

Citizenship and nationality: a saga of a historical connection and the dialectic of inclusion/exclusion

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Abstract

Through my research I investigate the complex topic of citizenship and nationality by examining the evolution of concepts and practices related to citizenship and nationality throughout history. The study proposes a broad approach for understanding the dynamics and consequences of these legal phenomena. The research focuses on the complex relationship between citizenship and nationality and their role in shaping individual and collective identity. At an interdisciplinary level, the reader will discover the interaction between these concepts and society by highlighting the dialectical aspects of inclusion and exclusion. The results are based on relevant case studies, legislative, political, and social changes that have affected citizenship and nationality in different historical periods and in various geographical contexts, with an emphasis on the complexity and dynamics of these concepts. By exploring the history, legislative evolution, and legal and social debates in the field of citizenship and nationality, this study sheds light on the challenges and dilemmas facing contemporary legal systems in managing cultural and social diversity, analyzes theoretical perspectives and current practices on inclusion and exclusion and possible solutions and improvements are proposed to promote social cohesion and respect for human rights.

Keywords: *citizenship, nationality, dialectics, historical evolution, social cohesion, human rights.*

JEL Classification: D63, K33, O15, Z13

DOI: 10.24818/TBJ/2023/13/2.07

1. Introduction

In relation to nationality, while some authors focus on the legal aspect², others emphasize its historical content³. From a *privatist* point of view, nationality is a civil status, and as such, a set of rights and duties. Thus, nationality, as we understand it today, which emerged in the eighteenth and nineteenth centuries, is the legal and political link that binds a natural person to his or her State; it is the instrument for establishing a formal and legal relationship between persons and

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² See, for example, Javier de Lucas (ed.), *Los derechos como elemento de integración de los inmigrantes*, Fundación BBVA. Madrid, 2008, p. 33 ff.

³ In recent constitutionalism, for example, there is confusion regarding the concept of citizenship. Thus, in some constitutional texts, such as the Spanish Constitution of 1978, the terms nationality and citizenship are used indistinctly and synonymously; in others, such as the Mexican Constitution, a clear distinction is made between nationality and citizenship.

States⁴. But, in addition, nationality also defines the membership of an individual in the 'primary population' of a State. This 'primary population' is constituted by the set of individuals who maintain among themselves and with the state structure a pre-juridical link, of a different order or degree, in such a way that it is not possible to establish the same link with another social order or another state structure⁵. In this sense, there is broad consensus in considering that nationality intrinsically has an ethno-cultural dimension, by virtue of which it assumes an *exclusionary* character, resulting from the delimitation of a 'proper' space, which determines who constitutes 'our nation' as opposed to those who are part of 'other peoples'.

For its part, something similar happens with *citizenship*. While some authors, such as Rubio Carracedo, emphasize that it is "the recognition by the State of the right of individuals to enjoy fundamental freedoms, especially civil and political rights"⁶; others, based on the historical-evolutionary tripartition proposed by Marshall⁷, define it as "the status of full member of the community, linked to the ownership of three categories of rights: civil citizenship, characterized by the recognition of the rights of freedom and personal autonomy; political citizenship, linked to the extension of the rights of public participation; and, finally, social citizenship, associated with the entry of social rights into legal systems"⁸.

Professor Javier Peña⁹ citing Thiebaut, affirms that the term "citizen" describes the political identity of those who are within the public space. Thus, when they are designated as citizens, we are referring to the way in which they are present in their society and the way in which they interact with it. Since it is a politically organized collective, citizenship is a mode of insertion into political society¹⁰. This is the core of this complex interrelation: citizenship is a specific 'mode' of insertion into a political community, which need not necessarily be a national community, but can be supranational; precisely because this specific 'mode' of insertion consists in being a genuine holder of fundamental rights.

As we shall see below, definitions and explanations of nationality and citizenship, and their respective links, vary substantially according to the time, the political, economic or social viewpoint and ideology, as well as the concurrence of many other factors¹¹. Citizenship and nationality are thus presented as complex concepts. Within the theoretical amalgam -of which we will explain the

⁴ Javier De Lucas (ed.), *Los derechos como elemento de integración de los inmigrantes*, cit.

⁵ Ana Rubio and Mercedes Moya, "Nacionalidad y ciudadanía: una relación a debate", *Anales de la Cátedra Francisco Suárez*, 37 (2003), 129-130.

⁶ J. Ramón Rubio Carracedo (and others), *Ciudadanía, nacionalismo y derechos humanos*. Madrid. Editorial Trotta, 2000, p. 10 ss.

⁷ Thomas H. Marshall, *Ciudadanía y clase social* (1950), Madrid, Alianza 2007, p. 56 ff.

⁸ Javier De Lucas (ed.), *Los derechos como elemento de integración de los inmigrantes*, cit., p. 33.

⁹ Peña, Javier, *La ciudadanía hoy: problemas y propuestas*, Valladolid, Universidad de Valladolid, 2000. p. 14; citing. Thiebaut, Carlos, *Vindicación del ciudadano, Un sujeto reflexivo en una sociedad compleja*, Paidós, Barcelona, 1998, p. 24.

¹⁰ Ibid.

¹¹ See for other examples Voicu-Dan Dragomir and Elena Roxana Anghel (Ilcu), *Social Responsibility Practices Regarding Facilities Granted to Employees and Consumer Protection in Selected European Companies*, in „Amfiteatru Economic” Volume 13, No. 29/2011, pp. 87-100.

fundamental points-, when we speak of nationality and citizenship we must think, primarily, of the acquisition of a *status*; or rather, of the 'attribution' of a status. Access to this status has historically occurred in two fundamental ways: firstly, through the blood relationship (*ius sanguinis*), by means of which the descendant gains access to the status of his or her parents - either the father, the mother or both - either *ex proprio vigore* or by virtue of an administrative procedure, by registering him or her in a public registry from which a legal status is derived¹². This criterion for attributing status has traditionally served as an exclusionary and selective criterion, linked to conceptions that have exacerbated the ethno-cultural element. The second criterion for access to status derives from having been born in a given territory (or in an enclave belonging to that territory), under a certain political-administrative condition (*ius soli*). This criterion has traditionally been favored in more open, liberal and egalitarian conceptions of access to status. A third form of access to the status could also be included, which derives from the fulfillment of the various requirements that each State establishes for that purpose for those who seek it¹³. This is what is traditionally referred to as *naturalization*. A form of access to citizenship that has been practiced since Rome.

But the basic question is not so much the form of access to a given status, nor even the greater or lesser extent of the status, but whether the status to which one gains access is the idea of *nationality* (what is acquired is the legal-political link to a State and it is through it that one gains access to any right) or whether, on the contrary, this status is primarily the idea of *citizenship* (one acquires the ownership of basic fundamental rights, with the formal link to a State being the instrument or the means of access). In other words, what is at issue is whether nationality is a mechanism of access to citizenship; whether citizenship is a simple corollary of nationality; or whether both, in general terms, can be considered synonymous. The preponderance of one view or the other, as we shall see, has varied greatly historically.

As already indicated in the introduction, we do not intend to develop here a detailed exposition of the vast literature that has been written on the relationship between nationality and citizenship, because it would exceed the objective of this thesis. However, even without making an exhaustive historical *excursus*, we consider it necessary to present the essential features, the basic characteristics, that make up each of the different models of the relationship that have been produced

¹² As it happens in the Colombian case. Colombian 'nationality' is not acquired until it is registered in the registry or embassy.

¹³ These typically include but are not limited to: regular and prolonged residence. There are also cases in which nationality/citizenship can be purchased. Purchase it as in the case of Cyprus - and thus that of the EU - in September 2016, the Government of Cyprus introduced some changes to its citizenship by investment program. The changes included the reduction of the minimum investment amount to €2 million (from €2.5 million) and the possibility to include the parents of the main applicant, provided that an additional €500,000 more is invested in the purchase of a private investment, a residence in Cyprus. See for specific standards Cristina Elena Popa Tache, *Ranking of Treatment Standards in International Investments*, „International Investment Law Journal”, Volume 1, Issue 1, February 2021, p. 80 et seq.

between nationality and citizenship, turning to the authors and studies that have best succeeded in synthesizing them¹⁴. Having done this, we will use these assumptions as a frame of reference to gradually configure the profile of the model of *human citizenship* that we intend to outline in the context of the EU.

2. Classical' conception of citizenship

For Professor Pocock, when we speak of the "ideal" of 'citizenship' in 'classical times', we are referring to times that are 'classical' in a double sense¹⁵. First, these times are 'classical' in the sense that they have for us some kind of authority that comes from having expressed an 'ideal' in an enduring and canonical form; even though in practice authority is transmitted in many other ways than its simple preservation. Secondly, by 'classical' times we refer to the ancient civilizations of the Mediterranean, in particular, that of Athens in the fifth and fourth centuries BC, and that of Rome, which runs from the third century BC to the first century AD. 'It is assumed' that it was the Athenians and Romans who elaborated and articulated the 'ideal of citizenship, so that their having done so makes them classics. Adds Pocock that "there is in fact no classical ideal of citizenship that articulates what citizenship is; 'citizenship' is itself a 'classical ideal', and represents one of the fundamental values that we claim is inherent in our 'civilization' and 'tradition'¹⁶".

Thus, with all the nuances that should be made to the subject, the foundations of citizenship must necessarily be sought in Greece and Rome¹⁷. The citizen, the Greek *polites* or the Roman *civis*, are configured as those members, either of the Athenian or Spartan *polis*, or of the Roman *res publica*, which constitute a presumably unique form of human association for these Mediterranean civilizations, transmitted by them to Europe in particular and to the West in general¹⁸. Although this label of "unique" could be criticized and perhaps qualified as *myth*, in spite of everything, this myth possesses a way of remaining *unique* as a paradigmatic manifestation of Western identity. There has been no other civilization that has had a myth like this one¹⁹.

¹⁴ For more detailed information on detailed chronology, and/or further discussion of citizenship in different times and places consult: Heater, Derek, *A Brief History of Citizenship*, New York, NYU Press, 2004; Pocock, Greville Agard John, "The Ideal of Citizenship Since Classical Times", in Beiner, Roland, *Theorizing Citizenship*, New York, New York State University Press, 1995, pp. 29-52.

¹⁵ Pocock, Greville Agard John, "The Ideal of Citizenship Since Classical Times", cit. p 29.

¹⁶ Ibid. Pocock explains that he puts quotation marks around some terms not to 'discredit' them but because he wants to draw attention to them, since they will be problematic and contentious at the end of his presentation.

¹⁷ Arendt, Hannah, *What is Politics*, New York: Penguin Books, 1993, p. 144.

¹⁸ Pocock, Greville Agard John, "The Ideal of Citizenship since Classical Times," cit. p 29.

¹⁹ Unlike the great civilizations that arose in the valleys of Mesopotamia, such as China or Egypt, the polis were no more than a small city and, perhaps, originally, a feudal group of horse-riding barbarians. We might, Pocock continues, focus less on their historical role within a cosmic order of growth and regrowth, and look more to the heroic individualism of human relationships among

2.1 The birth of citizenship in classical Greece

If one disregards the radical differences between the classical Greek world and the world of the modern state in terms of the conception of society and the political community, it is easy to see how citizenship in classical Greece constitutes the way for the participation of the individual in the political community²⁰. Only virtuous individuals, who by virtue of their qualities and social position (of superiority and economic independence) are in a position to participate directly in the management of public affairs, possess citizenship²¹. Given that the political theory of the time does not conceive of the pre-existence of a freedom and equality natural to all men (freedom of the moderns), but, on the contrary, conceives freedom as a virtue that turns the individual into an instrument for the realization of a certain morally predetermined social order, citizenship cannot be considered as a mechanism of political or social inclusion of people, who can only be free to participate to the extent that their natural capacities make them worthy of such a virtue. Citizenship thus appears as a political instrument of social exclusion that makes it possible to differentiate those subjects, citizens, whose political function is to participate in defining the will of the political community, from those other individuals (slaves, women, children, domestic servants, manual workers, foreigners, etc.)²², who perform socio-economic functions (productive, educational, etc...) in the community and are therefore excluded from civic virtue. In other words: some individuals were political subjects (citizens), while others were

their human members; so it might be said that it is in barbarism that the origins of humanism were produced. This may be why the foundation of the myth of the polis fails to describe its detachment from the great civilizations of Egypt or Mesopotamia, but its replacement, its very worth, by those values of an archaic tribal civilization of bloody fiefdoms and parental obligations. This mythological and bloody barbarism is reflected, according to Pocock, in the Eumenides - the last play of Aeschylus' *Orestiad* - thus emphasizing the fact that, expressed as an ideal, it is among blood, acts of betrayal, guilt, revenge, that the community of citizens takes place. To all this, as we have to indicate, without prejudice to the vast documentation of the Athenian model, how much more strident could be myth, in the words of Pocock, Spartan that despite its hermeticism, resonates to our times its ideal 'citizen'. Solon and Clisathenes, the lawgivers of Athena, stand in for an assembly of clan members who speak as clan members and their concerns, referring to an assembly of citizens whose members can speak on any matter pertaining to the polis (in Latin, in any *res publica*, a term that transposed denotes the assembly and societies in and of themselves). Vid. Pocock, G. A. John, "The Ideal of Citizenship since Classical Times", cit. p 3.

²⁰ Although most of these reflections on citizenship are applicable to Athenian democracy, many can be transferred to the political system of Sparta, even more exclusive and restrictive in its attribution and characterization of rights than the former; on the treatment of foreigners in both classical Greek societies in general, Pérez Martín, E., *Los extranjeros y el derecho en la antigua Grecia*, Dykinson, Madrid, 2001.

²¹ In accordance with the more refined formulation of the same given by Aristotle in his *Politica*. A detailed analysis of the different phases of construction of this concept in classical Greece can be found in Zapata Barrero, Ricard, *Ciudadanía y Democracia: una revisión del liberalismo democrático desde el pluralismo, la autonomía y la tolerancia*, Tesis doctoral, UAB, Barcelona, 1997, p. 37-51.

²² Pérez Martín, E., *Los extranjeros y el derecho en la antigua Grecia*, cit. p. 145-146.

merely economic, reproductive or educational subjects²³. And this regardless of whether the result of such participation ended up being the satisfaction of the common good, as was morally due, or the "immoral" satisfaction of the particular interest of the participants; regardless of whether the majority, an aristocratic minority or a single individual participated; that is, regardless of the specific regime adopted, which makes sense as a result of the identification between citizenship and participation in the government of the polis that the Constitution of each city-state makes, when defining the greater or lesser personal extension of the quality of citizen²⁴.

This conception of citizenship and its eminently exclusive nature²⁵, both inwardly (with respect to members of the community who were not citizens) and outwardly (with respect to other city-states), derives precisely from the peculiar conception of the individual and of society in the pre-state philosophical-political theory. Although it is not appropriate to develop this theory here, it should be noted that in it the political community is conceived as something natural, in the same way that the functional and hierarchical division of society is. The natural differences between individuals justified the different social functions that each had to perform. Citizenship became the political category that certified the existence of this natural order and its philosophical reasonableness. In this order, individuals with the capacity to govern the community were included and became citizens, while -and this is the most relevant- other individuals, lacking that capacity and without the right to obtain it, were excluded. This first exclusionary formulation of citizenship thus responded to the function of differentiation by birth that the institute of nationality provides today between nationals and foreigners, since the latter are also considered alien to the political community²⁶.

In its origins, which date back to the political reform carried out by Clístenes in the second half of the 6th century B.C., citizenship served for a certain de-ethnification of the small Athenian city-states and for the integration into the new organizational units *-deme-* of the resident immigrants who were not descended from any of the pre-existing tribes. However, the social and political context of classical Greece in which *citizenship* develops; that is, the natural pre-ordination of political communities and the reduced size of the city-states, explains after Clístenes the return to a citizenship determined by the criterion of descent (*ius sanguinis*) and not by voluntary residence (*ius domicilii*)²⁷.

²³ Rosa, A. F., Zanini De Sá Duarte Nunes, T., & Calciolari de Souza, M. (2021). *Mediação Escolar: Educação Para A Pacificação Social*. „Lex Humana” (ISSN 2175-0947), 13(1), p. 18. Available at <https://seer.ucp.br/seer/index.php/LexHumana/article/view/2055>.

²⁴ Aláez Corral, Benito, "Nacionalidad y ciudadanía: una aproximación histórico-funcional", in *Historia Constitucional* (Revista electrónica), N° 6, 2005, p. 35-38.

²⁵ In the same vein, on the exclusionary nature of Aristotelian citizenship Walzer, Michael, *Spheres of justice. A defence of pluralism and equality*, Basil Blackwell, Oxford, 1983, p. 95 ff.

²⁶ On the exclusionary nature of citizenship with respect to foreigners (including residents), cf. Pérez Martín E., *Los extranjeros y el derecho en la antigua Grecia*, cit.

²⁷ Aláez Corral, Benito, "Nacionalidad y ciudadanía: una aproximación histórico-funcional," cit.

In addition, it was necessary to acquire citizenship by virtue of descent from a family of citizens and, together with this, it was also essential to be educated in the values of that city, which were the reflection of a natural or theological order, of which the customary or positive law was merely a procedural concretion necessary for its implementation. Both the natives of the *polis* who were not citizens (women, slaves, manual laborers, children, etc.) and foreigners were outside the government of the political community, although they were subject to the application of its written or unwritten laws. As a general rule, there was no ordinary mechanism for granting citizenship to those who did not originally have it by birth, but exceptionally, from the 5th century BC onwards, honorary or limited citizenship was granted in Athens for political reasons - mainly to increase the population - to isolated individuals or small groups of foreigners who fought in favor of the polis²⁸.

2.2 The extension of citizenship and the establishment of the legal basis of nationality in Rome

Initially, Roman citizenship was also constructed on the basis of a variable set of rights and duties of political and socio-economic participation (*ius munus et honorum, ius suffragii, ius conubii, ius commercii or ius actionis*), attributed as a privilege to a small number of individuals, who were the 'Roman citizens'. This conception of citizenship continued to play an exclusionary role in its beginnings. But in the Roman world the foundations of a great juridical system were laid and therein lies the origin of the modern distinction between nationality and citizenship, although the presence of a *weak* and a *strong* sense of citizenship was already implicit in the Aristotelian notion. The strong sense was concerned with the active-participatory element (to command), while the weak sense was concerned with the passive element (to be commanded). And it was towards this second sense that the Roman notion of citizenship would end up being oriented, as a consequence of its progressive extension to the most diverse individuals. A notion fundamentally derived from submission to the power and law of Rome²⁹.

The rapid evolution of the socio-political context (territorial expansion) in which Roman civilization developed led to the political use of citizenship as a mechanism for the integration and legal assimilation of the increasing number of peoples conquered or federated with Rome. This has the cost of devaluing its political-participatory content and allowing the legal creation of different classes of citizenship, which will be the prelude to the birth of the modern concept of *nationality*, because they fundamentally attend to the legal bond that unites the individual with the State as a consequence of his submission to Roman Law³⁰. But

²⁸ Perez Martín, E., *Foreigners and the Law in Ancient Greece*, cit.

²⁹ Aláez Corral, Benito, "Nacionalidad y ciudadanía: una aproximación histórico-funcional", cit.

³⁰ On this evolution of the concept of citizenship in the Roman world and its differences with citizenship in classical Greece, see Pocock, J.G.A., "The ideal of citizenship since classical times", in Ronald Beiner (Ed.), *Theorizing citizenship*, State University of New York Press, Albany, 1995,

also, as far as we are concerned here, it turns citizenship into a legal instrument of inclusion rather than exclusion, even at the cost of distorting its initial active-participatory meaning and making it a mechanism of legal differentiation of the subjects of the Roman Empire, since it allows the inclusion within its legal orb of diverse cultures and social models, contributed by the new types of citizens.

Thus, from an initial stage in which there were only Roman citizens (*romanii*), Roman citizenship was granted to groups of individuals federated or allied to Rome (*latinii*), and even extended, through the edict of Emperor Caracalla (*Constitutio Antoniniana*), in 212 AD, to all free subjects of the Empire (*peregrini*), with the exception of those conquered peoples subject to Rome who for various reasons did not have any recognized rights of their own (*dediticii*). Since this massive extension of citizenship was in no case full, but to the new citizens only a part of its juridical content was attributed (almost never the political-participatory), this in practice ended up depriving citizenship of its political-active meaning and attributing to it a mostly passive and legal meaning, much more coincident with what would later become the modern institution of *nationality*. In other words, from the citizen-ruler of the classical Greek world, we move on to the citizen-subject of the Empire, which will be the element on which political philosophy will rely at the birth of the modern State to lay the political foundations of nationality³¹.

This meaning ends up impregnating citizenship, giving it a very different appearance from the one it had in the Greek world, in which its validity and content were derived from the meta-positive values that ordered society and the city-state. Citizenship becomes a preponderantly legal institution that is, derived from Roman positive law³². Citizenship thus ends up fulfilling a juridical function of *inclusion*, very different from the *exclusionary function* of nationality in the modern State, although it resembles the latter in its characterization as a legal-formal link that unites different peoples with diverse customs and cultures under the mantle of a single legal system (the Roman), regardless of the fact that its material or substantive content is now made up of a plurality of rights with different levels of guarantee. Nothing to do with the traditional link that is often proposed between the modern term nationality and the Roman term *natio*, descriptive of those peoples and tribes not organized in political communities³³.

Congruently with this process, the mechanisms of attribution of citizenship changed with respect to the simple mechanisms of biological descent that had been used by the Greek *politeia*. Along with *ius sanguinis*, manumission by a Roman citizen, marriage, naturalization in compensation for military services rendered or mass naturalization granted by imperial edict also appeared more and more. And in a period as long as that of Roman civilization, with the progressive extension of

p. 29 ff. 29 ff., for whom the citizen goes from *zoon politikon* to *homo legalis*, and with it citizenship goes from an ideal political concept, with Aristotle, to a real juridical concept, with Gaius.

³¹ Zapata Barrero, Ricard, *Ciudadanía y democracia ...*, cit., p. 57-58.

³² Pocock, J.G. A., "The ideal of citizenship since classical times," cit.

³³ Aláez Corral, Benito, "Nacionalidad y ciudadanía: una aproximación histórico-funcional", cit.

citizenship to large groups of subjects of the Empire, the descent from citizen parents ceases to be the main criterion in the attribution of citizenship in favor of the criteria of derivative acquisition of citizenship, especially (naturalization or services rendered), with the consequent devaluation of the latter as a political-participative institution and its correlative functional approximation to the modern idea of nationality, since it comes to be consecrated as a personal sphere of application of the extensive Roman legal system³⁴.

3. The modern idea of nationality and the emergence of the nation-state

The atomization of political power and a significant setback in the way of conceiving the Roman legal system had a decisive influence on the configuration of nationality and citizenship during the Middle Ages and the Renaissance. The social and economic characteristics that contextualized the medieval political and legal organization conditioned the meaning of the term citizen, which had already been universalized by the Roman Empire. The substitution of material advantages (political and economic) for spiritual rewards advocated by Christianity deprived citizenship of the two elements that had characterized it in the Greco-Latin period: as an exclusionary participatory political privilege during Greek civilization, and as an inclusive passive legal status at the end of Roman civilization³⁵. A nation-state with an authoritarian structure presents an external posture different from that of a democratic nation-state.

3.1 The transformation of citizenship into 'subjection'

The Middle Ages are also characterized by the prevalence of the paradigm of the contemplative life to the detriment of the active life, destined only to those productive forces that were the economic engine of society, but not to the cultural formation or the erudition of those who should participate in the government of the community. This explains why citizenship, when it does not define the group of people who inhabit the incipient cities (*bourgeois, civis, etc...*), ends up being defined as a political term (rarely or never used as a legal concept, differentiated in the way and manner of Roman law), and ends up being conceived more as a synonym of *subject* than of governing individual. In other words, citizenship is even more inclined towards its weak Aristotelian sense, emphasizing the element of political subjection to a feudal lord or a monarch, and not the political-participatory element. With this, the political foundations of the modern concept of nationality are laid, subsequent to the concentration of political power in the hands of the monarch -to the detriment of the feudal lords or the Church-, that is, with the birth of the modern nation-state³⁶.

³⁴ *Ibid.*, p. 41.

³⁵ Zapata Barrero, Ricard, *Ciudadanía y democracia ...*, cit., p. 59.

³⁶ Aláez Corral, Benito, "Nacionalidad y ciudadanía...", cit.

In contrast to the Greco-Latin world, citizens in the Middle Ages are citizens more for what they get (security in exchange for their subjection) than for what they do. The classical political character of citizenship gives way to an eminently socio-economic content in which the city dweller is granted a series of economic and social privileges. In other words, citizenship becomes mere subjection because it basically describes the economic and social, but not political, benefits derived from permanently inhabiting a certain territory and, with it, being subject to a certain local jurisdiction, which explains why non-naturalized foreigners are excluded from access to the local magistracies of medieval cities, but not from the highest public offices of the incipient kingdoms³⁷. But if anything characterizes the position of the individual in the Middle Ages, it is its atomization in correspondence with the atomization of political power, so that being a citizen no longer confers on the free man a general philosophical-political status as in the Greco-Latin period, and is only projected on some of his social relations: as an inhabitant of the city (*civis*) or as a subject of the kingdom (*subditus*), which coexist with many others such as those of faithful (*fidelis*) or person (*homo*), the latter, above all, in the lower medieval and Renaissance period³⁸.

3.2 The Renaissance and the political foundations of nationality

Although the Renaissance attempts to rescue, at least partially, the Greco-Latin vision and cultural heritage in order to apply them, above all, in the Italian city-states, the truth is that this period of transit serves fundamentally for the concentration of power in the hands of the monarch and for the overcoming of medieval atomization through the *national state*. The Renaissance did not contribute to the recovery of citizenship as a political-participatory category. In these conditions, a weak and passive sense of citizenship, which had been useful to the Roman Empire for its universalist expansion, was much more useful than the strong and active sense of the small and decentralized Greek city-states³⁹.

As a consequence, the term citizen comes closer and closer to the modern concept of nationality, that is, the expression of the legal bond that unites the individual with a certain power or sovereign authority, which is none other than the power of the emerging nation-state, which is also invested with the political and juridical quality of sovereignty. In other words, sovereignty emphasizes the legal nature of the state territory. Belonging to the political community implies in the absolute State becoming a special type of subject, the passive subject of the public power that benefits from the status of protection provided by the monarch. In exchange for this protection, the subject gives the sovereign an oath of perpetual loyalty from which he cannot free himself, and which is transmitted by birth in the territory over which the monarch exercises his jurisdiction (*ius soli*), but also by blood descent from one of his subjects (*ius sanguinis*), that is, by "nature", hence

³⁷ Zapata Barrero, Ricard, *Ciudadanía y democracia ...*, cit. p. 60.

³⁸ Aláez Corral, Benito, "Nacionalidad y ciudadanía...", cit.

³⁹ *Ibid.*, p. 42-43.

the formation of Nations as political bodies of subjects and, in many cases, the birth of their corresponding States, run almost parallel⁴⁰.

However, the formation of the nation-state through the concentration of power in the hands of the monarch and its extension to the various human groups that populate a given territory, differs from the Roman imperial power, precisely in the sense that the idea of nationality acquires. On the one hand, the process of concentration of power has a greater personal significance within the territory of the State than outside (the important thing is not so much to assert power over some subjects, but over a territory), and this explains why the term 'subject of the kingdom' is used more than that of national⁴¹.

But also inwardly, the equality of nationals as subjects will not unfold its full effects until, with the liberal-democratic revolutionary movements, the generality of the laws is not introduced, which will be the manifestation that all, as national citizens, must be subject to the same laws. It is not, then, that in the Ancien Régime the term national was not used, or that it did not serve to distinguish the 'subject of the kingdom' from the resident foreigner, but only that, given the still stratified and formally unequal structure of the political communities, it was much more important for the individual, from a social point of view, to be integrated in one of the social groups than his condition of foreigner or natural (French, British, Spanish, etc...). On the other hand, moreover, while the extension of Roman imperial power entailed a certain "multiculturalism", since it tried to integrate under the power of Rome very diverse peoples and cultures without trying to assimilate them into the Roman culture - hence the existence of diverse formulas of citizenship, the extension of royal power and its consolidation during the absolute European monarchies generally involved the imposition, or at least the preeminence, of one culture over the others - that of the dominant territory from which the monarch carried out his territorial expansion - which were gradually cornered and subjected to a process of cultural assimilation⁴².

All this affects the function of nationality and the criteria for its attribution. It is no longer possible to speak, as in the Greek world, of nationality (citizenship in the weak sense) trying to recreate the myth of a great family (that of the city-state), but now it is clear, both quantitatively - because of the population and territorial extension of the State - and qualitatively - because of the process of cultural assimilation that the absolute power of the monarch entails - the difficulties in constructing the myth of a common cultural trunk and the need arises to use the power of the State for its imposition. In this sense, the main criterion for attributing the status of nationality is that of the territorial neighborhood of the *ius soli*, which binds the individual according to his birth in the territory over which the monarch wishes to consolidate his power, although it is complemented by the Greco-Latin *ius sanguinis* or even by the feudal *ius domicilii* in the naturalization of resident aliens, since it is the most appropriate to guarantee the new political function of

⁴⁰ Zapata Barrero, Ricard, *Ciudadanía y democracia ...*, cit., p. 62-63.

⁴¹ Aláez Corral, Benito, "Nacionalidad y ciudadanía...", cit.

⁴² *Ibid.*

nationality, based on the personal extension of an eminently territorial power. Nationality is thus given an *exclusive* political function, delimiting the subjective foundation of the nation-state, in the belief, moreover, that a highly populated nation was a strong nation. This also indirectly laid the juridical-political foundations for the cultural homogenization (and even the recreation of the myth of an ethno-cultural unity) of the people of the State. This delimitative political function of nationality is very similar to the juridical function it plays today, also delimitative and segmenting of the state orders⁴³.

But citizenship, from this conception, does not constitute a privilege of the national with respect to the foreigner, because the recognition of political rights or civil rights is not part of it during the Ancien Régime, so that the majority of nationals are also excluded from a civil and political equality that citizenship does not guarantee them.

4. Liberal revolutions and the confusion between nationality and citizenship

The transformation of medieval society into a modern society and the birth of a power detached from the moral and religious ties of yesteryear did not bring about the end of the hierarchical society, nor did nationality serve for social inclusion and equalization, since the various social strata (aristocracy, clergy and the common state) survived under the bond of the sovereignty of the monarch. But the criteria for the attribution of nationality used by the Ancien Régime were not sufficient to guarantee the cohesion of the people of the emerging nation-state brought about by cultural assimilation. A philosophical-political revolution was needed to moderate the perverse effects of absolute political power. As is well known, this revolution took place during the 17th to 19th centuries at the hand of liberal-democratic thought⁴⁴. In this context, participatory citizenship will recover the protagonism lost after the fall of the Roman Empire and will become functionally specialized in the service of the political ends that these revolutionary movements were trying to achieve. Although at first it is distinguished from nationality, equivocally called 'citizenship' (national), it later becomes linked to the latter to the point of being totally or partially confused with the former in a single category, with the same or different names depending on the constitutional traditions. Let us see in a little more detail how this happens especially in revolutionary France.

4.1 The functional differentiation between nationality and citizenship

The foundations of this new political-inclusive function of citizenship were laid with the appearance of the philosophical-political notions of the 'state of nature' and the 'social contract', from which the idea of the State was constructed

⁴³ *Ibid.*, p. 46-47.

⁴⁴ Zapata Barrero, Ricard, *Ciudadanía y democracia* ..., cit., p. 62-63.

and endowed with the purpose of guaranteeing the rights and liberties naturally enjoyed by individuals. Natural equality, consubstantial to this vision of the individual, was incompatible with the privileges and socio-political hierarchies of the Ancien Régime and its concept of 'national', but also with the existence of national territorial borders. One way to overcome them was to construct a concept of collective subject (People/Nation) that grouped together all those who, by being part of the social contract, were fully integrated into the political community through the enjoyment of civil rights and a potential capacity for political participation, which was always reserved for aristocratic and ecclesiastical minorities⁴⁵. Consequently, in Anglo-Saxon and French revolutionary thought, citizenship will play an inclusive role, as a civic virtue that allows individuals to unite through the recognition of civil rights and political participation, beyond the mere legal bond of subjection that nationality had generated for the absolute state. The citizen begins to be identified with the individual member of the Nation or the People, a free citizen equal to others, at least in his abstract ownership of sovereignty⁴⁶.

Two distinct political meanings of citizenship thus appear, which will give rise to the modern image of the concepts of nationality and citizenship. On the one hand, the merely passive sense of member of a sovereign nation (passive citizen), which will designate the collective from which the norms created within the political community emanate and to which they are addressed. This sense coincides, *roughly speaking*, with the modern understanding of nationality, whose antecedent was the condition of subject of the Ancien Régime as a juridical bond between the individual and the politically organized community, but differs with respect to the subject of the nation-state, since it includes him within the collective subject of sovereignty in his political condition of represented and holder of equal civil rights. On the other hand, there is the sense of active member of the Nation (active citizen), vested with the rights of political participation, necessary to constitute the general will of the Nation as a whole and express it through the creation of legal norms. This sense also coincides *roughly* with what is understood today as citizenship, although it also differs in who are the holders of the political rights of active citizenship⁴⁷.

This duality between nationality and citizenship, produced by the American and French liberal revolutions, is different from that produced in the formation of the unified German state during the 19th century. The only nineteenth-century constitutional text of unified Germany that fits into this revolutionary tradition is the frustrated Constitution of the German Reich of 1849, which contains an extensive catalog of citizenship rights (*Reichsbürgerrechte*) of the members of the German people. Indeed, the centralization of power achieved in the various German states during the 18th and 19th centuries culminated in the creation of a national state, the (2nd) German Reich in 1871, which, under the guise

⁴⁵ Aláez Corral, Benito, "Nationality and citizenship...", cit.

⁴⁶ Zapata Barrero, Ricard, *Citizenship and Democracy*, ..., cit.

⁴⁷ Aláez Corral, Benito, "Nacionalidad y ciudadanía...", cit.

of a federal bond between the German princes, gave unity to the legal system, centralizing a good part of the political power and, above all, allowing the legislator to recreate through the legal bond of federal or state nationality a pre-existing ethnic-cultural concept of Nation (see the Law of June 1, 1870 on federal nationality and state nationality), and to agglutinate diverse political units⁴⁸.

However, where the liberal revolution triumphed, the term nationality was not used, probably because of its historical and ethno-cultural exclusionary implications typical of the Ancien Régime. Hence, many of the constitutional texts of the revolutionary context opted to use the term *citizen* to refer to the *national* - in the sense of passive citizen - and thus avoid the reminiscences that the word national (natural) could have with the feudal vassalage or subjection to the absolute monarch of the Ancien Régime. Hence the predominance of criteria for the attribution or acquisition of nationality open to the integration of any subject who had the will (express or presumed) to form part of the sovereign body politic, particularly *ius soli* or *ius domicilii*, (also *ius sanguinis*) allowing naturalized citizens to participate as active citizens when they met certain requirements of capacity and had expressed their will to belong to the French Nation and to pay allegiance to the Constitution and the ordinance (civic oath). These were, to a large extent, the same criteria for the attribution of nationality used by the Ancien Régime but with a different philosophical-political basis, which, by linking nationality to citizenship and making them fulfill a function of political cohesion of the sovereign Nation (very different from what they performed under the Ancien Régime), demanded the presence of *ius domicilii* both in naturalization and in the attribution of the status of member of the Nation by birth⁴⁹.

(Active) citizenship appears linked to two elements, one known and the other unknown in its historical-functional tradition. The known element refers to the capacity to participate in the government of the community, even though formulas of representative democracy far removed from the direct democracy of classical Greece are sought. The presence of this active political element allows citizenship to functionally differentiate itself from nationality, which still retains the passive sense it had acquired with the creation of absolute states. Thus, while nationality continues to maintain, albeit involuntarily, its exclusionary and differentiating function in relation to nationals of other States, citizenship plays an inclusive role for the maximum number of active citizens who, belonging to the collective subject of sovereignty, possess the necessary capacity to hold and/or exercise political power⁵⁰.

The unknown element refers to a presumed natural equality of individuals, which is transmitted to the politically organized community and which obliges equal ownership and, as the case may be, equal capacity to exercise the

⁴⁸ *Ibid*, p. 50-51.

⁴⁹ *Ibid*, p. 52.

⁵⁰ On the inclusive character of citizenship during the French Revolution, through the extension of the right of suffrage, see Rosanvallon, Pierre, *Le sacre du citoyen. Histoire du suffrage universel en France*, Editions Gallimard, Paris, 1992, p. 45 ff.

participatory content of citizenship by those who are entitled to it. This French revolutionary conception of citizenship eliminates the historical differences in access to suffrage based on creed, property, education or social class, but it does not eliminate all differences. The revolutionary period departs, albeit formally, from the model of the property-owning citizen in favor of the individual-equal citizen. However, two frontiers remain, one interior and the other exterior, which revolutionary thought itself does not consider as social inequalities but merely natural or political. The inner frontier excludes from citizenship women, children, the disabled and even a group of adult male individuals who do not have sufficient economic capacity to qualify for political participation (beggars, vagabonds, domestic servants, etc.). The external border excludes foreigners from citizenship, those who are not part of the collective subject of sovereignty, because they do not expressly or tacitly consent to the social pact and are not integrated as nationals in said sovereign collective subject⁵¹.

4.2 The link between nationality and citizenship as concentric circles

If the functional differentiation between nationality (subjection) and citizenship (belonging or participation) seemed conceptually clear, why did they end up being confused into a single category? Why did citizenship end up being linked to the possession of nationality, thus paradoxically contradicting the inclusive purpose of the revolutionary concept of citizenship? The answer, as Aláez Corral states, lies in the distinction between *active* citizenship and *passive* citizenship as two faces of the collective subject to which sovereignty is imputed. The first French revolutionary constitutional texts, despite affirming that sovereignty belongs to the People or the Nation, distinguished between the members of the Nation, who were only abstract holders of that power but could not participate in its concrete exercise, who are doctrinally called 'passive citizens', and the members who were constitutionally invested with the rights of political participation and, therefore, with the capacity to exercise sovereignty, called 'active citizens', and even within these, a distinction is also made between those who could exercise those rights as electors⁵².

This distinction between passive citizens and active citizens, besides being very useful for the implementation of census suffrage during the 19th century, allowed the term *citizen* (in the active sense) to be absorbed by the term *national* (in the passive sense). The quality of nationality ends up being a necessary requirement to hold the quality of citizen, because to be an *active* citizen it is previously required to be a *passive* citizen and, in addition, to meet a series of additional requirements of age, sex, capacity, etc. And the condition of *passive* citizen coincides in its requirements with the condition of national, as established in art. 2 of the French Constitution of 1791⁵³.

⁵¹ *Ibid.*

⁵² Aláez Corral, Benito, "Nacionalidad y ciudadanía...", cit.

⁵³ *Ibid.*, p. 55.

4.3 The ethno-culturalization of nationality and citizenship

Although revolutionary movements, such as the French one, had a universalist character and detached the concept of Nation from its historical ethno-cultural sense, nevertheless, constitutional texts, as a consequence of the homogenizing effects of the criteria used to acquire nationality, begin to transmit the excluding effect of this to active citizenship and, without expressly intending to do so, contribute to its ethnification or culturalization. In short, the process of nationalization of citizenship is due to the very nature of the dogma of popular/national sovereignty on which nationality is based and which refers to a pre-juridical subject, whose homogenizing characteristics must be naturally and rationally predetermined. Hence, although the criteria for the attribution of nationality and citizenship are distinguished during the revolutionary period, their common foundation in belonging to a pre-juridical political community, presumably homogeneous, inherited from the Ancien Régime, will favor their gradual approximation during the 19th century, which will lead to a not always democratic construction of the national subject of sovereignty⁵⁴.

And this is not only because of the ethno-cultural construction of nationality, from which citizenship becomes an extremely reduced concentric circle, but also because new exclusion criteria are introduced for the exercise of citizenship for those who are already nationals. In effect, on the one hand there are the criteria for attributing or obtaining passive citizenship (nationality), and on the other hand there are the requirements for acquiring citizenship in the strict sense (active citizenship), which entail additional requirements to those required for nationality. With respect to the former, in revolutionary France, the *ius soli* (for the attribution by birth) and the *ius domicilii* plus a civic oath for the subsequent acquisition by naturalization are preponderant. From their regulation in the Napoleonic Civil Code of 1803, they underwent an ethnification as a consequence of the predominance of the *ius sanguinis*, softened only with the reintroduction of the *ius soli* from 1889, and of the increase of the requirements for the naturalization of foreigners. The influence of this process of ethnification on the rest of Europe will come about with the enormous repercussions of the French codification process. On the other hand, the criteria of attribution and acquisition of citizenship are centered, once established the passive belonging to the Nation, in the possession of some requirements of capacity, necessary to carry out the rights/functions of *active* political participation and that, after a restrictive movement during the XIX century, are being reduced to the age, the sex, the autonomy of the will and the nationality. This explains the confusion between the requirements of nationality and those of citizenship⁵⁵.

In Anglo-Saxon countries, one and the other institute are even terminologically merged into a single one, that of citizenship; while in European countries, the term citizenship is absorbed by that of nationality, which engulfs it as

⁵⁴ *Ibid*, p. 59-60.

⁵⁵ *Ibid*, p. 61

a wider concentric circle, becoming partially synonymous, and at most a distinction is made within nationals, but without a specific legal denomination, between those who can exercise political-participatory rights and those who cannot do so due to lack of the required capacity⁵⁶.

5. Nationality and citizenship in the constitutional state

The consolidation of the new model of the constitutional state brought with it the full submission of all the powers of the state to the law, gave legal value to constitutions and based the law on respect for the freedoms and rights constitutionally guaranteed to individuals (something that had been achieved in the USA, after the declaration of independence in 1776, by the Constitution of 1787). But, above all, this new state model set in motion a process of successive elimination of the requirements for the exercise of citizenship rights, especially the right of suffrage, which had already begun in the 19th century with the elimination of the requirements of economic capacity in order to overcome its censorious nature. The subsequent incorporation of women and the progressive reduction of age made the principle of democratic equality more evident and increased the number of members of the Nation who could participate in the formation of its political will⁵⁷. In other words, the legitimization of (active) citizenship is based on the progressive increase in the number of nationals (passive citizens) to whom the capacity to exercise power is conferred⁵⁸.

The full establishment of the constitutional State also requires that its normative supremacy be detached from the idea of a founding pact and a presumed pre-legal subject. All individuals, including the members of the People or the Nation, are subject to the same order. Therefore, the Nation ends up being reduced to a 'juridical fiction' and belonging to the People or the Nation (that is, nationality) is detached both from its ethnic, cultural or historical matrix and from the presumed associative political pact between the members of a community. It is no longer the will of the nationals (and of those who wish to be nationals) that determines the coordinates of the political community, but it is the constitutional order itself that determines the full equality, pluralism and participation of the subjects, making it possible to create the universal sphere of citizenship.

Moreover, participation no longer focuses only on the integration of the individual in some of the representative or direct phases of the normative creation, but also extends to the social sphere, democratically reformulating most (if not all) of the so-called civil rights, which become, together with the rights of political participation (suffrage and access to public office), part of the content of

⁵⁶ *Ibid.*

⁵⁷ See for specific details Maku, O. E., Tella, A. T., & Fagbohun, A. C. (2020). *Alleviating Poverty in Nigeria: Keynesian vs Monetary Theory of Poverty*. „Studia Universitatis Vasile Goldiș Arad, Seria Științe Economice”, 30(1), p. 116, 117. Retrieved from <https://publicatii.uvvg.ro/index.php/studiaeconomia/article/view/641>.

⁵⁸ On the progressive abstraction of the conditions for the exercise of the right to vote, see Presno Linera, Miguel Angel, *El derecho de voto*, Tecnos, Madrid, 2003, p. 62 ff.

citizenship. Thus, many democratic systems open up social participation to non-nationals and also extend to them certain rights of political participation at the local level. Thus, the legal function of nationality is reduced to delimiting (externally) the People of the State and linking it (internally) to the exercise of that part of citizenship that demands a greater degree of involvement in decision-making due to its material and personal scope⁵⁹.

Along with this, there is also the 'socialization' of the constitutional State, which implies the inclusion of social rights among those that determine full membership of the community. In other words, in the social and democratic State under the rule of law, in order to be a citizen it is not enough for the legal system to guarantee the individual civil or political participation; it is necessary to have a guaranteed minimum socio-economic status that makes it factually possible and generalized. To this end, social rights must become part of the *optional* content of citizenship, which makes it possible to reinforce and extend its *obligatory* content (above all in the fiscal and social sphere) to an ever-increasing number of subjects, transcending the collective of nationals. Thus, the status of citizen in a political community, in the context of the constitutional and social state, includes the provision by the State of the material means necessary to have an active presence in society, in conditions of freedom and equality, in particular, to really participate in the political system. Consequently, this content of citizenship includes a much broader set of holders than that of nationality⁶⁰.

All this leads, according to Aláez Corral, to a functional differentiation in the constitutional State between nationality and citizenship⁶¹. The former is used only to define the personal boundaries of the State-order outwardly, that is, it assumes an *excluding* legal function (nationals and foreigners); the latter serves within the political community, as an *inclusive* criterion in the ownership and exercise of rights (foreigners can also be citizens). A good current example of the differentiated constitutional regulation of both institutes is offered by the current Federal Constitution of Mexico, which uses the term 'Mexicans' to refer to nationals, members of the Mexican Nation, regulating the conditions of acquisition of such status in its article 30, according to a mixture of the criteria of *ius sanguinis* and *ius soli* for acquisition by birth and *ius domicilii* for subsequent naturalization. However, it uses the term citizens to refer to a group of nationals to whom it confers rights and duties of participation in the various social spheres, but especially in politics, regulating the conditions of acquisition of this second condition, as well as the specific optional and obligatory content it generates, in articles 34 ff. of the said constitution.

In spite of everything, the legal system designed by the constitutional state does not manage to free itself completely from the historical legacy of both

⁵⁹ Aláez Corral, Benito, "Nacionalidad y ciudadanía ante las exigencias del Estado constitucional democrático", *Revista de Estudios Políticos*, No. 127, 2005, p. 143 ff.

⁶⁰ Marshall, Thomas H., *Citizenship and Social Class* (1950), Pluto Press, Chicago, 1992, p. 8 ff.

⁶¹ Aláez Corral, Benito, "Nacionalidad y ciudadanía ante las exigencias del Estado constitucional democrático," cit.

categories, which is why they continue to be linked, under different or the same name. Indeed, in most Western constitutional texts, political participation continues to be linked to the individual's membership of the sovereign national collective, which leads to a false identification of citizenship with part of the rights conferred by nationality. But this identification occurs only partially, since many state and supra-state systems (as we shall see in the European Union) have unlinked part of the content of citizenship to the possession of a nationality, especially with regard to economic and social participation, and even some aspects of political participation (for example, in the municipal sphere), in line with the new model of a social and democratic state governed by the rule of law. Thus, although some States (very few) exclude nationals 'non-resident' in the territory of the State from the citizen rights of political participation (the case of Mexico); at the other extreme are the States that grant these rights of participation to resident foreigners, who have not been incorporated into the collective of nationals (the case of New Zealand)⁶². However, most States are at intermediate points, with a certain tendency towards this last pole of construction of a citizenship that has been called 'post-national' because of its dissociation from the nation. Nationality is still required, however, for the exercise of the main rights of political participation, particularly access to public functions involving jurisdiction or authority and the right to vote and stand as a candidate in national or state elections.⁶³

6. Remarks. Nationality and citizenship: the exclusion-inclusion dialectic

The historical evolution of nationality and citizenship shows us that there has not been a clear distribution of functions between one and the other. In other words, citizenship has not always been an *inclusive* category and nationality has not always been *exclusive*, as it is today. Certainly, these are the functions they have been acquiring in the modern legal system. The historical development of the inclusive or exclusive functions played by one or the other institution has been marked by the social context (demographic, economic, political and legal) in which they have developed, and in which a decisive element has been the importance conferred on nationality and citizenship as legal-constitutional categories⁶⁴.

As we have seen, citizenship was born with an exclusive political function⁶⁵, just the opposite of the inclusive legal function it plays today; while the

⁶² Since 1975, permanent resident aliens have been allowed to vote (not to stand for election) in elections to the New Zealand Parliament.

⁶³ Aláez Corral, Benito, "Nacionalidad y ciudadanía ante las exigencias del Estado constitucional democrático", cit.

⁶⁴ An exhaustive historical analysis of the notions of nationality and citizenship in Europe from the Middle Ages to contemporary times, covered under the cloak of the term *cittadinanza*, can be found in Costa, Pietro, *Civitas. Storia de la cittadinanza in Europa*, Vol. I-IV, Roma/Bari, Laterza, 1999-2001.

⁶⁵ Zapata Barrero, Ricard, *Ciudadanía y democracia: una revisión del liberalismo democrático desde el pluralismo, la autonomía y la tolerancia*, p. 36.

first predecessor of nationality (Roman citizenship) sought the inclusion - for political-economic purposes - of the maximum number of individuals in the Roman order through the extension of Roman citizenship, which contradicts the exclusive function played by nationality today. The exclusionary function of citizenship and the inclusionary function of nationality responds to their character as instruments at the service of the political system. On the contrary, the attribution to citizenship of an inclusive function and to nationality of an exclusive function responds to their understanding as legal categories, which historically corresponds to the functional specialization of the legal system and to the consolidation of national States.

In short, as we have seen, citizenship has been forged around an *inclusive* function, which the constitutional order uses (through the recognition of fundamental rights and freedoms) to integrate the greatest possible number of individuals and enable them to participate in the different social spheres, especially in politics. Nationality, for its part, has been forged around an *exclusionary* function, in the context of a world still structured on the basis of nation-states, to allow the legal system to make a distinction between those who have an essential political-participatory core within the community (because they have a more intense, stable and permanent attachment to it and assume a full dimension of citizenship) and those who have rights but not 'full' participation. Thus, modern state systems have developed around the differentiation first *external* (with nationality) and then *internal* (with citizenship), which explains the crucial importance of the condition of national and citizen, as opposed to that of foreigner and non-citizen.

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