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Section 1

Introduction

*Graziella Romeo and Sabrina Ragone*

Citizenship in the Age of Concrete Human Rights

*Dimitry Kochenov*

Political Participation and New Technologies

*Filippo Tronconi*

Participatory Citizenship, Constitutional Reform, and the Conference on the Future of Europe

*Paul Blokker*

Citizenship and Membership: Theory and Challenges in Times of Global Crises. Decision making and algorithm.

The European Union's proposal

*Fulvio Constantino*

Artificial Intelligence and the governance of migration: potentialities and pitfalls between technological neutrality and political design

*Simone Penasa*

Concluding remarks

*Sabrina Ragone and Graziella Romeo*

Section 2

EU Consumer Sale Law and The Challenges of The Digital Age. An Italian Perspective.

*Laura Bugatti*

# CONTENTS

## Articles

### Section 1

Graziella Romeo and Sabrina Ragone, Introduction.....»1

Dimitry Kochenov, Citizenship in the Age of Concrete Human Rights..... » 7

Filippo Tronconi, Political Participation and New Technologies..... » 27

Paul Blokker, Participatory Citizenship, Constitutional Reform, and the Conference on the Future of Europe..... » 46

Fulvio Costantino, Citizenship and Membership: Theory and Challenges in Times of Global Crises. Decision making and algorithm. The European Union's proposal..... » 72

Simone Penasa, Artificial Intelligence and the governance of migration: potentialities and pitfalls between technological neutrality and political design..... » 97

Sabrina Ragone and Graziella Romeo, Concluding remarks..... » 117

### Section 2

Laura Bugatti, EU Consumer Sale Law and The Challenges of The Digital Age. An Italian Perspective.... » 126



## INTRODUCTION

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Citizenship is a fascinating word. Within legal studies, it identifies the individual's original or acquired affiliation to a given political community. In this sense, it corresponds to a juridical relationship. Which includes state responsibilities to protect those who are bound by such a relationship. However, its uses in social sciences are often inconsistent.<sup>1</sup> Citizenship is used among sociological and philosophical studies to pinpoint a bundle of civil liberties, political and social rights that justify the special bond connecting a state to an individual.<sup>2</sup> From such a viewpoint, the mere juridical relationship of belonging is empty if not filled with the substantive possession of rights. This is another way of saying that citizenship is meaningful when it entails a qualified connection between the individual and the State.

Linking rights and citizenship can lead to two different theoretical frames. The first one is the exclusionist frame, whereby citizenship is a device of segregation because those who cannot claim to be citizens are legitimately prevented from enjoying some rights. The second one is the participatory frame, whereby citizenship is the legal status that enhances democracy and fundamental rights by allowing engagement and participation.

To explain how the two frames play out, let us explore rapidly the debate on citizenship. In the late Nineteens, philosophical and socio-legal studies foresaw the

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<sup>1</sup> C. Romanelli Grimaldi, 'Cittadinanza', (1988) *Enciclopedia giuridica*, vol. VII, Roma, 2 and M. Luciani, 'Cittadini e stranieri come titolari di diritti fondamentali' (1992), *Rivista critica del diritto privato*, 203.

<sup>2</sup> D. Zolo, 'Cittadinanza. Storia di un concetto teorico-politico' (2000) *Filosofia politica*, 5 e G. Zincone, 'Cittadinanza: trasformazioni in corso, (2000) *Filosofia politica*, 71.

‘end of citizenship’ in the crisis of national sovereignty. Their target, however, was citizenship *as* a legal instrument used to ascribe rights to the individual.<sup>3</sup> In contrast, the participatory nature of citizenship, nurturing the relationship between those who possess such a status and the State, was not questioned. Processes of supranational and international integration seemed to herald a cosmopolitan era where belongings would have lost their substantive meaning of the exclusion. Some scholars identified cosmopolitan entities with supranational legal systems such as the European Convention of Human Rights.<sup>4</sup> Others theorized the need to create global institutions or a global civil society advancing an ethic of inclusivity as opposed to the logic of exclusion inherent in the concept of national citizenship.<sup>5</sup> Transnational distributive justice theories developed this argument further. They maintained that justice and equality claims needed to be referred to the world as a whole and only derivatively to nation states. According to such an understanding, conditions of equality were to be established globally because individuals founded political communities, which exist only as territorial aggregations «initially acquired in legitimate ways by individuals.»<sup>6</sup>

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<sup>3</sup> See S. Vertovec & R. Cohen, *Conceiving Cosmopolitanism. Theory, Context, and Practice* (Oxford: Oxford University Press, 2003) 4 and R Fine, ‘Cosmopolitanism and Human Rights’ (2007) 1 *Law, Social Justice and Global Development*, 3. It must be emphasised that these arguments have also been put forward by philosophers who, starting from Rawlsian principles of justice, link the problem of global justice with that of the weak subjects in contemporary states and, in doing so, presuppose an ethic of care that is sensitive to all possible manifestations of social justice: see M C Nussbaum, *Frontiers of Justice: Disability, Nationality, Species Membership* (Cambridge: Harvard UP, 2006) 30, 230. With specific reference to the duties of material assistance applying on a global scale, see M C Nussbaum, ‘Duties of Justice, Duties of Material Aid: Cicero's Problematic Legacy’ (2000) 8 *Journal of Political Philosophy*, 176.

<sup>4</sup> A. Stone Sweet, ‘A Cosmopolitan Legal Order: Constitutional Pluralism and Rights Adjudication in Europe’ (2012) 1 *Global Constitutionalism*, 53 and J.L. Cohen, ‘Globalization and Sovereignty: Rethinking Legality, Legitimacy, and Constitutionalism’

(Cambridge: Cambridge UP, 2010) xv.

<sup>5</sup> N. McCormick, ‘Beyond the Sovereign State’ (1993) 56 *Modern Law Review*, 17, who argues that integration among different legal systems should be interpreted as the creation of a plurality of institutional systems ‘each of which has validity or operation in relation to some range of concerns, none of which is absolute over all the others, and all of which for most purposes can operate without serious mutual conflict in areas of overlap’.

<sup>6</sup> C.R. Beitz, ‘International Liberalism and Distributive Justice: A Survey of Recent Thought’ (1999) 51 *World Politics*, 283.

Developments in human rights law added new challenges to the idea of national citizenship. While cosmopolitan and global theories relied on the idea of human rights as a minimum universal standard of legitimacy for social institutions, legal scholarship elaborated cosmopolitan claims by expanding the category of human rights to include legal situations traditionally connected to citizenship. Therefore, the notion of human rights came to embrace even social rights typically conditioned to a permanent link of belonging to a given political community.

European courts' case law contributed to reinforcing such an idea. There is no shortage of examples. In the late Nineties-early Two Thousand, the European Court of Human Rights interpreted Convention rights to recognize the right to social benefits to non-citizens.<sup>7</sup> According to the Court, once the State has decided to establish a given welfare benefit, any discrimination among beneficiaries based on nationality would violate the principle of equality. The argument goes as follows: given that the purpose of such benefits is to contribute to individuals' wellbeing, the only element that matters in terms of who can get the benefit is the actual existence of a situation of need. Consequently, any qualification requirement based on nationality is inconsistent with the purpose of the welfare benefit and therefore discriminatory. In the same years, the French *Conseil constitutionnel* maintained that social rights, once essentially connected to the bond of citizenship, are human rights, and therefore, non-citizens are equally entitled to their enjoyment.<sup>8</sup>

In recent years, cosmopolitan turns have been progressively opposed by the renaissance of nationalist and nativist claims, lately strengthened by populist movements. The latter contend that democratic legitimacy cannot be achieved without singling the *real* people out of *a*) multitude of individuals that demand protection from the State as well as of *b*) the élites that systematically disregard their needs. Internet-based technologies have often acted as sound boxes of such claims, reinforcing beliefs, spreading biased information, legitimizing opinions that would have been otherwise kept within a small crowd. At the same time, those technologies

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<sup>7</sup> *Gaygusuz v. Austria*, 31 August 1996, paras 36-37 and 41 and *Azinas v. Cipro*, 20 June 2002, para 28.

<sup>8</sup> Dec. 89-269, 22 January 1990. See D. Schnapper, 'L'assistance est un droit de l'homme' (1992), *Pouvoirs locaux*, 18, who argues that those decisions are inconsequential because they transfer to local authorities, who often lack resources and political motivation, the responsibility to provide non-citizens with social benefits.

have created *de facto* communities with political agendas based on strong forms of identification, which proved to be crucial to determine shifts of opinion or even political course of actions, as the assault to Capitol Hill has recently demonstrated.<sup>9</sup>

Against this backdrop, the idea of citizenship regained space in public debate. Its meaning swings from an inclusive to an exclusionary perspective. It has been used by political institutions when launching initiatives to tackle democratic legitimacy issues at the European level. Examples include the Conference for the Future of Europe or the platform for the review of European economic governance.<sup>10</sup> At the same time, it has been invoked by populist parties to justify restrictive migration policy and, more generally, claims of prioritizing nationals over foreigners in any political choice.<sup>11</sup> So one cannot use the term citizenship without being aware of the complicated universe of conceptualizations it can carry out. It is placed on the opposite spectrum of universalist claims, and yet it expresses the highest form of conscious and responsive participation in a political community.

In this scenario, one is left with the impression that citizenship is the center of historical tensions in contemporary democracies. Those tensions can be synthesized in the confrontation between two phenomena. The first one is the persistence of

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<sup>9</sup> M. Scott, 'Capitol Hill riot lays bare what's wrong with social media', *Politico*, 7 January 2021, available at <https://www.politico.eu/article/us-capitol-hill-riots-lay-bare-whats-wrong-social-media-donald-trump-facebook-twitter/>.

<sup>10</sup> In the September 2021 State of the Union address, President von der Leyen announced that the Commission would launch a discussion on the Economic Governance Review, which is intended to build consensus on its future developments. The Commission has already clarified that this review will be carried out by fostering public debate on the economic governance framework among relevant stakeholders. The Commission, in turn, will "consider all views expressed during these debates," together with its assessment of the economic surveillance framework. Ursula von der Leyen, State of the Union address, 15 September 2021, available at <https://ec.europa.eu/info/strategy/strategic-planning/state-union-addresses/state-union-2021-en>. On a broader level, the Conference for the future of Europe represents an example of EU institutions attempting to connect with citizens by promoting debates and confrontations over some of the most urgent and controversial European issues, including economic governance. See Joint Declaration on the Conference on the Future of Europe, available at [https://futureu.europa.eu/uploads/decidim/attachment/file/6/EN\\_JOINT\\_DECLARATION\\_ON\\_THE\\_CONFERENCE\\_ON\\_THE\\_FUTURE\\_OF\\_EUROPE.pdf](https://futureu.europa.eu/uploads/decidim/attachment/file/6/EN_JOINT_DECLARATION_ON_THE_CONFERENCE_ON_THE_FUTURE_OF_EUROPE.pdf).

<sup>11</sup> See M. Baldassari, E. Castelli, M. Truffelli, & G. Vezzani, 'Anti-Europeanism: Critical Perspectives Towards the European Union.' (Berlin: Springer, 2019).

cosmopolitan claims stretching the concept of citizenship to the extent that it loses its original understanding and coincides with belonging to a borderless yet not institutionalized global community. The second is the emergence or the consolidation of national identities expressing forms of memberships to a ‘community of destiny’ designed to exclude ‘the other’.

A good way to navigate this complexity is tackling the problem of citizenship from a multidisciplinary perspective. Thus, this special issue addresses citizenship by starting from its theoretical premises and its unsolved tensions with theories of human rights (Dimitri Kochenov). It goes on to investigate citizenship as a form of participation designed to build a democratic, values-oriented, borderless political community (Paul Blokker). It explores further this meaning of citizenship by analyzing challenges linked to the use of new technologies in political participation (Filippo Tronconi). It suggests that there is something like digital citizenship with robust egalitarian instances and disparate effects on bonds of alliance and recognition within a political community (Fulvio Costantino). Finally, the special issue looks at non-citizens and examines how technology can be an instrument strengthening an exclusionary logic (Simone Penasa). At the end of this journey, this work offers some provisional conclusions on the relevance of questioning citizenship in the context of momentous transformations of democratic states.

