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TOWARDS A EUROPEAN IDENTITY?**

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## **European Citizenship: Towards a European Identity?**

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### Abstract

Questions of political identity and citizenship, raised by the creation of the 'new Europe', pose new questions that political theorists need to consider. Reflection upon the circumstances of the new Europe could help them in their task of delineating conceptual structures and investigating the character of political argument.

Does it make sense to use concepts as 'citizenship' and 'identity' beyond the borders of the nation-state? What does it mean when we speak about 'European Citizenship' and 'European Identity'?

It is argued that the pluralism that has led theorists to offer a conception of citizenship based upon principles of right, rather than the common good, applies even more strongly at the level of the European political order. Developing a contractarian theory of federation, an account of the basis of a European citizenship will be offered in which federalism emerges out of an overlapping consensus of European citizens on the terms of their political association.

'European Citizenship' and 'European Identity' are discussed in the context of the so-called 'European Union', and not in the wider context of Europe 'as a whole', or for that matter on an even broader 'cosmopolitan' scale. However, the gist of the paper is that arguments for concepts of 'citizenship' and 'identity' that go beyond borders of nation-states and that are applied to the 'European Union', could have implications for an even wider application.

Finally, and in conclusion, the (empirical) context will be elaborated in which the normative concept of shared liberal citizenship identity should be realized on a pan-national, European level.

## **Introduction**

The issue of European citizenship usually turns around a conception of individuals as citizens of states which are themselves members of the European Union. The term 'European citizenship' is perceived as a condition by which people from different nations should have similar rights to be asserted *vis-à-vis* the European public courts and public officials. In fact, this conception of citizenship has by and large been accomplished within the European Union and this is a major achievement which should not be belittled.

What is, however, more vigorously contested is a conception of citizenship in which individuals are seen as immediate bearers of EU citizenship, as sharing a common identity, a common responsibility and "the excitement and anticipation of future common endeavour." (Pérez-Díaz, 1998: 235).

This envisages a conception of European citizenship in which the core elements of citizenship, rights and identity, are not 'attached' to citizens as members of separate member states that together form the European Union, but to citizens as citizens of the European Union, perceived as a democratic political union. In this perspective European identity is the disposition of different nationals to consider themselves, their compatriots and their foreign fellow-Europeans as equal members of the European community: it refers to equal concern and respect.

But why should one want to defend this more encompassing idea of citizenship? One reason is that the obvious increase of the power of the EU is not being matched by a like increase in legitimation through the consent of the citizens of the member states. There is a gap between fairly elaborate devices of democratic legitimation in the several national members state and the advancing exodus of the powers of these to the organs of the

supranational Community. Presently "the citizens of the Member States enjoy rights and are subject to duties which do not originate in their respective national parliaments. The citizens of the Member States are subject to legal provisions emanating from Community organs (the Council, the Commission, and the European Parliament) which articulate the will of the 'Community', or, in the case of the European Parliament, the will of 'the peoples of the States brought together in the community'; but it is not the will of a European people or *demos*, i.e., the unity of the citizens of the Union." (Preuss, 1995: 214).

If a central premise of legitimate political rule is, that those who are affected by political decisions, should be able to participate in legitimating activities of their common affairs, the idea of European citizenship should entail, or so I argue, accountability, not to the separate peoples of Europe, but accountability to the people of Europe as a whole.<sup>1</sup>

In the following this idea of European citizenship will be developed from a political theoretical perspective. We will inquire into its empirical impediments, and we will - these impediments notwithstanding - argue that a first necessity for a democratic political European Union is the institutionalization of this conception of European citizenship, to prevent a decline in legitimacy with regard to the EU by the citizens of the member states. Citizens should not only demand a greater and more direct voice and vote in the governance of their increasingly common affairs, they are entitled to it.

### **Conceptions of Citizenship**

Before we can answer what, from the perspective of political theory, it means when we speak about 'European Citizenship', and ask if it makes sense to use the concept 'citizenship' beyond the borders of a nation-state, we have to clarify the meaning of the concept

'citizenship' *within* the borders of a nation-state.<sup>2</sup>

Although 'citizenship' is an essential contested concept, theorizing about citizenship requires always that one takes up questions having to do with membership, (national) identity, civic allegiance, and all the commonalities of sentiment and obligation that prompt one to feel that one belongs to *this* political community rather than *that* one.<sup>3</sup> Conceptions of citizenship, always "defines those who are, and who are not, members of a common society". (Barbalet, 1988: 1).

Modern discussions on citizenship tend to take the ideas developed by T. H. Marshall in his lecture of 1949, 'Citizenship and Social Class' as a starting point. I will do the same, be it that these ideas will be used in the first place for a political theoretical discussion of citizenship, and not for an (empirical) political sociological one. Marshall noted that citizenship is captured by full membership of a community, where membership entails participation by individuals in the determination of the conditions of their own association.<sup>4</sup> Different types of political community give rise to different forms of citizenship. He differentiated between three layers of citizenship rights, civil, political and social rights, and the institutions which support them.<sup>5</sup>

There is, here, clearly a focus on equality: citizenship is about expanding and enriching the notion of equality by extending its scope through civil, political and social rights (to public education, health care, unemployment insurance, and old-age pension).<sup>6</sup> These rights are, of course, the traditional components of a welfare state - confronting the risks of sickness, old age, invalidity, unemployment, and poverty. By guaranteeing these rights to all, a welfare state ensures that every member of society can feel like a full member of society. When fully developed it embodies an idea of social justice: everyone is to enjoy

entitlements which stand apart from and to some extent conflict with the outcomes of a market driven by considerations of efficiency.<sup>7</sup>

But citizenship is not only a legal status, defined by a set of rights and responsibilities. It is also an identity, an expression of one's membership in a political community. Marshall, as well, saw citizenship as a shared identity that would integrate previously excluded groups and provide a source of national unity in British society.

The discussion on citizenship can be summarized by stating that the concept of citizenship has two constitutive elements: *rights* and *identity*, (or *belonging*). Each of these elements must be experienced in a geographical context, regardless of the fact how this geographical context is defined. The function of citizen can be discharged at a multitude of levels, from local government and functional interest groups, on to the region, nation, and eventually on to the cosmopolis. (Heater, 1990: 318-9).

If 'citizenship' has to do with rights and identity, then clearly two dimensions are involved: a 'liberal' one and a 'communitarian' one. Citizenship is "intimately linked to the ideas of individual entitlement on the one hand and of attachment to a particular community on the other". (Kymlicka and Norman, 1995: 283). In that sense, the debate on citizenship is closely linked to the political theoretical debate between liberals and communitarians.<sup>8</sup> For our purpose here, the important point to note is that the alternative theoretical perspectives of citizenship, seem to be:

\*: a liberal one in which individual identity is emphasized; and

\*: a communitarian one, emphasizing cultural or ethnic group solidarity. There is here a conjunction of identity: it is a 'communalist' identity, nationalism being an example.<sup>9</sup>

The problem with this dichotomy is that both liberal and communitarian theories

pose threats to the idea of citizenship, once we have stipulated that it has - at the same time - two aspects: rights and identity. Both perspectives, the liberal and the communitarian one, jeopardize the idea of political community that is neither reducible to an aggregation of individuals nor to a conjunction of identity-constituting groups. Noting this problem, Beiner points out the tension between the egalitarian element of shared citizenship, appealing to what is shared across divergent cultural or ethnic groups, which may be undercut by the emphasis upon *particularistic* identity. (Beiner, 1995: 14; 11).

This is the core of the problem when developing a coherent and realistic conception of citizenship: How to cope with two competing visions: liberal universalism and illiberal particularism? This is the so-called dilemma of the 'universalism / particularism conundrum'. (ibid.: 12).

What synthesis, or 'third' conception of citizenship, would help us out of this conundrum?<sup>10</sup> Such a conception has, first of all, to take into account the increasing social and cultural pluralism of modern society. Due to this fragmentation there is less convergence or agreement between members of a specific society than there once used to be. The question has become what "draws a body of citizens together into a coherent and stably organized political community, and keeps that allegiance durable"? (ibid.: 1).

The classical answer is, as mentioned above, given by Marshall. It can, however, be argued that his view runs into difficulties once the idea of a common civilization, a national unity is challenged by the emergence of increasing social and cultural pluralism. Despite the possession of common rights of citizenship, members may feel excluded.<sup>11</sup>

How, then, to revise current definitions of citizenship to accommodate increasing pluralism of modern societies, and how to ensure that citizenship can indeed provide a

common experience, identity and allegiance for the members of those societies, if there is no longer a shared or 'common heritage', or 'way of life' by reference to which citizens' rights can be defined? (Kymlicka and Norman, 1995: 286). On what should "a shared citizenship identity that will supersede rival identities based on ethnicity", be based? (ibid.: 309).

Beiner, for instance, opts for a conception of citizenship, labelled by him 'republicanism', in which 'civic bonds' are emphasized. It is "the requirement that all citizens conform to a larger culture, but this culture is national-civic, not national-ethnic. It refers to *political*, not social allegiance". Membership in the state is identified, not membership in civil society. (Beiner, 1995: 12; 8).

Habermas's answer to the conflict between the *universalistic* principles of constitutional democracies on the one hand, and the *particularistic* claims of commitments to preserve the integrity of habitual ways of life on the other, is 'constitutional patriotism': an idea that is neither individualist nor communitarian, neither liberal nor anti-liberal. It is based on the changed meaning of the term 'nation' from designating a pre-political entity "to something that was supposed to play a constitutive role in defining the political identity of the citizen within a democratic polity." (Habermas, 1992: 3). A nation of citizens does not derive its identity from some ethnic and cultural properties, but "rather from the *praxis* of citizens who actively exercise their civil rights." (ibid.: 3). This republican strand of citizenship, "completely parts company with the idea of belonging to a pre-political community integrated on the basis of descent, a shared tradition and a common language." (ibid.: 3). It is the political culture that is shared and that is the common denominator in which the constitutional principles are rooted, and which is the base for constitutional



patriotism. It also means that - although the political culture is shared - all citizens do not share the same language or the same ethnic and cultural origins. On the contrary: they are aware that they are a part of a multicultural society.<sup>12</sup>

The important point to note here is that the normative content of citizenship is dissociated from national identity based on 'ethnos'. What is significant about ethnicity is that it is negative: it is not (generally speaking) possible to join an ethnic group by an act of will. Individuals cannot choose their ethnicity. The reason why ethnicity cannot in itself be a basis for common citizenship is that there is no necessary connection between 'descent', which is a matter of biology, and interest, which is a matter of the fulfilment of human needs and purposes. (Barry, 1991: 169).<sup>13</sup>

Thus, when discussing liberal democratic citizenship, '*demos*' and '*ethnos*' are separated. To be sure: in this interpretation of citizenship, which tries to cope with the 'universalism / particularism conundrum', cultural or ethnic pluralism is not denied. What is denied, is that ethnic characteristics should play a role in determining (national) identity. Instead, identity should be based on the democratic constitutional principles that are rooted in a political culture which serves as the common base or denominator. It is the *praxis* of citizens who actively exercise their civil rights, that generates this identity and forms the basis of socio-political allegiance, or socio-political cohesion. The *demos* that constitutes the political association is potentially inclusive of all those remaining outside, legally, socially and physically, or inclusive of those who, in their private or personal lives have a specific conception of the good or different ethno-cultural backgrounds.

Here we touch upon a fundamental principle that is commonly shared in modern liberal theories. In a liberal political order the state and its laws should remain *neutral* with

respect to the varying conceptions of the good life held by individuals. This principle of neutrality is an important aspect of liberalism because, once one acknowledges the fact that there exists pluralism and reasonable disagreement on the idea of the good life, it enables individuals to have the freedom to choose between those ideas.<sup>14</sup> Neutrality is seen as a political ideal: it governs state policies and institutions, the public relations between persons and the state, and not the private relations between persons and other institutions. Liberalism is in this view not seen as a philosophy of man, but as a philosophy of politics. (Larmore, 1987: 139). Thus the consequence of the fact of reasonable pluralism is the denial that effective citizenship requires the state, or the political culture to advance a particular vision of the good.

In the following it will be argued that a 'liberal democratic conception of citizenship', based on the political theory of John Rawls, gives us a political theoretical argument for citizenship that guarantees 'shared citizenship identity'; a conception that can cope with the fact of cultural and ethnic pluralism of modern societies, and can create a common identity.

### **A Liberal Democratic Conception of Citizenship**

Rawls' interpretation of liberalism differentiates between personal and political ideals, between *homme* and *citoyen*.<sup>15</sup> His political theory is a theory about *citoyen*. It formulates a liberal democratic theory of citizenship.<sup>16</sup> It is developed in response to 'the fact of reasonable pluralism': the fact that "the diversity of reasonable comprehensive religious, philosophical, and moral doctrines found in modern democratic societies is not a mere historical condition that may soon pass away; it is a permanent feature of the public culture

of democracy" (Rawls, 1996: 36).<sup>17</sup>

This pluralism raises a fundamental problem. No general and reasonable comprehensive doctrine can assume the role of a *publicly* acceptable basis of political justice, or be the base of a shared conception of citizenship. The public role of a neutrally recognized political conception of justice, and with it a conception of citizenship is, then, to specify a point of view from which *all* citizens can examine before one another whether or not their political institutions are just. The political conception of justice comprises the substantive principles of justice, worked out to apply to the basic structure of a modern constitutional democracy. It involves, as far as possible, no prior commitment to any wider doctrine, but is formulated "in terms of certain fundamental ideas seen as implicit in the public political culture of a democratic society." (ibid.: 13).<sup>18</sup>

These ideas on political liberalism, and its related conception of political justice helps us to answer how a political order in which citizens are deeply divided by conflicting and even incommensurable reasonable religious, philosophical, and moral doctrines, nevertheless can be stable and just. (ibid.: 133).

There are three possible bases of a political order: one based on a universal acceptance of some particular comprehensive moral doctrine, one based on a *modus vivendi*, and one based on an 'overlapping consensus'. The crucial question is: which will guarantee stability and social unity over time within that political order?

The fact of reasonable pluralism rules out the first base of social union. Such agreement would require state coercion incompatible with democracy. A second possibility would be a *modus vivendi* agreement on basic principles of cooperation between groups of individuals with differing reasonable comprehensive moral doctrines, adopted by each party

on the basis of its self-(group) interest. Rawls does not deny that this basis is consistent with the demands of democracy. But he argues against such a conception because it is inherently unstable, given its dependence on "happenstance and a balance of relative forces." (ibid.: 148).

The third possibility is the idea of finding an overlapping consensus around a political conception of justice. Justification, when arguing about the question whether or not political institutions are just, has to proceed from some consensus. In this process of justification, an overlapping consensus plays an essential role. It is independent of shifts in the distribution of power, in contrast with the stability of a *modus vivendi*. Unlike a *modus vivendi*, it is a moral commitment in social union and thus less prone to desertion when it is to one's party advantage. And unlike a comprehensive moral doctrine, it demands only limited moral commitment. The core of this overlapping consensus is, then, a shared political culture. This is the common denominator, and it is in this common denominator that democratic constitutional principles are rooted. This consensus can, then, be reached by people with differing reasonable comprehensive doctrines and justified varyingly, according to those same doctrines. It eventually creates citizenship with a common legal and political identity.

There is, as mentioned earlier, a sharp distinction between how we understand ourselves as citizens within the political system and how we may regard ourselves in our personal affairs or within certain intermediate associations. It is for this reason that Rawls sees the members of liberal democracies as having a *double identity*, resulting in two kinds of commitments and attachments. (ibid.: 30-2). In their personal or private capacity they are seen as holding a conception of the good, a view about what a valuable life consists of. This

is their non-institutional identity. But they have also a public, or institutional, identity, or their identity as a matter of basic law. Citizens have usually both political and non-political aims and commitments.

Citizens' identities should take precedence over personal identities in the sense that people will agree to continue to confine the pursuit of their personal conception of the good within the bounds prescribed by the principles of justice. We think of ourselves as citizens first, and as citizens we implement only measures which we can justify to others who do not share our personal conceptions of the good.

A liberal democratic conception of citizenship acknowledges the equal ability of citizens to pursue in one's life an ideal of the good of one's own choosing. It implies the rejection of the idea that the state should or could be seen as a community, defined by a substantive ideal.

In answering, then, the question how to cope with the dilemma of the 'universalism / particularism conundrum', our conclusion is that the principle of neutrality should strongly be defended against communitarian arguments. The communitarian view is that the political order must subordinate justice to a higher, more substantive ideal than the conceptions of the good citizens have.<sup>19</sup> Those communitarian ideas, however, make freedom, the freedom of choice of one's own conception of the good, impossible. But at the same time it should be stressed that the idea of freedom of choice does not reject the importance of the idea of 'belonging', or of a 'sense of community'. But it does, indeed, reject for instance Sandel's suggestion that we should give up the 'politics of rights' for a 'politics of the common good'.<sup>20</sup>

For our present argument it is not really important if the substantive principles of

justice that are worked out by a overlapping consensus are the Rawlsian principles of justice, 'justice as fairness' so to speak, or other principles of justice, as long as we agree that the principles formulate liberal ideas of justice, similar to but more general than 'justice as fairness'. It should be, in all cases, principles that are basic to any welfare state, and give a political theoretical argument for the rights Marshall thought were constitutive for citizenship.

We have claimed that the overlapping consensus that results in a political conception of justice, shared throughout a political community, does generate a shared identity, indeed, a shared citizenship identity that will supersede rival identities based on, for instance, ethnicity. It should be stressed that this idea, especially the idea of a public, or institutional identity, is of course based on the fact the Rawls' theory is a contractarian theory. The basic idea of the conception of liberal democratic citizenship is that the public or institutional identity of citizens is contractually founded. The idea of, at least, a 'double identity', is a basic element of this contractual reasoning and conception of citizenship. If one would argue

"that 'identities are founded morally and pre-contractually' which means that the political community is a 'community of character, historical stable, an association of men and women especially committed the ones to the others, and endowed with a specific sense of their common life'" (Meehan, 1993: 22),

we would not have been able to step out of the communitarian or *Gemeinschaft* outlook in the first place, and would not have been able to argue for a conception of liberal democratic citizenship which is neither universalistic, nor particularistic, and that can cope with the diversity of modern multi-cultural societies.

## **Citizenship and Constitutional Democracy**

What kind of institutions of the basic structure of constitutional democratic societies support this conception of liberal democratic citizenship, and would generate the public, or institutional, identity, or the identity as a matter of basic law of citizens? The institutions of constitutional democracies should satisfy four conditions: respect for the rule of law; the protection of fundamental freedoms (which includes the right to form independent associations); secure, though not constitutionally entrenched, property rights; and: conformity to the principle of majority rule in the making of public policy. (Rawls, 1971: 221-43).

The first three of these conditions stipulate the requirements of *constitutional* government, and the fourth condition stipulates that the constitutional government should also be *democratic*. To be 'democratic' can be specified more precise. Dahl has formulated five criteria that fully specify the democratic process. When making binding collective decisions the following conditions should not be violated:

- \* Equal votes;
- \* Effective participation;
- \* Enlightened understanding;
- \* Inclusiveness: the *demos* must include all adult members except transients and persons proven to be mentally defective;
- \* Citizens have to exercise final control over their own agenda.

Final control of the agenda by the *demos* means that the *demos* must have exclusive opportunity to make decisions that determine what matters are and are not to be decided by processes that satisfy the first three criteria. (Dahl, 1983: 95; 1985: 59-60).

We stipulate, following Albert Weale (1997), three further assumptions. The first of these is that the majoritarian principle implies *a representative assembly with decision-making powers* and not merely consultative powers. The second assumption is that there is a burden of proof upon the anti-majoritarian. This assumption is *the democratic premise* throughout the whole argument formulated here, namely that *accountability is normally essential to the exercise of political authority*:

"[W]henver there are political institutions making authoritative decisions for a population, then those institutions should be accountable to the population in the form of a representative assembly from which a government is chosen based upon the support of a majority of the representatives." (Weale, 1977: 126).

The third assumption is that arguments about how best to justify one set of political arrangements relative to others ought ultimately to make reference to the interests of individuals, and cannot stop at the interests of collective entities like cultures, churches, communities or languages. This individualist assumption is, of course, in line with the argument, given earlier, that we have to take into account the social and cultural pluralism of modern societies, and that from a liberal perspective citizens should have the equal ability to choose their own conception of the good. It is, in fact, a minimal democratic criterion: the interests of each person are entitled to equal consideration, and in the absence of a compelling evidence to the contrary an adult is assumed to understand his or her own interests better than another. (Dahl, 1983: 107).

To recapitulate, we see that the second constitutive element of citizenship, identity, requires a democratic process with accountability, based on shared principles of democracy and social justice. We should add, however, that it has become clear that procedural-institutional mechanisms, based on the institutional design of liberal constitutional



democracies, and a certain level of economic development, taken together are not enough to intermediate in a successful way between 'the private and the public', the egoistical and altruistic sources of action. An additional element is needed to strengthen a sense of community among and between social actors who are conceived of as autonomous individuals, acknowledging pluralism as well as the fact that men and women are motivated by two divergent and contradictory principles: those of altruism and egoism.<sup>21</sup>

### **Citizenship and Civil Society**

I suggest that the idea of 'civil society' is this additional element to strengthen a sense of community among and between social actors, if we understand civil society to refer to 'a space or arena between households and the state which affords possibilities of concerted action and social self-organization'.<sup>22</sup> Civil society, or 'civic space', occupies the middle ground between government and the private sector. It is the space we occupy when we are engaged neither in government activities (voting, paying taxes) nor in commerce (working, producing, shopping, consuming).<sup>23</sup> It is in this civic space that people are 'public' beings, and in that sense civil society shares with government a sense of public sphere and a regard for the general good and the common weal, but unlike government it makes no claims to exercise a monopoly on legitimate coercion. Rather, it is a voluntary realm devoted to public goods. It is constituted by freely associated individuals and groups; but unlike the private sector, it aims at common ground and integrative and collaborative modes of action.

It is in this civil domain that such traditional civic institutions as foundations, schools, churches, public-interest organizations and other voluntary associations properly belong. It is a space defined by such activities as attending church, mosque, or synagogue,

doing community service, contributing to a charity, or being a member of a sports club. Voluntary associations serve as social spaces in which the members of the association reinforce their social webs and articulate their (moral) relationships.

To conceive of civil society as civic space where citizens rule themselves, we have to move beyond the two-celled, or 'binary' model of 'government versus private sector' and focus on the intermediate institutions in the civil space, in civil society. In fact we need a *three celled-model* in which civil society plays the intermediating role between government and the private sector. The civic space, this third arena, forms the glue between the individual and the state.

One of the prerequisites of viable civil society is that it is closely connected with the performance or sustainability of democratic institutions. For a viable civil society specific *socio-cultural factors* need also to be present. Civil associations reinforce the 'habits of the heart' that are essential to stable and effective democratic institutions. A vigorous civil society enhances not only the accountability, but also the representativeness and vitality of democracy. A flourishing oppositional society is the key to further democratization.<sup>24</sup> Voluntary associations represent, for instance, a crucial institutional supplement to democratic political parties.<sup>25</sup> The performance of government and other social institutions is powerfully influenced by citizen engagement in community affairs.<sup>26</sup>

A necessary condition for this performance is some level of *social capital* and public spiritedness. Without this democracies become difficult to govern, even unstable, and civil society cannot flourish. The concept of 'social capital' refers to features of social organization or social life - networks, norms, social trust - that enable participants to act together more effectively to pursue shared objectives. Social capital, in short, refers to

social connections and the attendant norms and trust.<sup>27</sup> The theory of social capital presumes that, generally speaking, the more we connect with other people, the more we trust them, and vice versa. People who join are people who trust. In civic communities, individuals become citizens who will act with and trust others, even when they do not know them personally. Participation in voluntary associations such as clubs creates social capital in the form of dense networks of civic engagement that foster sturdy norms of generalized reciprocity and encourage the emergence of social trust. (Putnam, 1995: 67).

The feelings of belonging are encouraged by participation in debate, as much within primary circles like the family, friends or the work group as within the framework of wider social movements or organizations, and even in forums of generalized communication. "Discussion about the common good may be the foundation of community, even when this communication expresses diversity of opinion (which is normally the case), if it tends to ratify everyone's interest in certain common themes and reinforce feelings of belonging to the same entity, at least under certain conditions." (Pérez-Díaz, 1998: 221).

To the extent that norms, networks and trust link substantial sectors of the community and span underlying social cleavages - to the extent that social capital is of a 'bridging' sort - the enhanced cooperation is likely to serve broader interests and is to be widely welcomed. Social capital, then, is important for our relation with others, for the volatility of voluntary associations, for civil society and - eventually - for a democratic order. And an essential component of social capital is trust because trust lubricates cooperation.

Presently there is a growing fear that the public-spiritedness of citizens of liberal democracies may be in serious decline. That there is a loss of social capital and trust, and

thus of civil society: that altruism is driven out by egoistic sources of action. The paradox of modern democratic society is that its cohesiveness can only be rooted in impersonal and generalized trust. But this very universalization of trust has, at the same time, undermined the concrete mutuality and shared components of the communality upon which trust must be based.<sup>28</sup> For those who claim there is in modern western democracies a lack of civil society, or a loss of it, the core problem is the way in which 'trust', by making it more 'universal', has become at the same time more abstract and impersonal.

We stumble here on the conflicting characteristics of justice and solidarity. For instance, programs in welfare states that guarantee a decent standard of living, based on a conception of a fair and just society, can be interpreted as programs based on generalized solidarity. These programs work through impersonal networks. This generalization necessarily brings with it de-personification, and abstract classifications, and this creates its own contradiction, because the notion of community of need and solidarity implies solidarity with someone, with concrete, identifiable individuals.<sup>29</sup>

This is clearly an illustration of the following general problem: The greater the number and diversity of persons in a group, the more that universalistic norms require altruism, and yet - at the same time - the weaker the force of altruism. We see here the antagonism of two crucial important concepts: 'face to face' trust versus universal rights for 'strangers'.<sup>30</sup> In western welfare states it is the very abstract and generalized nature of trust that militates against that solidarity upon which civil society must also stand.<sup>31</sup>

The squaring of justice and solidarity, of private interest and public good, of shared citizenship identity and collective differences, of tolerance and cultural diversity, of multiculturalism and integration, remains the problem of civil society and of citizenship in

the modern world. Where we cannot rely on familiarity and community, on 'face to face' relationships, an important step towards resolving this problem is the institutionalization of liberal democratic citizenship, with as its core the idea of shared political values. The substantive commitment implied in those values that lie at the heart of the institutional design of a liberal constitutional democratic order, can be the source of social capital by fostering sturdy norms of generalized reciprocity. Because it can be assumed that 'everybody else' is similarly affected and inspired by the 'minimal moral conception' on which such a democratic order is based, the emergence of generalized trust among strangers can be encouraged, leading to social cooperation and social cohesion in a multicultural society.<sup>32</sup> Only in this way is there hope to generate a sense of community, strong enough that it, in turn, would provide the sense of solidarity necessary to secure the rights and duties of Marshallian citizenship.

In the following we will ask what the implications of the conception of liberal democratic citizenship developed above are, once we cross the boundaries of a nation-state, and step into a pan-national arena.

### **European Citizenship**

When we discuss 'citizenship' across the borders of a nation-state, the concept of liberal democratic citizenship developed for a nation-state, should be extended. The question now becomes: What are, when we talk about a more universal concept of citizenship or - at least - when we give a political theoretical defence of a liberal democratic conception of citizenship for the 'European Union', the implications of the two constitutive aspects of citizenship, *identity* and *rights*, and of the institutions and practices of political cooperation?

The argument is twofold. In the first place there is no reason to think that across the boundaries of the nation-state the problem of cultural or ethnic pluralism will vanish. On the contrary one would say! The conception of citizenship that can cope with the problems raised by pluralism *within* a nation-state should also be applicable in a situation *across* borders where there is probably even more pluralism.

Second, the liberal democratic conception of citizenship defended here is 'liberal'. Liberal democratic citizenship is based on a minimal democratic criterion: the interests of each person are entitled to equal consideration. We may differ, but we are equally citizens, and it is as citizens that we advance claims in the political realm and assess the claims made by others. It is hard to imagine that arguments for equal concern and respect for persons defended within a nation-state, would vanish in any 'pan-national' conception of citizenship.<sup>33</sup> Thus, in a European context the minimal democratic criterion is still in place, including its democratic premiss of accountability.

What institutional structure, then, does the specified conception of citizenship require to be able to create 'shared citizenship identity', or to create 'constitutional patriotism' on a pan-national scale? Let us start with the assumption that 'federalism' will be the most adequate institutional form of government that fits the requirements of the liberal democratic conception of citizenship. What kind of political theoretical arguments, or 'good reasons' could be given to defend the choice of this form of government? Systematizing the normative principles of federalism, we use a social contract approach: such an approach is useful for helping us to organize our moral intuitions and draw consistent inferences about principles and institutions. It allows us to abstract from arrangements that are the result of bargaining processes in real-world negotiating with its defects "such as short-sighted

political expediency, lack of empirical and historical knowledge, and unfair bargaining strength." (Norman, 1994: 84).

Several additional arguments for using a social contract approach when defending a federal structure, could be given. Remember that we have in a European context, as in the case of the nation-state, to deal with the problem of pluralism. Let us also remember that in the context of the nation-state we argued for using Rawls' contractarian approach. The public or institutional identity of citizens is contractually founded, eventually leading to the idea of a citizens having a 'double identity'. Let us add, broadening the scope to a European context, the following. Meehan has noted that through the construction of contractarianism,

"nationality and, hence, citizenship rights can be legally *acquired* through *ius solis* as in France and Italy. The second construction resembles the emphasis on nationality by descent, *ius sanguinis*, in Germany and the United Kingdom. If the modern association of citizenship with nationality rests on a legal or contractual view of communities, then it would not be too difficult to envisage a new form of it at the European level." (Meehan, 1993: 21-2).

And we can note the same as we already did in the context of citizenship within a nation-state: if citizenship is based on a communitarian or *Gemeinschaft* outlook, it would be much more difficult to envisage a new form of citizenship to develop at the European level. Good reasons, then, to use a contractarian approach. But there is still another reason to support this choice. Habermas has remarked that:

"In a future Federal Republic of European States, the same legal principles would also have to be interpreted from the vantage point of different national traditions and histories. One's own national tradition will, in each case, have to be appropriated in such a manner that it is related to and relativized by the vantage points of the other national cultures. It must be connected with *the overlapping consensus* of a common, supranationally shared political culture of the European Community. Particularist anchoring *of this sort* would in no way impair the universalist meaning of popular sovereignty and human rights." (Habermas, 1992: 7; my italics).

We already used the idea of an overlapping consensus in the context of the nation-state, to

be able to cope with reasonable pluralism. Arguing for a specific institutional form, federalism, this idea of an overlapping consensus is used once again, but now in a broader, European context.

### **Federalism, Overlapping Consensus, and Democratic Authority**

In applying Rawls' contractarian approach for an argument for federalism we retain the key elements and motivations of his theory. Stability is not only a primary requirement for a well-functioning democratic nation-state, but also for a federation. And analogous to Rawls' three possible bases of political order within a nation-state, we suggest that there also could be three possible bases for types of federal commitment: one based on a '*modus vivendi*', one based on a universal acceptance of some particular comprehensive moral doctrine, and one based on an 'overlapping consensus'.<sup>34</sup> The question is, once again, which would guarantee stability and social unity in a situation where we know that there are, not only within a nation-state, but also across the boundaries of nation-states, deeply dividing, conflicting conceptions of the good.

Let us assume that democratic states would not band (or remain) together in a federation if they did not perceive it to be to their mutual advantage. It does not follow, however, that federal relations are nothing more than a *modus vivendi*. In fact, for reasons parallel to those advanced by Rawls, it is reasonable to suppose that a federation based merely on a *modus vivendi* - one in which pan-federal identification, tolerance and solidarity do not develop - will remain inherently unstable: a partner that had for generations been a net beneficiary might defect the moment it felt called upon to be a net contributor.<sup>35</sup> At the same time, federations differ from unitary states because federal



partners (and their citizens) did not want to relinquish all of their autonomy, sovereignty, and identity. This is already a reason to believe that federal partners do not have to or wish to accept a deep, monolithic conception of citizenship and identity as the basis of their union. We can go one step further, and say that they do not all have to share the same reasons for accepting the federal union and their citizens do not have to identify with the federal state in the same way or to the same extent. Norman argues that the most suitable basis for a just and stable federal union will thus be "some form of overlapping consensus that demands more of federal partners and their citizens than a *modus vivendi*, but less than a comprehensive, monolithic conception of shared identity and citizenship." (Norman, 1994: 88).

Rawls' idea that members of liberal democracies have a double identity, is relevant here once again. In their personal or private capacity they have a non-institutional identity. But the public, or institutional identity, or their identity as a matter of basic law, may be broadened now to encompass being a member of a federation, if that federation is based on an overlapping consensus.

We can be more specific about this overlapping consensus based on principles that are to serve as a stable basis for cooperation between federal partners, given the fact of reasonable pluralism. Just as in the case of a specific constitutional democracy, the overlapping consensus in this case should work out substantive principles of justice, which apply to the federation as a whole. And it is, once again, not really important if these principles are the Rawlsian principles of justice, or other ones, as long as they formulate liberal ideas of justice, similar to but more general than 'justice as fairness'; principles in other words that form the traditional components of a welfare state, but that now apply to

the federation as a whole - confronting the risks of sickness, old age, invalidity, unemployment, and poverty in all parts of the federation.

This overlapping consensus shared throughout a federation, should generate a shared citizenship identity that will supersede rival identities based on, in the first place, national identities. And in this case, where we discuss a federation it may be necessary, more so than in the case of a specific constitutional democracy, to take measures to encourage development of a moral commitment to the federation to prevent a 'fall back' into an unstable *modus vivendi*. This moral commitment would positively consist of developing a sense of solidarity and tolerance among the citizens of the new federation to encourage the emergence of a new pan-national, shared citizenship identity, a 'sense of community'.

Norman points to the flip-side of this argument for a development of solidarity and shared identity: "It may be more important to list factors that may have the potential to destabilize a pluralistic federation such as the perception of citizens of any sub-unit that it is unfairly disadvantaged, or that it is under-represented in key federal institutions, or that there is mutual distrust and a lack of mutual understanding." (ibid.: 91).

We have questioned the assumption that 'citizenship' necessarily adheres to the sovereign nation-state. The idea of an overlapping consensus in the context of a federal Europe, in conjunction with the idea of a 'double identity', leads us not only to the idea of 'belonging' that comes with the concept of national identity, but also to 'belonging' that goes with a number of different levels of social organisation. Instead of the view that individuals have one basic political identity from which all the others are derivative, we might suppose that individuals can have multiple identities ranging from within the nation, like neighbourhood, town or city and region, to the nation itself, and on to social or political

organisations that surpass the borders of the nation-state, like the European Union.

Each of these levels can provide opportunities for political cooperation, and in terms of the account of political identity that is advanced here, we are to think of political identity as based not upon a pre-existing social or cultural identity but instead as constituted by the existence of certain practices of political cooperation. If identity is constituted by participation in a common set of political institutions, there is no reason why identity cannot be fostered at the European level as much as at the level of the nation state or the region. (Indeed, off hand, there seems no reason why it could not be fostered on a even wider (global) level). Essential, then, is an account of political identity in which individuals may possess a complementary variety of identities depending upon their participation in a range of cooperative political practices. Of course the concerns expressed and attended to at these levels will be different, but they may certainly be complementary and perhaps even inter-related (as when people are concerned about public transport in their city because they are worried about global climate change). To view political identity as constituted in the practice of political cooperation is, then, to allow for a variety of bonds of union. (Weale, 1977: 138).

Just as in the case of citizenship within the context of a pluralistic, multi-cultural nation-state, it is the political culture that is shared and that, eventually, should lead to a shared citizenship identity. Once again, political allegiance is what counts, and 'a sense of community' should develop from that common denominator in which the constitutional principles are rooted. It would lead, to use Habermas's term, to 'constitutional patriotism' on a federal level.<sup>36</sup>

The normative content of the concept of liberal democratic European citizenship

takes into account the fact that not only modern democratic nation-states are confronted with increasing social and cultural pluralism but that the Union as a whole is as well. It means, of course, that all citizens do not share the same language or the same ethnic and cultural origins. On the contrary: they are aware that they are a part of multicultural societies. One could argue that the normative political theoretical argument in favour of this conception of citizenship in fact applies even more strongly at the level of the European political order. A European *demos* cannot be based on exclusive ethno-cultural terms, on an idea of ethnic homogeneity.<sup>37</sup> On the contrary, the collectivity of citizens that constitute the *demos* encompasses heterogeneity. To be sure: once again cultural and ethnic pluralism is not denied. What is denied is that ethno-cultural characteristics should play a role when developing a 'sense of community' on a European level. On a pan-national, European level the concept of liberal democratic citizenship also parts company with identity based on *ethnos*. Liberal democratic citizenship is, in fact, a plea for solidarity and tolerance among the citizens of the European Union.

### **European Citizenship and Imagined Boundaries**

In line with questioning the assumption that 'citizenship' necessarily adheres to the sovereign nation-state, Linda Bishai has argued that it is something of a paradox that the evolution of the modern political state has yielded a system in which legitimacy derives from sovereign control over bounded territory, yet the citizens who reside within a state territory may feel multiple forms of allegiance which not only transcend cartography, but which shift in response to events both internal and external to the state.<sup>38</sup> The 'people' who confer legitimacy on the state may be defined as those who live within the fixed territorial

boundaries of the state. But making those 'people' fit the meaning of 'nation', ensuring that they feel both civic and cultural loyalty to each other as co-citizens is, according to Bishai, an endlessly fruitless task which problematises the concept of 'nation-state' and, we should add, citizenship.

Modern individuals are embedded in interrelated and changeable identity possibilities; and regardless of which definition of nation is operative, individuals may identify with or feel sympathy for a number of various identities either simultaneously or consecutively. Walker puts it thus: "Modern political identities are fractured and dispersed among a multiplicity of sites, a condition sometimes attributed to a specifically post-modern experience but one that has been a familiar, though selectively forgotten, characteristic of modern political life for several centuries."<sup>39</sup> In contrast, the international political system is based upon a presumption that identities are fixed arbitrarily and externally by territory and residence, thus limiting national identities by a concept of the state which apparently defines the outer limits of political possibility.

A major element in our argument on shared citizenship identity has been, however, that 'national' identities are far too non-territorial to be confined to the fixed boundaries of the state. In this regard Onora O'Neill has noted that the "concepts by which people define who they are - in which they articulate their sense of identity - are all of them concepts without sharp borders, and hence cannot provide a basis for sharp demarcations such as political boundaries between states." (O'Neill, 1994: 78).

Be this as it may, as the defining characteristic of statehood, sovereignty has become the focal point of the nation/state identity nexus. And as long as national identity and territory are linked by means of the concept of (national) sovereignty, this definition is

problematic for identities, since they are essentially unbounded. Furthermore, the tenuous link can only be sustained if the concept of sovereignty remains territorial. Paradoxically, neither states, nations nor sovereignty are fixed structural entities. The boundaries of the nation, then, are limited only by the collective imaginations of its members.

These arguments seem to underwrite our supposition that individuals can have multiple identities, ranging from the neighbourhood through the city and region, to the nation-state and the European Union, and perhaps even to a global level. We may also be correct in supposing that shared citizenship identity can on all these levels be fostered by participation in a common set of political institutions. It goes, however, without saying that the institutional requirements for shared citizenship identity, such as a democratic process with accountability, complicates matters profoundly.<sup>40</sup>

### **European Citizenship, Justice and Solidarity**

We have argued that liberal democratic citizenship is based on a minimal democratic criterion: the interests of each person are entitled to equal consideration. And we noted that it would be hard to imagine that arguments for equal concern and respect for persons defended within a nation-state, would vanish in any 'pan-national' conception of citizenship.

The commitment to equal concern and respect may require - just as on the national level - a re-distributive pan-European welfare state. Thus, both constitutive elements of the Marshallian conception of citizenship, identity and rights, have to look 'forward', to 'Europe', and not 'backward' to the nation, as the collective identity determining object, and to the moral equality of all members of that Union: all citizens of the Union are morally equidistant.

However, and notwithstanding the argument just given that 'national' identities are far too non-territorial to be confined to the fixed boundaries of the state, it could be argued that arguments that defend equal concern and respect for persons within the boundaries of a nation-state, cannot be stretched beyond the border of that state. Individuals may have multiple identities, and shared citizenship identity may be fostered by participation in a common set of political institutions on a European level, but the question remains if this does generate a sense of solidarity that is strong enough to secure Marshallian (social) rights and duties of European citizenship.

Nationalism insists, for instance, that "nationals should have greater concern for one another than for others and should, other things being equal, give priority to one another's interests over the interests of others. And this is at least prima facie incompatible with the idea that all persons are entitled to equal concern and respect or that no one's interests count more than the equivalent interests of another." (McMahan, 1997: 109). It may imply, for instance, that re-distributive policies within the EU as a whole, may not be able to call upon similar solidarity as they do within nation-states (if they do this there at all). The claim here is that the basic rights of citizenship presupposes - and would be impossible to secure in the absence of - a thicker shared culture, perhaps even a myth of ethnic unity, than the thin conception of European citizenship is able to provide.

Miller, for instance, argues that "the duties we owe to our fellow-nationals are different from, and more extensive than, the duties we owe to human beings as such" and thus that "there is no objection in principle to institutional schemes -such as welfare states- that are designed to deliver benefits exclusively to those who fall within the same boundaries as ourselves." (Miller, 1995b: 11) This argument is based on the assumption that

only 'communal solidarity' creates the requisite political willingness to redistribute, because the welfare state is "the setting in which ideas of social justice can be pursued." (Miller, 1995b: 185).<sup>41</sup>

But do we, indeed, owe more to our fellow countrymen and less to foreigners? The discussion of Goodin (1988) may be helpful here. His approach to special duties with regard to compatriots, is to regard these duties as being merely 'distributed general duties', resulting in a 'assigned responsibility model'. Special duties are, in other words, derivative from general duties. These general duties are pursued more effectively if they are subdivided and particular people are assigned special responsibilities for particular portions of the task. Thus, special responsibilities are assigned merely as an administrative device for discharging our general duties more efficiently. The presumption here is that everyone has been assigned an advocate/protector.

National boundaries can be interpreted as performing this function of subdivision of tasks. "The duties that the states (or, more precisely, their officials) have vis-à-vis their own citizens are not in any deep sense special. At root, they are merely the general duties that everyone has towards everyone else worldwide." (Goodin, 1988: 681). It is nation-states that are assigned special responsibility for protecting and promoting the interests of those who are their citizens: states have been assigned responsibility for compatriots, in a way that they have not been assigned any responsibility for foreigners and these special state responsibilities are derived from general ones of everyone to everyone. Goodin's conclusion is that:

"Boundaries matter. (...) But it is boundaries around people, not boundaries around territories, that really matter morally. Territorial boundaries are merely useful devices for 'matching' one person to one protector. Citizenship is merely a device



for fixing special responsibility in some agent for discharging our general duties vis-à-vis each particular person. At root, however, it is the person and the general duty that we all have toward him that matters morally." (Goodin, 1988: 686).

If, indeed, this argument is plausible, and if what matters are boundaries around people, and not around territories, and if the purpose of these boundaries is to discharge our general duties more efficiently, this 'assigned responsibility model' could be applied as well to the European Union as a whole.

It is neither normatively, nor empirically too far fetched to see the Union as an advocate/protector of its member citizens; the Union is assigned special responsibility for protecting and promoting the interests of those who are its citizens. The boundary of the Union is a way of discharging our general duties better, for instance, by promoting peace and tranquillity, by its economic policy in a broad sense (fiscal policy, monetary policy, competition policy, social policy, regional policy and industrial policy), by its foreign and security policies, and by its policies concerning justice and home affairs. Why not, then, extend this protection to guaranteeing Marshallian social rights to all European citizens?

Goodin argues that boundaries should be drawn and - if necessary - be redrawn, if some states prove incapable of discharging their responsibilities effectively. They, then, should either be reconstituted or assisted. We should add: the boundaries of the Union are more or less permanently redrawn: enlargement follows upon enlargement, membership grows. The boundaries of the Union seem, then, to be limited only by the collective imaginations of its members.

But even if this argument of assigned special responsibility for all those who are citizens within the boundaries of the Union holds, the question still remains if this responsibility would generate enough solidarity for the citizens of the Union as a whole,

among citizens of the member states to support, for instance, a pan-national re-distribution policy. One could wonder how this pan-national solidarity could be generated, if - as we have discussed earlier - we take into account that re-distributive solidarity already seems to be crumbling within national welfare states.

I suggest that the idea of 'civil society' can help us - once again - to generate a sense of community that is necessary to secure the rights and duties of membership. But now we are in need of a European civil society to do so.

Earlier on, in the context of citizenship within a nation state, we discussed the problem of the squaring of justice and solidarity on a national level, a problem that remains the problem of civil society and of citizenship. We noted that the greater the number and diversity of persons in a group, the more that universalistic norms require altruism, and yet - at the same time - the weaker the force of altruism. We noted also the antagonism of two crucial important concepts: 'face to face' trust versus universal rights for 'strangers'. This antagonism holds of course even more so, when the argument is extended to a pan-national scale. We also noted that, because it can be assumed that 'everybody else' is similarly affected and inspired by the 'minimal moral conception' on which a liberal democratic order is based, the emergence of generalized trust among strangers can be encouraged, leading to social cooperation and social cohesion in a multicultural society.

If this argument about the pivotal role civil society plays to encourage the emergence of generalized trust among strangers holds on the national level, this role of civil society should be extended to the European level. It would imply a public sphere where there is a "continuous, ongoing, unending civic conversation involving a 'critical mass' of concerned European citizens in regard to matters of institutional design, policy and

collective identity", for building whatever European political construction may be possible. "A public space or public sphere is a crucial building block of that construction, and the counterpart for a common public authority, in the larger framework of a European civil society that would allow for a lively internal pluralism." (Pérez-Díaz, 1998: 219). What is needed is a European-wide, integrated public sphere: a civil society with interest associations; non-governmental organizations; citizens' movements; and a party system appropriate to a European arena.<sup>42</sup> This could stimulate a European civic conversation that would lead to the accumulation of political and social capital, necessary for a European civil society.

### **European Citizenship in the European Union**

We noted at the outset that 'citizenship' is an essential contested concept. The argument so far has been an exercise in political theory to clarify the meaning of liberal democratic citizenship and the related idea of shared citizenship identity. The description of the requirements of a liberal democratic conception of citizenship gives us, in the context of the European Union, criteria to judge to what extent 'citizenship' is in fact realized.

Needless to say that the meaning of 'citizenship' is also hotly contested in real life politics. In political debates within and between the political actors of the nation-states of the European Union the issue of citizenship is not vigorously contested when this debate turns around a conception of individuals as citizens of states which are themselves members of the European Union. "In fact, the term 'European citizenship' is perceived as though it were a condition by which people from different nations should have similar rights to be asserted *vis-à-vis* the European public courts and public officials." (Pérez-Díaz, 1998: 235).

What is, however, more vigorously contested is a conception of individuals as immediate bearers of EU citizenship, "a condition by which those different peoples should share a common destiny and a common burden (or duty) of civic responsibility, together with pride, memories, and the excitement and anticipation of future common endeavour. Far from being the cornerstone of a civic religion, European citizenship is seen as a vehicle for furthering private claims (to be put before the public authorities)." (ibid.: 235).

The fact that the discussion turns on a conception of individuals as citizens of states, which are themselves members of the EU is, in itself, not surprising. It is very doubtful if the creation of European citizenship has been a conscious goal of the actors in the EU. Streeck, for instance, notes that

"the uniqueness and, indeed, the genius of Monnet's design, ... lay exactly in its uncoupling of progress on supranational organization from progress in *the formation of supranational patriotism*. The European Community was conceived as a political regime that would have to, and could, survive and grow without the popular legitimacy that previous modes of state building had required. In Monnet's pragmatic approach, European unity was to be based for the foreseeable future not on collective acceptance of a common identity but on the functional interdependence of political-administrative decisions and organized interests in an internationalized 'mixed' economy." (Streeck, 1995a: 412; my italics).

We can add that it seems fair to say that the founding of a United Europe depended mainly if not totally on the 'four freedoms' that are important for economic integration: the free movement of persons, goods, capital and services. At the fore has been 'economic citizenship'.

And today, listening to national politicians talking about the 'new' Europe, we can note that this still is the case. If there is talk at all about 'European citizenship', EU actors are divided over that goal. In fact there is an absence of a significant measure of EU citizenship to the extent that a strong EU citizenship, and a correspondingly diminished or qualified

national sense of citizenship, are not aspirations of actors in the EU.

The fact that political as well as social citizenship have, until now, only been marginal in the process of European unification has led Leibfried to note that:

"Unity in such a restrictive frame would turn into a unity of 'possessive individualism', a unity of markets only. It will not be the unity of an enlightened 'Social Europe' synthesising its traditions of democracy and solidarity, of civil and social rights, and building on its traditions of merging the citizen and the social state". (Leibfried, 1993: 150).

The concept of 'Union Citizenship', as formulated in the Maastricht Treaty, has not changed the direction the Union has been taking since its founding. Steps taken towards European citizenship at Maastricht in 1991, have not allowed for "the metamorphosis of the 'market citizen' (1957-91) into the 'full-fledged' EU citizen - a new synthesis which includes a European welfare state trajectory, building on universal rights." (Leibfried, 1993: 150-1). And Streeck has noted that, three years after Maastricht, there was little doubt that the battle for an EU social policy had been lost once more. The Social Charter, for instance, was adopted only as a non-binding 'social declaration' of the European Council, and "references to *citizens* were replaced with references to *workers* to avoid the appearance of an expanded social policy mandate for the Community." (Streeck, 1995: 402-3). Integration is once again identified with deregulation and political disengagement from the economy, and the intergovernmental character of the community was confirmed by the Single European Act. "A free European market, if this is all that is to be, does not 'require' a 'Europe of the citizen'; in fact, citizenship makes the market less 'free'." (ibid.: 413).

The conclusion has to be that 'Maastricht' has not brought the actual situation in the European Union more in line with a conception of liberal democratic European citizenship as sketched above. If we refer once again to the ideas of Marshall on citizenship, and want

to apply his idea of citizenship on a pan-national scale, European national states would have to accept, as Streeck remarks, the development of the Union "into a 'Europe for the citizen' - social policy and all - or else the integration project will die from lack of popular support." (ibid.: 408-9). And we should add that, if central re-distributive measures are indeed required for a just Europe, the accomplishment of economic citizenship, the four freedoms, is certainly not enough to embody an idea of social justice: every citizen of the EU is to enjoy as a citizen of the EU, entitlements which stand apart from and to some extent conflict with the outcomes of a market driven by considerations of efficiency.

But how realistic is it to envision a European welfare state, a 'transnational synthesis' of national welfare states, with 'European social citizenship' being one backbone of the 'United States of Europe'? Would it be a realistic hope to think that we could eventually realize a 'pan-European welfare state'?

Pierson and Leibfried argue that, although actual and potential European social policy is of considerable significance, "[s]ocial policy has in fact taken a backseat to the single-market project; hopes (or fears) of some pan-European welfare state can be put to rest." (Pierson and Leibfried, 1995: 4). And Leibfried has noted that the EU social policy mandate is mostly focused on employees and their families and not on the European citizen *per se*. And this goes for the EU Social Charter as well. His conclusion is that "the evolution of 'pre-federal' European institutions, of Europe's 'incomplete federalism', has been strongly moulded by 'negative integration'." (Leibfried, 1993: 134).

An empirical requirement for 'European citizenship' or a 'Social Europe' to come about should be then, or so it seems, a 'positive mode of integration': an integration that is much more ambitious and complete than a pure and simple common market goal, one that

only removes obstacles, and is concerned with national deregulation. It should aim at constructive action, at a 'positive state', i.e. market corrections, a movement from 'freedom' to 'social rights' in a unifying Europe. (ibid.: 134).

But is a 'positive integration' conceivable as a by-product of on-going European economic integration? Could a 'Social Europe' eventually emerge from the different existing welfare systems in Europe? Here Leibfried's conclusion is, just like that of Streeck, negative. The "divergence of [welfare state] regimes does not lend support to the notion that a European welfare state might grow via automatic harmonisation, building from the national towards the EU level. A 'bottom up' strategy for EU 'social integration' policy seems stillborn." (ibid.: 143).

Leibfried is of the opinion that European development will most likely leave all poverty and welfare policy at the local or state level - at the sub-European level -, one of the main reasons being that it is hard to start from a common European denominator. In fact, the "easy common ground is missing on which a European welfare regime could be built." (ibid.: 143).<sup>43</sup>

Recapitulating, we can conclude that, if a Marshallian conception of citizenship is to be envisioned on a European level, one necessary requirement is positive integration. And positive integration implies solidarity, or 'social rights' on an European-level. This requires, in turn, at least shared European citizenship identity. This is, of course, not surprising because the two constitutive elements of 'European citizenship', rights and identity, are closely intertwined: shared European identity is a necessary precondition to generate some sense of solidarity to stimulate positive integration.<sup>44</sup> However, the

"critical problem is that the Europeans do not consider the EU sufficiently

legitimate, democratically speaking, for it to be possible to achieve, in the area of positive integration, a degree of superstatism comparable to that already established in the area of negative integration." (Gustavsson, 1997: 114).

And thus we have come full circle: what is necessary is the implementation of liberal democratic European citizenship, that will help developing shared European citizenship identity. The question remains, of course, what empirical impediments are hindering development in this direction?

### **European Citizenship: its empirical setting**

When we discuss the empirical setting in which the normative concept of shared citizenship identity should be realized on a pan-national, European level, it is necessary, more so than when we discuss the concept in the context of a nation-state, to make a distinction between objective and subjective citizenship:

(a) objective citizenship is the extent to which the rights extended to individuals within the EU by the EU amount to the creation of an EU 'citizenship', and the extent to which the necessary political institutions, which make participation in a common set of political institutions possible, have been institutionalized;

(b) subjective citizenship is the extent to which individuals actually conceive themselves as 'citizens' of the EU and have a sense of 'belonging' to that supranational Union.

The gist of the idea of shared citizenship identity, as developed here, is that objective and subjective citizenship are related: the establishment of a greater measure of objective citizenship, may foster a stronger subjective citizenship. The public or institutional identity as an expression of one's membership in a political community, is thus not only constituted by the existence of certain institutions but also by *practices* of political



cooperation on the European level.

But although objective and subjective citizenship are related, they are not the same and the explanation for their progress, or lack of it, may be different. In this regard the following should be noted. The concept of liberal democratic citizenship according to which individuals are identified as citizens of a state (or Union) by way of their subjection to, or allegiance to, a common set of liberal democratic institutions as defended here, does not pretend to describe the *reality* of citizens in actual liberal democratic states. It has, in fact, been contrasted with a notion of citizenship that seems to be more in line with empirical reality, one based on 'ethnos' or descent (or 'national' identity). We are of course well aware that in actual liberal democratic states, such as Britain, France, Germany, or The Netherlands, people's sense of citizenship - their sense of 'belonging', of being 'members' of a particular state - (still) depends upon more than just living under a common set of political institutions. Its sense of 'belonging' relates to the sense of a shared history, a shared culture, a shared language, perhaps even some sense of shared descent, even a shared ethnos (in spite of ethnic plurality, there is often a strong sense that the majority society constitutes an indigenous 'host' community).

We noted earlier on that if citizenship is based on a communitarian or *Gemeinschaft* outlook, based on *ethnos*, or *ius sanguinis*, it would be difficult to envisage the development of a new form of citizenship at the European level. And the fact that the normative content of the concept of liberal democratic citizenship is dissociated from national identity based on 'ethnos', means of course that a European *demos* cannot - normatively speaking - be based on ethno-cultural terms, and should also never become one (leaving aside the improbable situation that this would ever empirically come about).

But more is needed than the uncoupling of *ethnos* and *demos*. If we want to develop shared European citizenship identity that can generate solidarity, "a shift from *demosi-cracy* to *demos-cracy*, a shift from accountability to the separate peoples of Europe ... to accountability to the people of Europe as a whole", is required. (Van Parijs, 1998: 298-9). Taking, however, the empirical situation of the European Union into account, we have to conclude that 'European citizenship' is not based on a European 'demos', but still consists of 'demoi'. Our conclusion here is that, as long as a European 'demos' is non-existent, the idea of 'belonging' to a European Union as one of citizens's possible identities and, thus, the hope for European citizenship, is very dim indeed.<sup>45</sup>

In addition it should be mentioned that the European situation only partly corresponds to the ideal type of a 'civil society', as discussed above. What is missing is a sphere of European-wide free public debate. "The contents of domestic debates suggest the crucial importance of two topics: that of the relation between the public authority and the citizens, and that of socioeconomic policy. There cannot be a vigorous European public sphere unless these topics become a central part of the European debate and political process." (Pérez-Díaz, 1998: 222). There is, in other words, no European networked civil society. Opinion- and will-formation processes are still national organized.

The implications of these empirical factors, are at least twofold: (a) Citizenship may in actual liberal democratic states be created and sustained by factors other than only political institutions, and participating in that common political culture; (b) If these factors are ignored, any comparison of people's sense of belonging to a nation-state with their sense of being citizens of the EU will be vitiated. To expect a strong sense of EU citizenship to arise *only* from people's subjection to a common set of political institutions would

empirically expect more than any nation-state has probably ever achieved. This holds even more strongly when the relevance of non-liberal democratic aspects (ethnos!) of people's sense of citizenship in contemporary European states is ignored. By ignoring these factors one may overlook one of the most important impediments to the development of a sense of pan-national European citizenship. Even if the day comes when 'objective' EU citizenship is as great as it is in nation-states, 'subjective' EU citizenship may still lag behind.

Speaking about the present EU, it should be added that it is not only the case that people fail to *perceive* that the existing institutional structure of the EU does provide some sort of basis for objective liberal democratic citizenship, but that as a matter of fact the institutional structures of the EU themselves don't provide a set of rights and roles which amount to anything that can be identified as European liberal democratic citizenship. There is a large discrepancy between the requirements of the institutional design necessary to realize any form of European shared citizenship identity, such as institutions that guarantee accountability to the citizens of the Union, and the actual reality of the Union.<sup>46</sup>

It should, however, also be noted that promoting implementation of the objective conditions necessary for Union citizenship, may have the unintended consequence of strengthening national senses of community, of 'belonging' to a specific nation-state, and thus strengthening the impediments for achieving subjective citizenship on a pan-national scale. Promoting 'bringing together', may create a growing problem of 'holding together'.<sup>47</sup> I suggest that the 'Amsterdam Treaty' of June 1997 exemplifies this. It shows that we seem to have reached the frontier of the integrative project, if we interpret this project as creating liberal democratic citizenship identity on the level of the Union. It shows that the reigning integration project is certainly not a federalist one. The Amsterdam Treaty is, once again, a

clear example of what the real priorities of the Union are: economic integration.

Now if this is, indeed, all true, one could wonder why we should bother at all that the requirements to be able to speak of European liberal democratic citizenship, are not met. There are at least two arguments why we should, in fact, be concerned about this.

In the first place, broad empirical study into political values, attitudes, and behaviour in all member states of the European Union conclude that, regardless of other socio-cultural differences, peoples of the European Union *in politicis* hardly are distinguishable.<sup>48</sup> There is, I suggest, in fact an overlapping consensus between citizens of the European Union, an overlapping consensus on democratic constitutional principles that are rooted in the shared political culture across borders of the nation-states that make up the European Union, and serve as a common denominator. So, let us not to quickly assume that peoples are not interested in a federal Europe that would be able to close the gap of *the democratic deficit*, and that they are not interested in accomplishing more integration.

The question is in how far political identities, political languages, political cultures are, in fact, different. The suggestion is that they are not: in fact, peoples in the European Union de facto live in rather identical political cultures, react the same way on political stimuli, use the same political language.

Secondly, Pierson and Leibfried, who have done detailed research on the state of the European Union, conclude their research as following: "What is emerging in Europe is a multi-levelled, highly fragmented system in which policy 'develops' *but is beyond the firm control of any single authority.*" (Pierson and Leibfried, 1995: 433; my italics). If it is indeed the case that the European Union is developing 'beyond the firm control of any

single authority', one could conclude that it does not make sense at all to speak about 'accountability', or about 'the democratic content' of this Union. We have to surmise that we don't even know where 'the locus of authority' is.

However, if the normative political theoretical argument that accountability is normally essential to the exercise of political authority, that whenever there are political institutions making authoritative decisions for a population, those institutions should be accountable to the population, the discrepancy between the reality of the Union and these normative ideas should be something to worry about. In fact I suggest that if the perception of citizens of any sub-unit is that it is unfairly disadvantaged or that it is under-represented in key supra-national institutions, if there is a lack of mutual understanding, or even mutual distrust, these may be factors that have the potential to destabilize a union. It is reasonable to suppose that a union based merely on a *modus vivendi* - one in which pan-national identification, tolerance and solidarity do not develop - will remain inherently unstable.<sup>49</sup>

The conclusion to be drawn is that consensus around a liberal democratic conception of citizenship seems to be the only viable basis for a stable social union in, *and between* modern democratic societies that are characterized by the fact of cultural and ethnic pluralism. After all we should realize that Europe is not only the Europe of Auschwitz, but also of Srebrenica. Therefore I suggest that 'the gradual encroachment of these ideas' on liberal democratic citizenship should be stimulated. It seems the only way to go forward to a united, democratic Europe.<sup>50</sup>

## Notes

1. See also Schmitter (1998).
2. See for an extensive political theoretical discussion of the meaning and implications of 'European citizenship': Lehning and Weale (1997).
3. See also Beiner (1995: 19).
4. See also Barbalet: "In the modern democratic state the basis of citizenship is the capacity to participate in the exercise of political power through the electoral process". (Barbalet, 1988: 2).
5. See Marshall (1964: 78).
6. See also: King and Waldron (1988: 423).
7. We are not so much interested in our present discussion in the correctness of Marshall's empirical claim about the evolutionary sequence of rights, and that this sequence has a universal pattern. Of course in England he sees the evolution as having taken hold in three successive centuries.
8. See for an overview: Mulhall and Swift (1992). See also Taylor (1989).
9. See for this distinction also: Beiner (1995: 13-4).
10. See David Miller for another distinction of conceptions of citizenship. He labels them "liberal, libertarian and republican". The main lines of the liberal conception "can be seen in the classic statement by T. H. Marshall. Citizenship should be understood as a set of rights enjoyed equally by every member of the society in question". (1995a, 435). Miller includes Rawls' theory in this liberal conception. An example of the libertarian conception of citizenship is to be found in Nozick's *Anarchy, State, and Utopia* (1974), according to Miller. The third conception, is a republican conception of citizenship and is the one Miller himself underwrites.
11. See Kymlicka, 1989, esp. chapter 9.
12. See on this patriotism without nationalism, and the distinction between (political) patriotism, which means democratic citizenship and the language of nationalism, which is employed to call for cultural, ethnic, or religious homogeneity, also Viroli. The patriotism of liberty does not need social, or cultural, or religious, or ethnic homogeneity: "to see the right sort of patriotism grow, we need not strengthen homogeneity and oneness but work to strengthen the practice and the culture of citizenship." (Viroli, 1997: 184).

13. But see the caution formulated by Yack, discussing the ethnic-civic dichotomy, as if individuals can in fact choose their civic identity: "It may be reasonable to contrast nations whose distinctive cultural inheritance centres on political symbols and political stories with nations whose cultural inheritance centres on language and stories about ethnic origin. But it is unreasonable and unrealistic to interpret this contrast as a distinction between the rational attachment to principle and the emotional celebration of inherited culture. ... [O]ne must pretend that it makes sense to characterize nations such as France, Canada, and the United States as voluntary associations for the expression of shared political principles." (Yack, 1996: 197). In short: the myth of the *civic* nation, in contrast with the *ethnic* nation, suggests that your national identity is nothing but your choice. But, to summarize Yack's argument, this merely is wishful thinking.

14. The importance of this principle in liberal theory is recognized by many different theorists. See: Larmore (1987), Rawls (1996), Sandel (1982).

15. See especially the publications of Rawls after 1985, culminating in his *Political Liberalism* (1996).

16. See also Hill (1993: 73).

17. Miller's critique of this liberal conception of citizenship is, that it can not deal with pluralism, in contrast with his own republican conception of citizenship. (Miller, 1995a: 443). I have to admit that I can't follow his argumentation with regard to this point. See also note 10.

18. The political conception of justice Rawls has in mind is of course his own conception: *justice as fairness*. It is intended to solve the fundamental question of political justice, namely, what the most appropriate conception of justice is for specifying the terms of social cooperation between citizens regarded as free and equal persons. (Rawls, 1971; 1985: 234; 1987: 7; 1996).

19. Here I discuss only what is called 'teleological communitarianism' as formulated by, for instance, Sandel and MacIntyre. I do not elaborate on non-teleological communitarian ideas as formulated by, for instance, Taylor (1989; 1992).

20. See also Larmore (1987: 119) for stressing the importance of 'belonging'. Sandel's suggestion for a politics of the common good is to be found in Sandel (1984: 17). In (1996) he is still of the same opinion.

21.. See also Seligman (1992: 205); (1993: 158-9).

22. Bryant (1993: 396); Shills (1991: 3); Seligman (1992: 5-6).

23. See for these and the following remarks on the idea of civil society especially: Barber (1996a); (1996b: 277-92); (1998).
24. 'Oppositional' is not, of course, the same as 'adversary'. 'Oppositional' voluntary associations share the framework of the liberal democratic society. 'Adversary' voluntary associations do not. See on the problem of freedom of association also the essays in Gutmann (1998).
25. Diamond (1993).
26. See Putnam (1993).
27. We follow with this description Putnam (1993). Putnam, on his turn, basis the concept of 'social capital' on Coleman (1988).
28. Seligman (1992: 194).
29. See Benhabib (1986: 340-3).
30. One also could interpret this as the antagonism of communitarian political theorizing versus the theory of political liberalism. See for a recent communitarian perspective on these problems: Etzioni (1996).
31. Seligman (1992: 196).
32. See for an extensive argument: Lehning (1988c).
33. But see, for instance, Miller (1995b). See also the debate triggered by Martha Nussbaum's essay 'Patriotism and Cosmopolitanism' in Nussbaum, et.al. (1996).
34. This idea of adapting and applying Rawls' idea of an overlapping consensus to the problem of federalism is recommend by Norman (1994). It should be pointed out that Rawls himself does not apply this idea to federalism. He does, however, apply his social contract theory to the 'law of peoples', that is to say, he asks how the law of peoples may be developed out of liberal ideas of justice similar to but more general than the idea of 'justice as fairness'. He is especially interested in the principles and norms of international law and practice. See Rawls (1993).
35. See also Rawls' explanation for rejecting the 'modus vivendi' perspective when it is characterized as a treaty between two states whose national aims and interests put them at odds. (Rawls, 1996: 147).



36. See also Habermas (1996). Compare also the arguments offered by Weale (1997). See however Barber for a critical note on federalism as a solution for integration and democracy on a global, or even European scale, and why confederalism may offer a more promising strategy and viable alternative, especially in a situation where the international sovereign is the very entity that is missing. Barber (1996b: 288-90).

37. In this regard the so-called Maastricht decision of the German Federal Constitutional Court should be considered carefully. It has a 'No-Demos' thesis, and argues in fact that the emergence of a pre-existing European Demos *defined in ethno-cultural terms* is a precondition for constitutional unification or, more minimally, for a redrawing of political boundaries. See for several objections to this *Demos-as-Volk* thesis: Weiler, *et al.* (1995: 9-24); Weiler (1997). See also Habermas on the 'tragic irony' of the argument of the Court that extension of the Union requires certain cultural homogeneity among its people. (Habermas, 1996: 137).

38. See for these and following remarks: Bishai (1988).

39. See Walker (1991).

40. Although it seems there are no political theoretical arguments that preclude the application of the concept of 'citizenship' and 'identity' beyond borders of nation-states on to the European Union, it goes without saying that an even wider extension, on a more cosmopolitan scale, even global level, would make it more difficult to realize the institutional requirements that are necessary for such an extension.

41. See for a critical discussion of this specific communitarian position also Friedman, (1996).

42. See also Habermas (1997: 263).

43. The fact that this common ground is missing and that trying to harmonize, for instance, social insurance systems to any significant extent looks like a hopeless task is, of course, one of the reasons Van Parijs argues for a 'Eurogrant', a basic income at a comparatively low level. See: Van Parijs (1997).

44. See also Streeck who argues that the coming about of European-level social policy must suggest that European unity must be grounded in some form of popular European identity and he adds that this identity, requires in turn "a policy of redistributive justice based on an advanced version of common European citizenship." (Streeck, 1995: 408).

45. Someone who does not share this argument in favor of a European demos is, for instance, Weiler. He agrees that there is no European demos, but he adds "that there should not be one". (Weiler, 1997: 117). His remark is based on the idea that 'demos', as

used by him, implies "creating one people out of many". Contrary to that idea, he defends the idea of a 'union among peoples' which "is, in part, about creating a political culture which learns new ways to deal with the other" (ibid.: 118). It is an invitation for individuals to see themselves as belonging simultaneously to two *demos*, based on different subjective factors of identification. As far as the European *demos* is concerned, it is based on European transnational affinities to shared values which transcend the ethno-national diversity.

From the argument developed in the text, it should be clear that I could well agree with this understanding of European membership, based on civic and political rather than ethno-cultural terms. It should be noted, however, that according to Weiler, the determining factor of identification of the national, as a national, is based on the reaching strong sense of organic-cultural identification. This conception of a *demos* on a national scale is, of course, in flat contradiction with the conception argued for by me. Starting on the level of the nation-state, *ethnos* and *demos* are already uncoupled: we argued that on a national scale *demos*, as a regulating principle of inclusion, is based on a shared political culture. The underlying argument makes it of course also more plausible that shared citizenship identity can be extended to a pan-national scale. In Weiler's argument the in-reaching and out-reaching identification are based on different factors. This makes it more difficult, if not impossible to imagine pan-national identification to develop.

46. Here we do not elaborate on the match between the normative conception of 'European citizenship' defended here and the empirical reality of the European Union. Offhand, however, it seems safe to say that the requirements that are formulated here to be able to speak of 'European citizenship', are presently not met within the European Union. See for an inquiry into the fit between the concept of liberal democratic European citizenship developed here and the actual situation in the European Union: Lehning (1997; 1998b).

47. See also Linz (1997: 11). It should be noted that there is a resurgence of nationalism among national politicians. The new fashion within welfare states of the EU is for them to have become 'communitarians'. The 'good' of 'the great community' that the nation-state supposedly is, has become a popular theme, and a 'positive' sense of nationalism, or in Tony Blair's words, 'enlightened patriotism' among the citizens within a nation-state, is bolstered.

48. See for this and the following arguments the study of Van der Eijk and Franklin (1996) on the European elections.

49. This is, however, not the only reason a federation may be unstable. See Kymlicka (1998) for an argument why a successful multinational federal system is, in fact, likely to be unstable.

50. An earlier version of this paper was presented at the Conference for the Study

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