence will place con-
straints on the autonomy of sub-state nations, as it does on that of existing
nation-states, but just as states claim the democratic right to grapple with these
constraints on behalf of their members, so too do sub-state nations.

Equality, the next dimension of post-sovereign citizenship, refers to equality
(or co-equality) of peoples or nations rather than simply to equality of individ-
uals. Equality is first of all closely linked to the principle of democracy in the
sense that it refers to an equal democratic right of national groups to self-rule.
Theorists and practitioners often ask why existing states should accept claims to
sub-state national self-determination, but nationalists feel this question should be
turned around, such that the state should explain why it has the exclusive right
to decide their fate in the first place. In this sense, sub-state nationalists can be
seen as demanding the same democratic right to self-determination which
dominant national groups already assume and exercise for themselves via control
of a state (MacCormick, 1996). Equality, furthermore, speaks to the key issue of
due recognition, neither as cultural minorities nor as disaggregated individuals,
but as a people with a distinctive *national* identity. Non-recognition can have decidedly negative consequences in terms of the sense of dignity and self-respect of the members of the sub-state national group (Taylor, 1994), which in turn can produce resentment and hostility towards the state and a climate ripe for conflict and instability. Certainly, granting recognition and political power to sub-state nationalists is no guarantee of peace, stability and national integration, but history suggests that these ends are rarely achieved when a sub-state nation is actively denied the recognition it claims as its due (Connor, 1999; Freeman, 1999).

Equality also speaks to the role of a sub-state nation’s representatives in processes of decision-making. Post-sovereign citizenship and self-determination encompass much more than the right to be consulted or to play an advisory role on matters of law and public policy. It means instead that the group’s representatives are to be the primary decision-makers in their areas of jurisdiction: the active authors rather than the passive subjects of public policy. For example, representatives of New Zealand Maori have harshly criticised government initiatives that seek to equip them with a consultative or advisory role, which constitutes a violation of their constitutional position of co-equality under the Treaty of Waitangi, and a denial of *tino rangatiratanga* (roughly speaking, ‘self-determination’) (McLeay, 1991). Similarly, the Assembly of First Nations (AFN) in Canada has mounted strong opposition to the federal government’s recent attempts to reform the Indian Act (the legislation which structures governance on Indian reserves), not because they view these reforms as unnecessary, but because they are part of a unilateral process designed and driven by the federal government. In the AFN’s view, ‘any initiative dealing with First Nations governance should be designed, driven and ratified by First Nations’ (AFN, 2001). In many cases equality for sub-state nations will involve control of their own institutions with final decision-making authority at the sub-state level, but it might also, or alternatively, involve different forms of power-sharing and joint decision-making bodies with representatives of other national groups in the state or combinations of self-rule and shared rule as in federal and consociational systems of government. In cases of power-sharing or joint decision-making bodies, equality means that sub-state nations are not to be included as subordinate or minority participants in decision-making but as co-equal or co-sovereign partners. In other words, the representatives of sub-state nations must have an equal capacity to partake in the final decisions of power-sharing bodies as that of their historically more dominant and powerful partners. This can be arranged using different institutional mechanisms such as weighted majority voting, parallel consent, legislative veto powers or providing the group with the numerical balance of power in terms of the membership of the decision-making body (Catt and Murphy, 2002).

*Trust* is the third principle underpinning our conception of post-sovereign citizenship, and is also intimately linked to the principle of equality and co-sovereignty. Sub-state nationalists might legitimately ask why they are required to trust an external or alien authority to govern in their interests, when no existing nation-state is required or would ever willingly consent to such an arrangement. Yet this is precisely what cosmopolitan and post-national theorists
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seem to require of them: to abjure their demand for autonomous self-government and place their trust entirely in a post-national state or the international community whose universal and impartial norms and institutions will be sufficient to see that their interests are looked after. Nationalists may not trust non-members to act as their representatives, judging that they have neglected the group’s interests in the past or, more simply, that they will never be as motivated as the group’s own members to defend those interests in the future. In more extreme cases, lack of trust stems from a group’s historic experience of discrimination, domination or assimilatory pressures at the hands of another national group (Williams, 1998).

It will be difficult enough for a nation that has faced historic domination or oppression by another to join that dominant nation in cooperative decision-making bodies, let alone trust them to look after their interests in a ‘one person one vote’ majority rule situation. This is particularly true in cases where there is a power imbalance and significant size differential among the national groups in question. For example, it is not surprising that indigenous Australians manifest a distinct lack of trust in the state, the inheritor of a colonial administration that was paternal in its best moments and brutal in its worst (Dodson, 1996; Reynolds, 1996). Québécois and indigenous nations in Canada and the United States both cite a history of assimilatory pressures and imposed rule, which continues to fuel resentment and suspicion of the federal governments. For indigenous nations in particular, citizenship became virtually synonymous with assimilation and the destruction of their distinctive identities, institutions and ways of life. Historic repression and discrimination by the Spanish state explains why Basques, Catalans and Galicians are vigilant monitors of their hard-won regional autonomy and supporters of continued dialogue with Madrid over state–regional autonomy relations.

If a stable and functional multinational political association is to be achieved (and this is never guaranteed), it may be that the only available first option is to grant sub-state nations autonomous self-governing authority, and thereby a form of parallel sub-state citizenship, thus providing them with a platform of security upon which intergroup trust and cooperation, and perhaps further integration, can be established. This message is sometimes lost on those who support the idea of multiple and overlapping political identities in a modern state, but who fear and deplore the insistence of sub-state nationalists on the primacy of their own national identity. These critics instead insist that the primary citizen identity of sub-state national groups be directed towards the larger political association and that their sub-state national identity be accorded a clearly secondary status—perhaps not even as a national identity at all but as a particular kind of cultural identity (Cairns, 2000). What also tends to be lost in this analysis is an appreciation of the fact that sub-state nationalists are not always categorically averse to ties of interdependence, either with the state in which they reside or with larger regional or global institutions. Indeed, just as European states view their membership in the European Union as a means of preserving and enhancing their national identities and their sovereignty, so too is it possible for sub-state national groups to take this view (Kymlicka, 1999; Mayall, 1999; Requejo, 1999). Again, the key to this kind of cooperation and integration is to
ensure that it is institutionalised in a manner which recognises the distinct national identity and status of these sub-state groups, and which guarantees them the legal and political capacity to manage the depth, pace and direction of these political relationships (Wendt, 1999). For example, as we mentioned above, Quebec nationalist leaders have expressed a positive attitude towards economic globalisation and institutions of transnational governance, but argue that provincial leaders, not the Canadian government, should represent Quebec’s interests on decision-making bodies which govern these global relationships and interactions (CRIC, 2001). Scotland and Wales have expressed similar sentiments regarding their integration and participation in the institutions of the European Union (Keating, 1999) and have set up institutions in Brussels accordingly (Scotland House and the Wales European Centre).

The final dimension of post-sovereign citizenship is territory or territoriality. There are normative and practical issues at stake here. The normative issue was touched on obliquely in our discussion of the continuing salience of national identities in the modern world. Contrary to the expectations of post-national theorists, national identities also continue to be strongly linked to a particular territory and, more specifically, to a desire for ownership and governance of that territory. This might even be called the defining feature of nationalist claims. For example, Quebec nationalists make continual reference to the territorial integrity of the province in the event of an act of secession from Canada. Meanwhile, the Cree and Inuit of Northern Quebec contest this claim by asserting the right to maintain control of their own territories and to keep those territories in Canada, should Quebec choose to secede (GCC, 1998; Ramos, 2000). Treaty negotiations with indigenous nations regarding land title and governance remain a fundamental part of state reconciliation in Canada and New Zealand, and land rights are a key dimension of Aboriginal–state relations in Australia (Canada, 1995; Durie, 1998). To leave the territorial dimension of citizenship and self-determination out of the sub-state nationalist equation is simply to refuse to face the issue squarely. Some might argue that the appeal to international legal norms and universal human rights on the part of indigenous nations belies this territorial claim, but this is based on a conflation of individual and collective universal human rights. Indigenous groups appeal primarily to their universal collective human rights—to land and self-determination—as a means of securing and protecting their universal individual human rights. The appeal, as we mentioned already, is to the universal norm of equality, but equality of peoples, not just individuals (Macklem, 1995; Anaya, 1996). This is precisely what indigenous groups have been seeking but so far have failed to fully achieve via the UN Draft Declaration on the rights of indigenous peoples, and related instruments of international law (Barsh, 1994; Mayall, 1999).

The territorial dimension of post-sovereign citizenship will, on the other hand, have to be squared with certain practical limitations on sovereignty and self-determination. First, this means facing up to the fact that secession and independent statehood are not viable options for a great number of sub-state nations. Second, we must face the fact that competing national groups in multinational states are frequently highly intermixed, interdependent and mount conflicting claims relating both to justice and to jurisdiction over territories and
their resident populations. Hence, even for those sub-state nations that could make it as states, the most just and stable solution may still be shared or coordinated sovereignty over particular territories and populations. For example, while the political objectives of the nationalist Parti Québécois (PQ) include sovereignty, it is not clear that this can only be fulfilled through secession. The PQ prefers a ‘partnership’ with Canada that would borrow some of the features of the common market in the EU, not least a shared currency. Within Quebec, the PQ recognises the need to build similar partnerships with Aboriginal and Anglophone groups: for the former, this would include giving Aboriginal First Nations control over their own territories through autonomous institutions of self-government negotiated together.

Conclusion

Three recent approaches to contemporary citizenship debates that were outlined in this paper have each put forward a model of citizenship that does not fully recognise the democratic, political and territorial aspects of self-determination and collective decision-making for sub-state nations. We advanced the general argument that the ongoing failure to resolve effectively the problem of politically empowering sub-state nations is either related to an entrenched view of domestic sovereignty whereby ultimate political authority resides with the state (liberal nationalism and post-nationalism) or the failure to appreciate the importance of territorial demands (post-nationalism and cosmopolitanism). As a result, these three approaches stop short of recognising that sub-state national groups have political rights equal to those of the majority national group.

This traditional, and still dominant, understanding of domestic sovereignty is out of date in practice, if not yet in theory (Keating, 2001). We need look no further than the European Union to recognise that a form of multi-level governance is emerging in which states are transferring some aspects of their sovereignty to the supranational institutions of the EU while devolving other aspects to new territorial governments at the sub-state level (Marks et al., 1996; MacCormick, 1999). What is required, we have argued, are new forms of sovereignty which, when institutionalised, can make self-determination, collective decision-making and democracy a reality for sub-state nations. In developing an argument for post-sovereign citizenship, one of our primary goals has been to illustrate the potential benefits of political and institutional solutions to sub-state nationalist demands that stop short of secession. Secessionist solutions perpetuate the misleading idea that only states can enjoy sovereign rights, and in this sense they are both unimaginative and out of step with current developments in Europe. As such, secessionist solutions effectively circumvent serious discussion and debate about alternative solutions built around notions of shared, coordinated or distributed sovereignty. In their place, we have offered arguments that should stimulate debates about the institutional dimensions of such rights and hopefully transform our understanding of sovereignty. These debates will challenge established theoretical understandings of sovereignty, but they will have the advantage of bringing theory into line with practice, which might result in more equitable multinational societies.
Two avenues for further research suggest themselves in light of what we have argued. First, notions of domestic sovereignty are notoriously conservative, the costs of which have been enormous, not only in terms of justice for sub-state national groups, but also in terms of the stability, peace and prosperity in favour of which this ideal of justice has been so readily sacrificed. Therefore, one clear avenue for further research is to examine new forms of sovereignty that provide a more measured balance between the imperatives of justice and stability in domestic and international contexts (Holton, 1998; MacCormick, 1999; Paterson, 1999). A second area of further research needs to consider how a constitutional dialogue can be set up within states so that sub-state nations and governments can negotiate institutions for self-government as equals. Presently, many governments insist that such dialogues are not possible: successive Spanish governments have proclaimed on more than one occasion that the constitution is ‘untouchable’. In Australia, governments speak the language of self-determination, but are willing to grant only subordinate forms of self-management, while in Canada negotiations between the federal government and indigenous nations are predicated on the undisputed sovereignty of the Crown. It is no wonder that in such a climate some sub-state nations pursue civil disobedience and violence as an alternative. While extensive negotiations do not always or easily produce concrete results, as the Northern Ireland case makes clear, a constitutional dialogue does at least represent an opportunity to move forward. In the absence of such initiatives, institutional arrangements that continue to subordinate sub-state nations in multinational states are likely to prove increasingly difficult to justify in theory or manage in practice.

Notes

1. An earlier version of this paper was presented at the annual meeting of the American Political Science Association, San Francisco, 30 August–2 September 2001. We thank Margaret Moore, Andrew Linklater, Howard Williams and the journal’s anonymous reviewers for their comments and critiques. Siobhán Harty’s views as stated in this article do not necessarily represent those of the Government of Canada.

2. By domestic state sovereignty we refer to the ability of the state to use formal legal authority structures to regulate behaviour in an effective way. The state’s domestic sovereignty depends on its acceptance and recognition by its population (Krasner, 2001).

3. We recognise that there is an extensive literature examining the transnational character of certain struggles for recognition (gender, sexual, cultural, refugees, human rights, and so on) which calls into question the state as a container for citizenship politics. However, we argue that sub-state nations’ struggles for recognition do not transcend the state in the same way as they are closely linked to territory controlled by the state itself. The struggles of minority nations (‘groups located territorially within a wider nationality but who do not identify with it, often because they identify with a group elsewhere, including one in another state’; Keating, 2001, p. 5) might be fought on a transnational level because they seek the enforcement of certain international conventions, not land.

4. Held’s understanding of local autonomy appears to be influenced by the principle of subsidiarity as opposed to that of self-determination (Held, 1999).

5. For domestic sovereignty, see note 2. Vattelian sovereignty ‘refers to the exclusion of external sources of authority both de jure and de facto’ (Krasner, 2001, p. 20). It is clear from Eurobarometer data that there are multiple overlapping identities (for example, feeling both Basque and Spanish). However, it is significant that these identities are limited to the different territorial levels within the state and rarely extend to include the European level. See <http://europa.eu.int/comm/dg10/epo/eb.html>.
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