

Neither Soil, Nor Blood, Nor Money

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Disquiet over citizenship in the US, Italy, the UK, and at the CJEU

Russian oligarchs in Malta, descendants of Italians in South America, and Mexicans crossing into the US make unlikely characters for a common story. Yet over the first half of 2025, the ability of each of these groups to acquire or transmit citizenship status has been up for discussion: foreclosed for Russian investors in Malta, through the European Court of Justice's outlawing of the Maltese citizenship by investment scheme; restricted for descendants of Italian emigrants through an amendment to Italian citizenship law; and still up in the air for non-citizens in the US, pending judicial review of an executive order seeking to restrict the *ius soli* rule of the US constitution. Add that the UK government is pondering [reforms](#) that would extend the waiting time for naturalization from 6 to 11 years. And that Italians just failed to show up at the polls in sufficient numbers to pass a [referendum](#) that would have reduced the residence time to naturalize from 10 to 5 years. Something is clearly going on with citizenship.

These interventions are of course not all alike. They were set in motion by different actors, in the context of distinct agendas. They concern different modes of citizenship attribution. Nonetheless they signal a shared preoccupation with ensuring that citizenship reflects

“authentic” bonds and is not acquired instrumentally.

In the struggle to define these “authentic” bonds each intervention strikes at the heart of some well-known citizenship tenet – the link to soil, blood, or money – without offering a clear alternative. The resulting void calls for a reflection on the principles that ought to inform rules on citizenship attribution. This post advances an argument for three such principles: certainty, agency, and commitment.

Neither soil, nor blood, nor money

On January 20, President Trump issued an [executive order](#) barring US-born children of irregularly or temporarily present parents from acquiring US citizenship at birth. The order contradicts the 14th Amendment to the US Constitution, which provides that “All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside.” It also runs counter an 1898 [judgment](#) in which the Supreme Court clarified that the phrase “subject to the jurisdiction thereof” does not exclude from citizenship children born to non-citizen parents, even if the parents are only temporarily domiciled in the US (para 693). Execution of the order has been halted by three federal court injunctions. In May, the Supreme Court heard [arguments](#) as to the validity of nation-wide injunctions, while a challenge to the merits of the order is making its way through the courts ([oral argument](#) at the 9th circuit Court of Appeals began on 4th June). Pending litigation, the message conveyed by the order is clear: birth on the soil of the country does not make you a citizen if your parents are passers-by, or should not be here at all.

Meanwhile, on 28th March the Italian government passed an [urgent decree](#) introducing a retroactive exception to the *ius sanguinis* rule of Italian citizenship law. As [codified](#) in 1992, the rule provides that anyone born to an Italian parent is automatically an Italian citizen. The rule – conceived for a country of emigration – allowed any person with an Italian ascendant to qualify for Italian citizenship without generational limits. The new exception is for children born abroad with another citizenship. The March decree established that these children would only acquire Italian citizenship at birth if one of their Italian parents or grandparents was born in Italy, or if an Italian parent had resided in Italy for two years prior to their birth. In a twist largely lost to commentary, the version of the decree that became [law](#) in May changes one of these requirements: at least one Italian parent or grandparent must be or have been exclusively an Italian citizen for children born abroad to be Italian citizens. From a legitimate attempt to ensure an ongoing connection to the country, the requirement morphed into a 19th century-type attempt to sanction dual citizenship. Blood per se – the amended law hints – is not enough to transmit citizenship. You need blood without “fidelity” to another country.

While the Italian Parliament debated these amendments, the European Court of Justice on 29th April [ruled](#) that the Maltese citizenship-by-investment scheme infringed provisions of the EU Treaties on European citizenship (art.20 TFEU) and sincere cooperation (art.4(3) TFEU).

The scheme offered Maltese passports in exchange for an investment of 750,000 euro, a purchase or lease of real property and a short residence period. The Court lined up several legal concepts in support of its argument (for a critique see [here](#) and [here](#)) but its real concern appeared to be the commercial nature of the scheme. Money alone – the judgment implies – does not justify a grant of citizenship.

All three interventions ultimately point to a shortfall in the rules of citizenship attribution that are at stake. Combined they yield a message in the negative: neither soil, nor blood nor money, per se, justifies the conferral of citizenship.

A quest for authentic bonds?

Yet, each of soil, blood and money has justified citizenship at different points in time. *Ius soli* –the rule that a person born on the ‘soil’ is a citizen – is a century-old rule of the English common law; *ius sanguinis* – the rule that a person inherits citizenship from a parent – has an equally solid pedigree linking back to the French Napoleonic Code. Money may appear more controversial but still has some historical pedigree. Peter Riesenbergs’ [work](#) reminds us that newcomers in medieval Italian cities had to prove their loyalty precisely through purchasing property or a share of the city debt.

The current attempt to narrow access to citizenship flows in part from the fact that we live in an era in which sorting ‘us’ from ‘them’ is a powerful political manifesto. Moreover, some of these rules do lend themselves to instrumental use. Mexican women travel to the US on purpose to give birth to American-citizen children (for a case study see [here](#)); thousands of Brazilians, Venezuelans and Argentinians with no connection to Italy other than a distant ancestor have acquired Italian, and with it European, citizenship over the last decade (some detail [here](#)); and the Maltese scheme has provided the entry point to European citizenship for several Russian oligarchs. These instrumental uses threaten – it is perceived – the authenticity of citizenship bonds.

In the quest to reaffirm these bonds, the three mentioned interventions invoke notions of value and meaning of citizenship (US executive order), fidelity (Italian law), mutual trust, good faith, and solidarity (CJEU). They all appear to echo in part the “genuine connection of existence, interests, and sentiments” that the International Court of Justice famously [declared to be](#) the basis of the legal bond of nationality in 1955. But even that notion conditions at most the recognition, not the grant of nationality.

Legal requirements for the attribution of citizenship cannot effectively test, let alone engineer citizenship bonds. However, they can reflect three important principles that mitigate some of citizenship’s shortfalls and ought not to be forgotten in the quest for authentic bonds.

Three guiding principles

First, certainty and clarity. Citizenship is a mechanism to assign a person to a state at birth. In the interest of both grantor state and grantee citizen, the filing mechanism should be straightforward, leaving no room for uncertainty and promoting ease of administration. The US Constitution's *ius soli* rule leads by example in this respect. By contrast, the amended Italian *ius sanguinis* rule, with its new focus on dual citizenship, will require convoluted checks for the additional citizenships of children, parents, and grandparents, as well as encourage engineered attempts to conceal, postpone acquiring, or strategically lose relevant citizenships. It thus promises both uncertainty and confusion. As an example of the added bureaucracy, applicants for citizenship *iure sanguinis* will now need certificates of "negative naturalization".

Second, agency. The real problem with citizenship is not its instrumental use on the part of a few but its arbitrariness for virtually all. The factors on whose basis one is filed to a state at birth are completely outside a person's control – Ayelet Shachar has talked in this respect of a "[birthright lottery](#)." Yet, as citizenships are profoundly unequal, this initial filing is liable to pre-determine an individual's chances in life. The main corrective to arbitrariness in human matters is agency. But when it comes to citizenship, little agency is involved. While social mobility is valued and monitored in liberal societies, citizenship mobility is not. Changing citizenship, or adding one, is an ordeal that can take the best part of a human life and is still frowned upon by many governments. Against this backdrop, citizenship attribution rules should endeavour to reward a measure of agency. There may be agency, for instance, in a seemingly instrumental act such as making an investment or planning the place of birth of a child.

Finally, commitment. As citizenship ultimately marks belonging in a community, it makes sense to condition its grant to a new member on a show of commitment to that community and its functioning. Commitments are not necessarily bonds, however. They need not be perpetual, and they are not mutually exclusive. A new citizen's commitment is not owed to a community of blood or fate. It is rather owed to a community intended as the local chapter of a global association of humans, responsible for enacting within the borders of a given state shared global values of solidarity and self-determination.

The role of movement for a citizen's agency and commitment deserves a mention. Rules on citizenship attribution revolve around criteria that typically link a person to a place, either a place of origin or of residence. Movement may be a proxy for diminished commitment to a place of origin. This explains the desire to narrow the transmission of citizenship *iure sanguinis* for those who have left. But movement is also an expression of the necessary agency to commit to a new place of residence. Recognizing the value of agency provides a rationale for rewarding resident newcomers, in due course, with naturalization and the ability to transmit citizenship. From this perspective, the failed Italian referendum was a chance to

attribute Italian citizenship, after a reasonable waiting period, in reward of both agency and commitment. Similarly, the UK plan to lengthen the time for settlement to 10 years goes in the wrong direction.

Conclusion

Soil, blood, and money are ultimately not the real problem. The undervaluing of certainty, agency, and commitment are. To the extent that recognition of a link to the territory, a bond of descent, or even an investment to the benefit of the community results in the grantee citizen having some agency over their own status, the grantor state securing a commitment, and all sides having clarity as to who the citizens are, citizenship is protected in its value and meaning.

A citizen in disquiet over this argument may think that this is simply another argument for non-citizen others. They may ask: “What about us, the citizens born here, bearing the citizenship of our fathers? Who protects the value of our citizenship?” As I have argued [here](#), there is a counter-intuitive answer. To protect the “us”, you have to protect the “them”. In a world where everyone is assigned to a state according to similar and interlocking rules, citizenship works as a system and is necessarily a relational good. What you do to the citizenship of others reflects onto yours. If you start questioning the commitment of others, you’ll end up seeing your own questioned as well. If you restrict others in their citizenship agency, you’ll end up limiting your own agency as well. If you link citizenship to confused attribution criteria, you’ll end up leaving out some that you wanted in. Ultimately, in a global system of citizenship there is no belittling the status of others, without belittling some aspect of yours as well. This is the caveat that anyone engaged in the business of tightening the boundary between “us” and “them” should keep in mind.

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