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**Closing the empowerment gap through citizenship education
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Understanding the European Union in a cosmopolitan sense
What is civic participation?

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Two interpretations are in competition currently with respect to the meaning of European integration: either it is viewed negatively as an adaptive accompaniment to globalisation or it is positively imbued like a political remedy for the economy.

According to the first interpretation, Europe would have the function of transmitting the norms of global governance, which are those of the economic meta-power and its mission is to have its Member States manage the consequences of decisions that they don't make. The suspicion is clear: that of neoliberal collusion between European integration and capitalist globalization.

According to the second interpretation, the Union would assign itself (or should assign itself) the task of socially domesticating global markets, of bringing all of its weight to bear in international organizations like the WTO, of emphasising "European" options when it comes to equitable development, international peace, environmental protection, a global energy policy and humanitarian aid.

Thus the question of the meaning of European integration arises: Is it an economic adjustment or political recovery? Each one of these two attitudes covers at least two possible positions, depending on whether globalization is evaluated positively or negatively. The table below enables you to see the types of positions:

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The meaning of European integration Evaluation of globalisation	Economic adjustment Communication of the rules of global governance and management of public opinion	Political recovery Establishment of trans-European minimum levels of public assistance and domestication of global markets
Negative	Withdrawal to the national level (sovereignty)	Fortress Europe (supranationalism)
Positive	Great Market (neoliberalism)	Transnational union (Cosmopolitanism)

But what exactly is meant by "cosmopolitanism? — It's a community of citizens from different nations and peoples,

- Who mutually recognize their fundamental rights,
- Who thus build a multinational society together,
- Which provides a good basis for transnational power and
- Which pursues the political integration of its nationals on the horizontal non-State path of regular concerted efforts between the Member States and not on the vertical State path of a subordination these Member States to a supranational public Power; whereas
- Horizontal integration strives to create an expanded civic solidarity that transcends nations, and extends throughout the whole transnational area of the community.
- However, the cosmopolitan Union is not a global democracy, as the Member States and the people of the states retain their sovereignty whereas the citizens of the Union assume the double role of subjects of their respective national state and of constituents of the Union. Following the categories of classical political philosophy (Aristotle), it will be said that we are dealing with a *sympoliteia* (that is a union of States, which is based on an *isopoliteia* of its members). That means that the Member States afford the same basic characteristics, in principle, those of a democratic constitutional state, which involves respect for the rights of peoples in addition to respect for the rights of individuals.

We are dealing with a new species. We've been able to speak of a "procedural cosmopolitanism" with respect to European integration. The process is underway and it brings out *new* confusing *distinctions*.

What are these distinctions?

These are not second or third-rate distinctions. They bring basic categories of political thought into play. The European process thus brings out a difference:

- Between citizenship and nationality. It's the idea of postnational citizenship
- Between people and nation.   It's the idea of a plurinational people.
- Between the negative sovereignty (of each State) and the positive sovereignty of the Union as such. It's the idea of joint sovereignty.
- Between international law and transnational (or cosmopolitan) law and
- Between sovereignty (of the Member States) and authority (of the bodies of the European union).

Let's attempt to analyse these categorical distinctions.

Nationality and citizenship

European integration has only started to make the distinction. Some could regret, that the Treaty on European Union linked European citizenship to the nationality of a Member State. Sometimes we might wish for a radical separation (of citizenship and nationality) so that the notion of a people is freed from its nationalistic association. In this way, we could imagine *a priori* that some diasporic peoples, who are not characterised as indigenous Europeans, could however acquire European citizenship through adhesion to a Union constitution or some other form of "European social contract". We could also imagine that diverse populations seeking asylum could obtain this same citizenship.

People and nation

The distinction between *people* and *nation* presents a heuristic interest with respect to European integration, as it suggests that a process of differentiation is underway, so that you could speak of the European people whilst affirming the federation's plurinational nature. It would not be shocking to speak of a *multinational people*

Conceptualisation of this is not obvious. Those who speak of a "European people" without seeing a problem with that, are often the same ones, who dream of eliminating national sovereignty. Inversely, those who object that European citizenship is nonsense, because there are no European *demos,* are those who limit themselves to a strictly national democracy.

In view of this opposition (the opposition between supporters of federalism and supporters of sovereignty), the following question arises: Who is sovereign in the Union? If every national people (of the Member States) remain sovereign, what has happened to sovereignty of the European people? And what has happened to a European people at all?

The solution of the conceptual problem doesn't appear as long as you remain set on the concept of a Republic that has the principle of sovereignty, which is understood as the principle of the relationship of the many to the one as its substance.

On the other hand, once you stop regarding shared sovereignty or joint sovereignty as an oxymoron, the conceptual problem vanishes.

Negative and positive sovereignty

The concept of joint sovereignty merits elucidation. Analogously to the opposition between negative and positive freedom, we will speak of "negative" and "positive" sovereignty. Negative sovereignty is the capacity of not being constrained by force. Positive sovereignty is the capacity to influence the course of one's history in the desired direction. The Member States of the European Union "individually" maintain their negative sovereignty by a right of veto and especially by a right of withdrawal (articles 48 and 50 of the Treaty on European Union), whereas they only reclaim a positive sovereignty collectively in the union of sovereignties, in order to maintain and increase mastery in the management of public affairs. "Negative sovereignty" may be considered the "private" base of positive sovereignty and the condition that enables it and this positive sovereignty in return protects and guarantees the negative sovereignty of the peoples who are members of the European Union.

International and cosmopolitan law

Joint sovereignty is implemented in accordance with a horizontal mode of open coordination and cooperation. This "horizontal" method differs from the vertical model of subordination that characterizes national integration.

As far as the Union is concerned, it has been said that integration is based on the principle of consultation between the Member States and not on a principle of the subordination of Member States to a public supranational power (a sovereign federal State.

In this regard, the basic structure of a cosmopolitan union sketched by Kant in his essay on "perpetual peace" (1795) provides a template that enables us to grasp the architectural originality of the European Union.

This architecture is based on "three levels of relationship to public law": Civil law or *jus civitatis* (*Staatsbürgerrecht*, or occasionally, *Staatsrecht*); law of nations or *jus gentium* (*International Law*); cosmopolitan law or world citizens' law, *jus cosmopoliticum* (*Cosmopolitan Law*). The first level is that of *internal* law; the second level is that of *external* or *international* law: the third level is that of *transnational* law. Kant had made three "definitive articles" correspond to it. These articles are related to the conditions for the installation of a lasting peace that is effective in the world, the presupposition being that no real peace could be established between nations without a basis of political justice. However, he thought that a world order governed by law could not be reduced to what can constitute *jus civitatis* alone without a basis of political justice that only

concerns the internal order of States, that is to say, the *first* level of relations with public law, according to the Kantian system.

Hence the difficulty of designing a cosmopolitan union; It's a question:

a) Of reaching a state of valid law between the citizens of a State (between them and with the State, of which they are nationals); between the States as legal persons ensuring the representation of autonomous peoples; between foreigners on indigenous soil and host States as well as between the foreigners themselves.

b) of ensuring that this law is respected at all of these levels, which a political issue is affecting what shape enforcement takes. The problem is balancing this requirement with the freedom of individuals and with the autonomy of peoples.

This excludes a unitary integration strategy. That is why the cosmopolitan idea could not be embodied in a global democracy based on the fundamental rights of individuals alone (with the exclusion of the law of nations). Instead there is a need to associate the first two levels (the internal state level that connects the nationals to one other and to their State; the international level that connects the nations to one another in a confederal order) and in addition, to design *transnational* law, which is distinct from both *internal* and *international* law: cosmopolitan law, *jus cosmopoliticum*

It would be an error to understand the integration that has been implemented so far as the transition from an external relationship regulated by treaties that concern international relations specifically to an internal relationship between members of an organization based on a Constitution. Europe wouldn't be able to achieve its political unity by simply reducing a *jus gentium* to a *jus civitatis*. Instead, it presents an original structure, which is really complex, as each of the three levels itself receives several relational determinations.[1]

Furthermore, in the European Union, the values attached to the different categories of the basic rights of *individuals* (or human rights) are being expanded to the level of a common law governing relations between the *member nations* (the rights of peoples). These are the values of *integrity*, of *participation,* of *solidarity* and of *legal personality.* They characterize 1) civil, 2) political, 3) social, 4) moral and cultural rights, respectively on the individual level. The law governing intra-community relations between the nations and regions of the European area is

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1 For example, the internal level of the *jus civitatis* is exactly as much that of social or civil relationships between the nationals of the same State as it is that of the relations of this State with its nationals. The level of the *jus gentium* certainly affects relations between sovereign States first (in accordance with the classical concept) but it also affects relations between peoples in terms of their identity, independently of the implications linked to sovereignty. As such, although the law of nations in effect at the current time does not provide for this, it could also concern the relations of ethnic minorities with each other and with the States based on its architectural concept (its philosophical idea). As for cosmopolitan law, it can concern both the relations of a State with the foreigners on its territory, in accordance with an internationally recognized statute and the relations that the citizens of one same cosmopolitan union maintain with one another, but as nationals from different countries, and those that these same cosmopolitans involve between the Member States and the Union, in the event of litigation affecting their individual rights.

considerably enhanced in comparison to the traditional law of nations (which barely constitutes anything more at its level than the values of integrity attached to basic civil rights).

The elements referring to the *jus civitatis* and the *jus gentium* reveal the dual nature of the European Union as a union of citizens and a union of States. However common European law retains and also develops elements that are specific to the *jus cosmopoliticum* and which favour a union of peoples. This applies to the freedom of movement and the freedom of settlement of persons throughout the territory of the Union.

It's the minimalistic aspect of cosmopolitan law. To this is added a post-nationalist aspect that is very important: with the integration into the Constitution of the Charter of Fundamental Rights, something that not only recognizes their symbolic significance but also their legal validity within the Union, European citizens can henceforth rely on a complete catalogue of fundamental rights subject to the jurisdiction of the European Court of Justice. They can (and this is the decisive point) assert their rights by means of rulings of the European Court of Justice, which would subsequently be invoked against their own national State.

It would appear that these are the significant aspects of a cosmopolitan constitution. What are the implications of this with respect to sovereignty?

Authority and sovereignty

- The Union has no direct power over its citizens. The citizens of the European Union are not its subjects. The Union can't exercise a direct constraint upon them. Only the Member States can do that. They exercise their internal sovereignty to this extent.

- However, exercise of the internal sovereignty of the States with respect to their nationals is limited to the condition of respect of the fundamental rights of the latter as determined and guaranteed by the Union, which will probably be authorised to punish any violation of these rights by a Member State whose submission may be regarded as an indication of a limitation of its external sovereignty.

- What remains is that the Union cannot properly compel a Member State to respect the law. it can only pronounce its exclusion at the most. Similarly, every Member State has the right of secession. The States remain sovereign in that respect.

In that way, we can measure the difference with the United States of America. According to them, the United States of America obey the conventional federal scheme of modern nation States. Also, expressions like the "United States of Europe" suggest a misunderstanding. The European Union is not an incomplete federal republic. It represents a post-state structure that is cosmopolitan in principle.

The fact that contrary to the case of the United States of America, the European Union merely has *authority* whereas the Member States retain their *sovereignty* contains interesting implications with respect to the form that *power* takes. Without eliminating the forms that are specific to the National States, the European Union, for its part, pursues integration via horizontal means: of coordination, of cooperation, of joint decision-making, of partnership negotiations, by the harmonization of legal, and even social and fiscal systems; aid to groups of

inter-sectoral associations, exchanges between universities, incentives to social dialogue, to the creation of platforms representing professional interests and to the establishment of forums dedicated to the expression of the civil society; of regular ongoing cooperation between national administrations as well as between the representatives of the national Parliaments. The aforesaid community method has often been *wrongly* viewed as a way of confiscating state prerogatives to the benefit of a public, supranational power. The European structure will probably not lead to a super nation State that would eventually have a monopoly on in power and authority.

The potential Constitution of the European Union, once again, is post-state in nature. It doesn't set up a State that holds a monopoly on legitimate domination, legitimate education or legitimate legislation but rather a Union of States establishing an authority, *which tales the initiative of legitimately coordinating the public policies on its territory*[2]. In the main, it involves organizing the exercise of political sovereignty in a cooperative manner, so that the result will be an increase in power for each and every member.

Integration	*Vertical* (national)	*Horizontal* (postnational)
Systemic	Principle of sovereignty Legitimate coercion Centralisation of government	Principle of cooperation Legitimate coordination Multi-level governance
Political	Unconditional civic duties Closure of self-centred historical memorials	Denationalised civic rights Reciprocal opening of self-critical memorials

It is important to maintain the *three* levels of relationship to public law, in order to distinguish between national citizens' law (or political law), the law of nation states and transnational rights (cosmopolitan law), which are enjoyed by citizens of the Union, when they are resident in a Member State other than their State of origin.

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2 This concept is clear in the draft Treaty establishing a Constitution for Europe (June 2003), title 1, article 1: "The Union shall coordinate the policies by which the Member States aim to achieve (common objectives) and shall exercise the powers that they confer on it on a Community basis."

I must respond to the following practical question now: What civic participation can we reasonably envisage at European Union level, taking this cosmopolitan structure into account? I would like to mention the current institutional obstacles in order to outline some constructive ways forward with a view to creating an effective democracy in the Union. I draw a distinction, on the one hand, between the internal nature of the organization of Public powers (a) and on the other hand, the external nature, if you like, of relations established between Member States as well as between the Union and its periphery (b).

Addendum (a). With regard to the public Powers of the Union, the record on the current organization is not satisfactory:

- The *Council* of the European Union currently tends to set itself up in government under the auspices of French and Germany. But it is not and cannot be politically responsible.
- On the other hand, the *Commission* is answerable politically to the European Parliament and the *Council* of the Union. However, it is hampered by a "technocratic" aura that is the result of insufficient political legitimacy.
- Finally, the European Parliament has little visibility and the MEPs are regarded less as political representatives of the citizens of the Union than as beneficiaries of a partitocracy.

The Council has a problem of political responsibility; the Commission has a problem of political legitimacy; the Parliament has a problem of political representativeness.

Nevertheless, it would be consistent with the model of a shared sovereignty between the Union's citizens and the European peoples that the statutory equality of the two "pillars" of legitimacy in the European Union (the citizens of the Union and its Member States) would be marked by a balance of power between the Parliament and the Council.

This would imply that the Council would be assigned the status of a "Chamber of States" in accordance with the principle of "one State, one vote", which is not the route taken today. From the perspective of a parliamentary Constitution, only the Commission would be entitled to become a government of the Union. But that means that its President will be approved by a wide electoral college: One can imagine that each one of the Twenty-Seven would elect a candidate in Congress; that the European Parliament would take on ten persons from among the twenty-seven "candidates"; that the Council would finally elect a President of the Commissions from among the ten retained by the Parliament. Thus, would the President of the Commission enjoy sufficient political legitimacy to ensure his authority (no, his sovereignty!), as the coordinator of the Member States' public policies?

Let's go further: the civility of intra-community relationships between Member States of the Union indubitably favours the emergence of a European power that could contribute to a democratization of banking and financial meta power. However, in my opinion, such a perspective will only become credible if European power gains support in a society that is irrigated in a democratic manner by *interconnecting all of the local, regional and national Parliaments, horizontally with one another and vertically, in both directions with the European Parliament*. The latter could not purport itself to hold all of the European parliamentary power.

At most (and that would already be a lot), it could present itself as the linchpin and the centre where all of the complaints and proposals emanating from all of the networked parliaments throughout the area of the Union are summarized.

Addendum b). Regarding the "external" nature of the relationships that the Member States maintain with those within the Union and that the latter maintains with its periphery, the participation of European citizens can only seem to be distant and indirect.

We must already distinguish between relations that are regularly established between the Member States on the intergovernmental level (including the cooperation of public administrative bodies) and the exchanges that are developed between the national societies within the Union. The relations established at State summits draw the European political elites closer to one another and create an *affectio societatis* that is beneficial for the resolution of problems that are sometimes arduous. In this regard, the "Community acquis" is identified by a socialization of intra-community inter-state relations, which differ with regard to style from ordinary international relations.   This was particularly true at the time of the Community of Twelve. Enlargements involving Central and Eastern Europe require additional decentring that is a challenge to moral and political learning: learning to overcome national chauvinism, egotism, and narcissism and to arbitrate constantly between one's own national interest and the common interest of the Union. However, inter-university exchanges have a strategic value for the creation of a base and an environment that is conducive to the formation of a *common public culture and a shared historical memory.* The broadcasting and communication media have an essential role to play in this.   The broadcasting media are too centralized with regard to the criteria governing their selection and ranking of the *news.* What's more important than the creation of European channels is the inclination of national channels to open up to topics covered by foreign channels and to echo each other in a thematic manner.

I would not like to finish this presentation without finally mentioning the relations that the European Union maintains with its periphery, that is to say the "European Neighbourhood Policy" (ENP). It functions on the principle of the aforementioned "positive conditionality". The more that "peripheral" nations reveal themselves to be inclined to internalize the principles of a democratic rule of law, the more developed their cooperation with the European Union will be, as will be their potential chances of becoming integrated as full members or favoured partners. This new face of realism in international relations demands *soft power* and multilateralism. It's there again that the European Union has a role to play in order to emphasise its options in fields such as fair competition, the environment, energy policy and humanitarian aid while working on this "catching up process" or this political "recovery" of the economy, which means *globalising democracy in order to democratize globalization.*