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EUROPEAN CITIZENSHIP BETWEEN LEGAL STANDARDIZATION AND IDENTITY FACTOR: PATHWAYS FOR AN INTERCULTURAL CITIZENSHIP

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Abstract: *Citizenship is simultaneously a foundational, individual, and universal concept. It also embodies a tendency to transcend the limits of any specific political community and become a universal legal status. European citizenship pertains to a union of peoples and is acquired derivatively through the citizenship of Member States. It has been described as a "bundle of rights of different legal, political, and existential significance", yet the existential identity of the European citizen remains difficult to define due to the lack of a European Constitution. This paper aims to analyze the possible forms of political and social participation that connect individuals and groups, along with their identities, to a distinct way of conceiving the European Union and European citizenship.*

Key words: *European Constitution; European Citizenship; Interculturalism; Identity.*

1. European Citizenship: An Institution without Constitutional Identity

Citizenship is simultaneously an elementary, individual, and general concept. It also embodies a tendency to transcend the limits of a contingent political community and become a universal legal status (Soysal, 1994).

From a legal perspective, citizenship represents the institutional realization of active membership in a political community. Paradoxically, only a concept of membership based on mere subjection to rules and political power could allow for a form of membership fully inclusive of all those who reside in or 'transit through' the community in various capacities; however, this would not allow for the realization of the democratic principle. Thus, citizenship inherently carries an irreducible exclusionary aspect (Bosniak, 2006). Traditionally, we can distinguish several models of citizenship (Brubaker, 1998).

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The first is the German model, based on *ius sanguinis* (right of blood). In this model, citizenship is granted to the children of citizens, emphasizing a clearly ethnic conception of citizenship. The second model is the French model, based on *ius soli* (right of soil), where citizenship is granted to those born on the state's territory (Brubaker, 1998).

This liberal model regards citizenship as a political, conventional, and constitutional fact. Generally, the first model associates the concept of the people with ethnos (or, more broadly, an ethno-cultural perspective), while the second links it to demos (that is, the political people, from a civic perspective). In addition to these traditional models, we can identify a new model, referred to as the interactive model, which is particularly relevant to contemporary multicultural and globalized societies. In this framework, citizens share a common project of living together in a state of contiguity, participating in the state by engaging in a shared way of life (Bauböck, 2010). See also for example, Aláez Corral (2005) emphasizes the functional distinction between nationality and citizenship, highlighting how the latter has evolved to encompass broader inclusion criteria, especially in the context of constitutional democracies. Similarly, López Sala (2009) discusses the emergence of post-Marshallian models of citizenship, characterized by their polyvalent nature and adaptability to diverse societal contexts. Cardoso Rosas (2001) analyzes European citizenship models, focusing on the interplay between national identities and supranational integration. Additionally, Heller and Isaac (2003) argue that citizenship transcends legal status, embodying a form of social relationship that necessitates equity and active participation. Finally, Di Cesare (2017) offers a critical perspective on citizenship by challenging the very idea of borders and national belonging. Particularly, she rethinks citizenship beyond state boundaries, advocating for a notion of "resident foreigners" as participants in the political community regardless of legal status.

Today, there are no longer three pure models of citizenship; instead, we find mixed systems that variably emphasize the three components of citizenship.

In light of the progressive universalization of human rights, now including social rights or at least a significant portion of them, citizenship today stands out as a status that, unlike those excluded from it, allows the exercise of key political rights, most notably the selection of representatives who legislate and choose the government, and, in some government systems, even the executive. In a certain sense, the most authentic value of citizenship remains, as Aristotle once identified, the actual participation in governing the polis. In today's democracies, this occurs through the right to vote and to stand for office, which is no longer restricted, as in the past, by unreasonably discriminatory conditions, but by other (currently) considered legitimate factors, such as citizenship status, age requirements, the absence of certain criminal convictions, and so forth.

This essential political dimension of the institution of citizenship is also present in European citizenship, which, although originally created as a tool for free movement rather than political participation, is accompanied by specific rights to vote and stand for election at the supranational level (elections for the European Parliament) and the local level (municipal elections). While its ideal constitutional reference is the EU Charter of Fundamental Rights as a whole, European citizenship finds its legal foundation solely in

Title V, dedicated to the exercise of rights (both political and otherwise) inseparably linked to citizenship (Shaw, 2007; TFEU, arts 20-25).

Today, the scope of European citizenship as a legal institution has greatly expanded, thanks to the evolution of the powers of the European Parliament following the Amsterdam Treaty and, especially, the Lisbon Treaty, both in terms of legislative power and in the process of forming the Commission.

Regarding European citizenship, it is generally excluded from being linked to a European *ethnos*, which, in fact, has never truly existed, nor to a unified European *demos*. A European civil society simply does not exist, because 'what exist at European level are civil society organizations' (Anne-Marie Sigmund, former President of the third section of the ESC, quoted by Colombo, 2004, p. 34). European citizenship thus refers to a union of peoples – although not to 'one new people' (Weiler, 1999, p. 327) – and is derived from the citizenship of the Member States.

The common starting point from which to begin analyzing the issue of European citizenship is that 'citizens are members of the Union, *with a stake in it*, beyond their nationality' (Colombo, 2004, p. 23). European citizenship is, therefore, primarily a matter of political participation in managing the interests addressed by supranational policies. But political participation, to be authentic and democratic, requires a shared identity—a European identity— and a space for cultural and political dialogue to build it.

Without these two elements—European identity and a space for public dialogue—European citizenship is destined to be merely supplementary, serving as a complement but certainly not a robust, parallel tool for democratic participation alongside national citizenship. Therefore, European citizenship is still characterized by its subsidiary nature; it can only be recognized if one holds the citizenship of a Member State. In other words, it functions as an *addendum* to national citizenship (Article 20 TFEU uses the adjective 'additional', explicitly stating that it does not replace national citizenship).

Nevertheless, its implications are significant, as it represents membership in the political community of the supranational entity and is associated with certain rights and guarantees of a fundamentally constitutional nature. Furthermore, it is subsidiary to a supranational economic status—namely the ability to move and manage capital beyond the control of individual state sovereignties. European Citizenship has been defined as 'a bundle of rights of different legal, political, and existential significance' (Kostakopoulou, 2007), yet the existential identity of the European Citizen remains elusive and difficult to grasp. The primary challenge in understanding the essence of European citizenship stems from its foundation on a *sui generis* concept of sovereignty. The European Union is not a federal state, although it shares some characteristics with one. Therefore, the sovereignty of the Union—assuming, for the sake of argument, that this doctrinal category applies—cannot be interpreted through the traditional framework of divided sovereignty in federal states.

More generally, we can think of the political community (or, more accurately, the State) as a coin with two sides: one representing sovereignty and the other citizenship. In this context, where European citizenship exists, European sovereignty should also take shape. However, if the meaning of European Union citizenship is unclear, it becomes equally

difficult to define the nature of European Union sovereignty. Conversely, without a clear idea of the Union's sovereignty, it is hard to understand what it means to be a citizen of it. In essence, citizenship and sovereignty are two interconnected vessels, still indissolubly linked by the democratic principle and the living legacy of the doctrine of popular sovereignty.

The absence of a true political Constitution (*a politeia*) as the foundation of European citizenship—and thus the lack of a genuine European constitutional identity—stems more broadly and fundamentally from the absence of a true social contract agreed upon by the European peoples, groups, and minorities that European citizenship as an institution aspires to represent. And so, we are still far from the rosy vision of European citizenship outlined by the Court of Justice (Grzelczik, 2001), namely that 'The status of a citizen of the Union is destined to be the fundamental status of nationals of the Member States'.

2. The Enduring Absence of a Constitutional Identity: From the Compromise of the Laeken Declaration to the Failure of the European Constitutional Treaty

The 2001 Laeken Declaration rightly highlighted the need for a balance between enhancing European citizenship and valuing Europe's diverse identities:

> "The image of a democratic and globally engaged Europe admirably matches citizens' wishes. There have been frequent public calls for a greater EU role […] and better coordinated action to deal with trouble spots in and around Europe and in the rest of the world. At the same time, citizens also feel that the Union is behaving too bureaucratically in numerous other areas. […] National and regional differences frequently stem from history or tradition. They can be enriching. In other words, what citizens understand by "good governance" is opening up fresh opportunities, not imposing further red tape. What they expect is more results, better responses to practical issues and not a European superstate or European institutions inveigling their way into every nook and cranny of life."

The cultures and sensitivities of the peoples, minorities, and social groups within the European legal space have thus far found insufficient expression in the construction of the euro-unitary Leviathan and its non-constitution. The sole exception is the generic reference in the preamble of the Treaty on European Union (TEU) to the 'from the cultural, religious and humanist inheritance of Europe, from which have developed the universal values of the inviolable and inalienable rights of the human person, freedom, democracy, equality and the rule of law'. While this is certainly significant, it is not sufficient to attempt to build, even in small steps, a utopian European people or, at the very least, a true Europe of peoples.

In order to address the lack of a shared cultural identity associated with European citizenship, Habermas emphasized the importance of constitutional patriotism, defined as the common sense of belonging to a shared constitutional order (Habermas, 2001).

While in Habermas's perspective ethnic, cultural, and national elements are aspects that can and should be relinquished in the name of constitutional patriotism, in Weiler's different perspective, national affiliations are the building blocks with which European citizenship must be constructed, thanks to 'the principle of constitutional tolerance' (Weiler, 2000). This is due to the simple fact that there is no autonomous supranational community, but rather a community composed of states and their respective citizens. Therefore, the Habermasian perspective of the European melting pot contrasts with Weiler's vision of a mosaic or necessary multiculturalism. In a nutshell, for Weiler, European citizenship must be multicultural.

However, both Habermas's European constitutional patriotism and Weiler's principle of constitutional tolerance are still in search of a truly European supranational constitution.

Despite the revolutionary Charter of Fundamental Rights of the European Union and the constitutional transformations brought about by the European 'multilevel' bureaucratic and judicial power (such as the principles of the supremacy of EU law and direct effect), the European constitution remains, to this day, dramatically unrealized, as evidenced by the case of solidarity, which should be the driving force behind a true Union of Peoples as well as States—a goal that remains unachieved.

The abstractness of the values and principles on which European citizenship is founded is matched by significant political, social, and cultural (especially linguistic) heterogeneity that characterizes the group of 27 peoples to which this institution now refers.

In conclusion, it can be said that, in the case of European citizenship, the general problem of universalizing and homogenizing identities, a problem rooted in legal and philosophical factors, is further compounded, on the one hand, by the absence of a unifying constituent process underlying the construction of the EU and, on the other, by the extreme diversity of European identity.

Bruce Ackerman considers the failure of the 2004 Treaty of Rome as the great missed opportunity for the European Union to make a decisive qualitative leap in its pathway of legitimation.

This is an aspect that Ackerman believes has been simply 'ignored' by scholars who emphasize the normative continuity between the failed Constitutional Treaty and the subsequent Treaty of Lisbon: 'But the Lisbon agreement and later accords were elite constructions that tried to avoid self-conscious consideration of their merits by ordinary citizens'.

Moreover, the Constitutional Treaty was rejected by popular referendums held in the very heart of Europe, namely in France and the Netherlands. Paradoxically, it was one of the rare occasions in which European peoples were truly able to participate in the European constitutional process. Some scholars (Hansen and Hager, 2010) pointed out a harsh critique: 'Instead of respecting citizens' free political choice to decide whether or not they had confidence in the proposal put before them, it was governments, Brussels, and scores of pundits, intellectuals, and corporate voices who, in the end, decided to declare the greater majority of voters morally incapacitated. Accordingly, you were either with the enlightened (some would say cosmopolitan) Europeans, or you were with the bigoted nationalists'

Without an identity factor or a genuine constitutionally federalizing, bottom-up pathway, inclusive concepts like Weiler's 'constitutional tolerance' or Habermas's 'constitutional patriotism' also risk becoming empty frameworks. While it is true that the modes of access to European citizenship (indirectly and automatically through the citizenship of a Member State) and the neutrality of its contents (compared, for example, to French citizenship and its constitutional protection of French as the national language) favor the access of diverse identities and minority groups into the broader 'European family,' the construction of a Europe of Peoples cannot bypass a meaningful elevation or at least a convincing narrative of European identity—or rather, of European identities.

3. Constructing a European Identity through Identity-Based Dialogue in the European Public Sphere

For Charles Taylor, the full definition of a person's identity includes not only their stance on moral and spiritual matters, but also a reference to a community. For the development of one's identity to take place, it is necessary both that individuals are originally embedded in what Taylor calls 'webs of interlocution' and that the importance of the ongoing negotiation of one's identity with others, over the course of a lifetime, is acknowledged (Taylor, 1989, 1992). Taylor emphasizes a dialogical approach of the two opposing factors (Taylor, 1994, p. 34):

> "[…] discovering my own identity doesn't mean that I work it out in isolation, but that I negotiate it through dialogue, partly overt, partly internal, with others. That is why the development of an ideal of inwardly generated identity gives a new importance to recognition. My own identity crucially depends on my dialogical relations with other."

For this reason, a 'European public sphere' is needed to construct a European identity —both constitutionally and culturally. According to Jürgen Habermas, the European public space or sphere is a space 'made up of private individuals gathered together as a public and articulating the needs of society to the state' (Habermas, 1989, p. 162). However, citizens must participate in this 'arena' not by renouncing but by valuing their respective identities. Only in this way the interests they represent can be acknowledged in public discourse and in an exchange of ideas and information that may influence European political life at all levels (Auel & Tiemann, 2013, p. 2).

In *The Great Experiment*, Yascha Mounk proposes a model for creating a truly inclusive society through the metaphor of a public park—a concept inspired by his observations of Prospect Park in Brooklyn. This metaphor contrasts with both the assimilationist melting pot model and the fragmented mosaic or "salad bowl" model. The "intercultural society" Mounk envisions is embodied in three characteristics of the public park: 1) A public park is open to everyone; 2) A public park offers a wide range of activities to do alone or in groups, allowing people to move from one group to another or to sit alone in contemplation; 3) A public park creates a lively meeting space.

The European Parliament is called to realize an institutional version of the public park metaphor proposed by Mounk, alongside 'national media and parliaments as two important arenas for public debate' (Auel and Tiemann, 2013, p. 2). It is here that—at least in theory—the political forum of European identities should be found, where the structurally consociational meaning and the multifaceted identity dimension underlying European Citizenship must fill its corresponding legal institution, preventing it from becoming an empty shell of (only formally) representative democracy.

What is missing, however, is a network of forums spread throughout civil society, building a European identity through active debate among national and identity-based affiliations.

The public park model has the merit of highlighting how "multicultural society" or "multicultural democracy" are ambiguous expressions because they refer to what has been defined as the separate coexistence of cultures, whereas what is needed is a constant relationship between human beings driven by the search for an identity that is always in motion and arising from mutual integration.

The European public sphere should be a collection of microcosms where anyone can share their own storytelling if they wish and listen to the storytelling of others. This would allow European citizenship, as a neutral institution, to be rebuilt on the solid foundation of a complex, multidimensional identity. Beyond the metaphor, Mounk's society represents an ideal temple of tolerance and federalism, closer to Weiler's perspective, but it can function only within a truly shared European constitutional identity and values, which do not yet exist. The underlying premise is that the park must genuinely reflect the complexity of the society it represents. Studying the institutional or procedural tools that could enable identities to carry weight and interact within the European political forum is no easy task. However, we can at least critically acknowledge that European citizenship has often failed to represent many of these diverse and layered identities.

4. Conclusion

Yascha Mounk uses the metaphor of the public park to describe a space that serves as a tool for fostering an inclusive and open society. This image identifies what, for Habermas, constitutes the public sphere—a realm where individuals come together to freely discuss and identify societal problems, and through that discussion influence political action.

In this metaphor, people in a park can choose to interact with others or enjoy their own activities. Similarly, in the European Union, citizens should be free to participate in cultural, political, or social spaces without abandoning their unique identities. European identity should not be a single, fixed idea but rather a shared experience shaped by the diverse individuals living in Europe.

This approach promotes an EU where multiple identities coexist, and every citizen is encouraged to contribute to a shared European identity while preserving their own culture. To make it a reality, we cannot rely on a single European forum. We need a network of multilevel, intercultural spaces—from local communities to national

discussions and EU institutions like the European Parliament. These spaces will allow citizens to engage with the European project and shape its future.

These forums must respect people's identities and include diverse voices, especially those who are often marginalized. Open and inclusive discussions are essential to building a European identity that reflects the true diversity of its citizens.

Moreover, these dialogues must be ongoing. Of course, building a European identity is not a simple or quick process or something that can be imposed. It must be a continuous effort involving all citizens.

Creating an inclusive EU public sphere will require more than just dialogue. It will demand concrete actions to address inequality, improve representation, and ensure accessibility. Many citizens feel disconnected from European institutions, and we must find effective ways to involve them in the process.

"European" identity is not a single, fixed idea. People have multiple identities—national, regional, local, and even transnational—that can coexist. The EU must embrace this diversity instead of forcing people to choose between their identities.

Finally, it is vital and crucial to ensure that all voices are heard. The public sphere cannot be dominated by a few voices; it must include people from all backgrounds. Only by involving everyone can we build a EU that truly represents all its citizens.

Therefore, European citizenship is not just about legal rights or economic benefits; it is also about shared experiences and dialogue. Habermas's public sphere and Mounk's public park metaphor show us that EU identity can only emerge through intercultural dialogue. For that, we need to invest in creating multi-level forums where people can engage at local, national, and supranational levels. By doing so, it is necessary to rethink the concept of identity in a dynamic and inclusive dimension capable of reflecting the rich diversity of Europe's people.

Finally, when we share our tales, we can reveal who we are to others. This relational dynamic, the connection between "I" and "you," is inherently social. It depends on recognizing the other as someone distinct from ourselves, as unique and irreducible to our own experience. As Mittica (2019, p. 453) argues "The Other is my limit—it touches me, and I touch it. It is the sense toward which I move, knowing I can never fully encompass he or she." This relationship transforms us, drawing us closer to the Other while simultaneously redefining who we are.

By fostering a narrative of identities and encouraging open, tolerant dialogue—much like in a public park—the European project weaves together shared elements and gently extends them to groups and regions that may feel distant from the perception of European citizenship as a philosophical or legal construct.

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