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Does Europe Need Common Values?
Habermas vs Habermas

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ABSTRACT: This article argues that there is a discrepancy between Jürgen Habermas’s initial plea for critical and rational identities and his more recent glorification of the European model. Initially, Constitutional Patriotism could be apprehended as a critical standard for existing political practices. However, Habermas’s recent political texts tend to lose all kind of reflexive distance in their apprehension of the European identity – which is presented as distinct and even superior to its counter-model, the US. Such a ‘Europatriotic’ temptation should be resisted. The ‘thick’ European identity advocated by Habermas has no truly federative dimension and could undermine the unique normative potential of a political entity composed of distinct identities. Consequently, the article suggests an elucidation of liberal postnationalism with a view to explaining its refusal to tie Europe’s legitimacy to an identification logic.

KEY WORDS: constitutional patriotism, Europe, Habermas, identity, postnationalism, values

In a recent article Ruwen Ogien emphasizes the prevalence of references to ‘values’ in contemporary public debates. The elections in the United States in 2004 and more recently in France in 2007 indeed point to the fact that the major political parties in western democracies – be they conservative or progressive – seem to attach a growing importance to so-called ‘moral’ values – family, homeland, merit, order, discipline, authority, etc. More specifically, in his analysis of Europe, Ogien rightly evokes the fact that there is at least one theme in the constitutional treaty – much criticized on numerous aspects – which met with unanimous approval. ‘For its supporters as well as for its opponents, the affirmation of the existence of “values common to the Members States” . . . was a good thing’. It was however the first time that such a declaration of principle on ‘values’ had been incorporated into a European treaty. No mention was made of this concept either in the Treaty of Rome or in the Treaty of Maastricht which only referred to ‘principles’. For the majority of political analysts, the introduction of the reference to ‘a Europe of values’ in the treaty was meant to symbolize the use

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of a more emotional, less ‘curt’ type of rhetoric than the previous references to the ‘rights’ and ‘principles’. This would hopefully arouse popular adhesion, or even enthusiasm.

However it would be interesting to analyse whether such a discourse on ‘values’ might contribute to legitimizing the European project. Before addressing the ritual question of ‘what values for Europe?’, should we not seriously wonder if Europe really needs to invoke these so-called ‘common’ values? In other terms, should Europe’s political union be buttressed by shared values or by the recognition of a small set of principles of justice? In that respect, the writings of Jürgen Habermas are not devoid of internal tension. Whereas both his theoretical texts and his first writings on constitutional patriotism clearly belong to the liberal paradigm, his recent political texts dedicated to Europe point to a form of ‘Europatriotism’ based on our common ‘values’. In this article, I contend that such an approach is not only of limited use from a pragmatic point of view but also hardly desirable from a normative perspective. For that purpose I first highlight a discrepancy between Habermas’s initial plea for rational and critical identities and his more recent glorification of the European model. In opposition to this ‘Europatriotic temptation’, I argue that the political will to buttress Europe’s political union with a set of common values may not guarantee the unity of the European Union and could undermine the unique normative potential of a political entity supposed to address the problem of distinct national identities. I end with a tentative elucidation of liberal postnationalism with a view to explaining the meaning and consequences of Europe’s refusal to confine its legitimacy to an identification logic.

Habermas vs Habermas

The distinction between ‘values’ and ‘norms’ was at the heart of Habermas’s early formulation of constitutional patriotism in the German context. Jan-Werner Müller has shown how Habermas significantly extended the meaning of this concept which was initially introduced by Dolf Sternberger. According to Sternberger, constitutional patriotism meant a strong civic attachment to the constitutional state, some form of ‘devotion’ to the new political institutions of the Federal Republic (Staatsfreundschaft) that had to be defended against its potential enemies. ‘In short, Verfassungspatriotismus meant an attachment to the democratic institutions of the Federal Republic, a republican consciousness which took pride in the achievements of rights and freedoms in the West German polity.’ Though he did not imply that other factors such as Germany’s ‘historical tradition’, ‘development of a linguistic culture’ and ‘ethnic cohesion’ did not play a significant part in the making of such a patriotic attachment. Though he acknowledged the existence of a form of pan-German patriotism and conceded that national feeling was still a painful experience – in the early 1980s when he wrote – he wished the Federal Republic of Germany could foster the feeling that
all German citizens shared a common identity based on the Constitution, as was the case in the United States. \(^6\) In such an early formulation, constitutional patriotism was closely linked to a militant democracy inspired by the works of public lawyers such as Karl Lowenstein. It therefore primarily focused on loyalty to the state and the rule of law rather than on civil liberties and social rights. \(^7\)

When Habermas took up this concept in the context of *Historikerstreit* (the Historians’ Dispute), he retained the emphasis that Sternberger had put on such conscious affirmation of political principles, but went a step further as he introduced a distinction between ‘conventional identities’ and ‘post-conventional identities’. \(^8\) The latter concept was directly inspired by the ‘stage five’ identified by Kohlberg in which universal rights take priority over specific laws. A ‘post-conventional identity’ therefore meant that one had acquired the capacity to evaluate one’s own moral convictions in terms of universal maxims, which implies that one’s belief in what is ‘just’ and ‘fair’ is not decided exclusively by immediate ‘particularist’ references – for instance, the opinion of the group or the nation one belongs to. In opposition to the so-called ‘revisionist’ trend of thought that aimed at consolidating the country’s social cohesion and identity through a specific vision of history glorifying national pride, Habermas contended that being a German citizen meant adopting a critical approach to traditions while assuming – without any restriction or concession – responsibility for the past and thus transcending particular identities through a reasonable adhesion to universal principles. Habermas’s initial formulation of constitutional patriotism was much more abstract than Sternberger’s concept in so far as it referred to the universal constitutional principles of the West rather than to Germany’s Basic Law. \(^9\) Contrary to those who have argued that such a concept was an abstract and empty shell, it has already been shown that constitutional patriotism had roots in a specific ethical context. \(^10\) Such particularist foundations were obvious in the theory of Sternberger who conceived the Basic Law as a means of ‘sublimating’ – in the Hegelian sense of the term – Germany’s constitutional history since 1848–9. \(^11\) In Habermas’s writings, constitutional patriotism also hinged on an intimate relation with history that was not apprehended from a conventional perspective, but from an argumentative and self-critical mode which implied that responsibilities for past crimes were assumed.

However, from the beginning, the concept was not devoid of ambiguity. Should constitutional patriotism be apprehended ‘as a critical standard for existing practices’ or ‘itself as a model of identity and therefore of “normality” and even conformity?’? \(^12\) Habermas did not give any clear answer to this question, even if in his first texts on constitutional patriotism – those relative to Germany – he seemed to refer rather to the first option. Convinced as he was that it was no longer possible to return to the form of pre-modern and pre-national civic patriotism advocated by Sternberger within the contemporary context of polytheist values, \(^13\) Habermas called for a critical reappropriation of national traditions rather than for the emergence of a new ‘civil religion’ centred on the state and its institutions.
The ‘hard core’ of constitutional patriotism – the abstract unity of the universalist dimension of democracy and human rights – ‘is a strong material that refracts the radiance of national traditions – of the language, the traditions and the history of each nation’. In other words, Habermas’s concept of constitutional patriotism could initially be understood not so much as a static definition – i.e. the adhesion to some universal political principles – but rather as a ‘process of continuous interrogation’ of the values shared by a specific community through the prism of a small set of universal norms.

If we now turn to Article I-2 of the late European Constitution, relative to the ‘Values of the Union’:

The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the member states in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.

There is little doubt that this article is faithful to this original conception of constitutional patriotism even if, for the sake of semantic clarity, terms such as ‘principles’ or ‘norms’ might have been more appropriate than ‘values’. Yet, one must insist on the importance of such a declaration in which the drafters of the treaty did not try to confer any substantial dimension on European identity by extolling its cultural specificities or its historical or spiritual heritage, but rather chose to retain those of the organizing principles of the Union that were most relevant to the implementation of a just and fair society.

However, if we examine Habermas’s recent analysis of the future development of Europe, there are hardly any traces of this initial dimension. On 31 May 2003, Habermas teamed up with the French philosopher Jacques Derrida to produce a manifesto on the new European identity which was published simultaneously in the French newspaper *Libération* and in the *Frankfurter Allgemeine Zeitung*. In this now famous article, both philosophers deliberately took the risk of abandoning their reflexive stance in order to emphasize the ‘strong feelings’ that mobilized European citizens in their opposition to the American intervention in Iraq and paved the way for the emergence of a European political identity. They contended that the European public was ‘born’ on 15 February 2003, the day when millions of Europeans took to the street to oppose US foreign policy. Habermas also pointed to several features that might define the contours of a ‘post-war European mentality’ – notably ‘the privatization of faith’, ‘heightened sensitivity to violation of personal and bodily integrity’, ‘an *ethos* of struggle for more social justice’ and the conviction of the necessity to domesticate state violence by limiting sovereign power.

In their view, Europe could propose an alternative model to the ‘callous superpower’ of the US. One may thus find a touch of anti-Americanism in such a declaration that extols a new form of Euro-patriotism based on ‘common values’.

Their analysis is close to the opposition made by other European scholars who distinguish between two forms of universalism – a European universalism, called...
‘experimental’ since it is based on respect for differences and fair deliberation between nations, as opposed to an American universalism, defined as ‘dogmatic’ since it is founded on the sacralized concept of democracy and confusion between law, ethics and religion.\(^{17}\)

In that respect, the repeated affirmation that ‘a federal European state will have anyway to take a different configuration than those of national states’\(^{18}\) might well turn out to be merely begging the question. It is indeed hard to discern in Habermas’s writings how the European state would fundamentally differ from a conventional federal state. Habermas insists on the fact that national solidarity has emerged ‘progressively, thanks to an approach to history that is proper to each nation, thanks to mass communication and compulsory conscription’\(^{19}\). He thus conceives of the construction of a European political identity as the direct prolongation of the ‘abstract thrust that made it possible to evolve from a form of local and dynastic consciousness to national and democratic consciousness’\(^{20}\). Ultimately ‘what emerges sounds suspiciously like creating a nation of nations very much along the lines of nation-building processes – including the tortured search for a European soul or essence’\(^{21}\). In this manifesto on European identity, little is said about a more critical or rational form of patriotism or about the necessary dissociation between values and norms in liberal constitutionalism.

More precisely, there is a curious reversal process in Habermas’s argumentation as ‘the self-critical confrontations relative to the past’ seem to be used with a view to establishing some kind of moral superiority in a Europe endowed with ‘heightened sensitivity to personal and physical integrity’ on account of its more tragic history.\(^{22}\) The need to adopt a ‘reflexive and de-centred perspective’ is only invoked for European nation states, as if the European Union as such could do without it. Paradoxically the very author who has called for the emergence of a ‘critical’ identity based on the acknowledgement of nations’ responsibilities for the crimes perpetrated in the past, tends to lose all kind of reflexive distance in his apprehension of the European entity – a Europe whose ‘heightened sensitivity to personal and physical integrity’ did not prevent Europeans leaders from adopting a passive, not to say cowardly, attitude as regards the tragic events in Bosnia or Chechnya. It is as if what has become unacceptable for nation states – the reification of a model presented as morally superior – was legitimate in the case of Europe.

### The Meaning of Resistance to European ‘Values’

Such a discrepancy between Habermas’s initial plea for critical and rational identities and his more recent glorification of the ‘European model’ may be explained by different historical contexts. In the mid-1980s, the idea was to avoid the resurgence of a form of conventional German identity based on the reappraisal and relativization of Nazi crime. Twenty years later, the objective is different. In the debate on the European constitutional treaty, the emergence of a ‘thick’
European identity is ‘widely believed to be a pre-requisite for a functioning democratic European polity’. The emphasis put on ‘European values’ is thus governed by some form of political necessity since Habermas considers that there is no risk that this way of gearing identity to historically evolved collective identities might be understood substantively. For him, the danger is rather that European commonalities might have too little substance. However, I consider that there are at least three reasons to have some doubts about this search for European values. First, the values invoked may not be as ‘common’ as might be expected. Second and third, such a quest may be neither necessary nor desirable.

First, one may be doubtful about the truly federative dimension of the ‘pattern of the European mentality’ identified by Habermas. I will not discuss in detail the criteria selected by Habermas and Derrida as the specificities of the European model. Some authors, such as Ralf Dahrendorf, have already demonstrated that such a ‘model’ is reminiscent of the one which existed in West Germany before its reunification. Moreover, this may have been a suitable model for the six founding states of the EEC, but it was already not a valid one for the EU with its 15 member states in 2003 – the year when Habermas published his article – not to speak about the present and future configuration of Europe. I would rather focus on Habermas’s idea according to which ‘the common core of a European identity’ is ‘the character of the painful learning process it has gone through as much as it results from. It is the lasting memory of nationalist excess and moral abyss that lends to our present commitments the quality of a peculiar achievement.’

Charles Turner has rightly pointed out that to talk of a common European identity along these lines is unconvincing. The idea that a common European identity might be based on ‘painful experiences’ in common is hampered by the fact that many in Eastern Europe perceived the states of Western Europe and those of NATO as having accepted Europe’s post-war division.... The process undergone by countries such as Poland was painful, but the source of the pain was not ‘nationalist excess’ alone but rather six years of Nazi occupation followed by forty years of Soviet domination.

A good illustration of such misunderstanding may be found in the vexed reactions of some western leaders when the former Soviet bloc countries supported the US intervention in Iraq. The idea that the former communist countries may not have joined the European Union to escape the American sphere of influence but rather to overcome the painful experience of the 20th century and be guarded from any potential risk from Russia, does not seem to have crossed the mind of either intellectuals or politicians who regarded 15 February 2003 as the act of foundation of a new ‘European public sphere’, or even of a ‘European nation’ founded on ‘the same worldview based on faith in collective deliberation and respect for international institutions’. The elites from Eastern and Central Europe may have had a few good reasons to be wary of collective security organizations, considered by France and Germany as the pillars of the European model. It was indeed difficult for Eastern Europeans to forget that the United Nations did nothing to...
prevent the events of 1956, 1968 and 1981, not to mention Bosnia. In that respect it is significant that three figures of the moral and political dissidence movement – Adam Michnick, Gyorgy Konrad and Vaclav Havel – supported the US intervention in Iraq in the name of democracy. One may disagree with their positions. But ‘Western’ European intellectuals and leaders should at least have paid heed to their arguments based on a specific historical experience – ‘not one in which the mistakes of the past are corrected, but one in which the past continues to haunt the present’.

A second set of arguments leads to a question about the ‘usefulness’ of invoking ‘common values’ to stabilize the European entity. The approach to European construction as based on a set of common values seems to overestimate the importance of the moral communalities required to establish social cohesion. The main argument invoked in favour of ‘shared values’ is the alleged necessity of creating a strong feeling of attachment and identification with Europe among its citizens. Values are thus called upon with a view to furthering a ‘collective us’ in Europe at large. A similar phenomenon is taking place at the national level as it is now commonly accepted that a society cannot enjoy lasting peace if it is not based on common values. In that regard, the invocation of ‘European values’ is reminiscent of the attempts made in France to restore the sacred dimension of the ideal-type secular state.

In many respects, this idea according to which Europe will only ‘hold out’ if it rests on ‘shared meanings’ should be paralleled with the recurrent criticism of the liberal model. The liberal polity has indeed always been regarded as fragile by its opponents because it does not rely on a common good. According to these critics, there is a some form of inherent weakness in liberalism as it aims at distancing itself from any reference to common values whereas the very stability of its political institutions precisely requires some form of attachment and common identity feeling that goes beyond mere respect for universal principles. In other words, the dissociation between norms and values would prevent liberals from defending the very type of society they are in fact the most attached to.

Such an interpretation may be too hasty. One might start by pointing that western democracies offer a good empirical example which shows that, in spite of diverging personal values, people can relatively harmoniously enjoy the benefits of public goods and prosperity in common. Before invoking the necessity of having ‘shared values’ to build Europe, one should first wonder how societies so deeply divided as ours on ethical issues can also be so stable, peaceful and prosperous – in relative, if not absolute, terms when compared with the rest of the world. This does not amount to saying that ‘values’ belong to a pre-modern era and are bound to disappear, or that individuals, freed from traditional forms of attachment and identification, could content themselves with abstract, rational and ‘cold’ norms. This argument simply is that, in a pluralist society, rationally accepted norms are a more efficient mode of conflict resolution than ‘shared values’. Shared meanings may offer some form of legitimacy or encourage citizens’
active participation. However, although moral, religious or metaphysical convictions may well facilitate ‘the factual acceptation of public norms’, they cannot be regarded as ‘arguments (that may be) appropriate to found the rational acceptability of norms in the general public’.  

Moreover, I agree with Müller that it should not be taken for granted that ‘particularity automatically motivates, in the sense that almost all theories on both sides of the nationalism–patriotism debate tend to suggest’. On the contrary, there is ample evidence from social psychology that participation in shared tasks can generate a sense of mutual trust even when those involved are not aware that they share any prior cultural, social or ethnic communalities. The issue of social justice may be another illustration of this argument. It is commonly accepted that social solidarity presupposes communities in which mutual trust stems from a shared identity. In that regard, even if Habermas’s conception of the future of Europe is at odds with the one advocated by a ‘liberal nationalist’ such as David Miller, both authors share the assumption according to which a ‘thick’ identity is a necessary condition for some kind of social justice. Both consider that motivating people to make the sacrifices that social justice requires is empirically more feasible when citizens share a common identity or ‘common values’. The thesis according to which no redistributive policies would be possible without an awareness of shared belonging has the status of a conceptual truth. In opposition to this argument, Glyn Morgan has convincingly shown that, if mutual identification is one possible mechanism that leads individuals to support redistributive policies, it is not difficult to think of alternative mechanisms. For many people, support for social democratic policies has less to do with horizontal solidarity than with their self-interest. Solidarity grounded in a common belonging may be one road to social justice, ‘but self-interest provides another. Abstract principles of fairness provide still another.’

In the article I have already mentioned, Ruwen Ogien puts forward another argument on how useless it is to invoke ‘European values’. He stresses the fact that those who call for ‘common values’ in the European context hold the view that ‘values can, and even must, “justify” or “found” norms, otherwise these norms are empty, meaningless and non-binding’. A distinction should thus be made between what pertains to the ultimate objectives of European construction – liberty, solidarity, dignity, etc. – i.e. values, and what belongs to rules, principles and rights – the ban on the death penalty and torture, the right to strike, for example – i.e. norms. However the idea of justifying norms through values is not self-evident. ‘Of course, to claim a right necessarily means that we attach some value to this right and that it is compatible with other rights, but it does not mean that it has to be founded on or justified by a specific value.’ If one follows this line of argumentation, at least two questions arise. First, even if we could manage to found our norms on values, there would still remain the question of their foundations. ‘Admittedly, our rights and principles are founded on values. But on what are these values founded?’ The second question is the following: on what spe-
specific values are specific norms founded? The norm ‘Thou shalt not kill’ can thus be justified both by practical reasons – on account of the loss of time due to the feeling of insecurity fostered by rampant killing – and by pure intuition. Hence the idea – defended by Ogien – of a relative independence of norms from values in order of justification. He declares that ‘by adopting this point of view, I do nothing else but uphold the commonly held idea that there are “fundamental rights”, that is to say, in my own terms, rights which are so basic that it is useless to found them on values, or on whatever other similar principles’.41

One might also wonder if the whole process is normatively desirable either. Those who want to consolidate some form of patriotism on the European scale should bear in mind that such an ambition might deprive Europe of its most valuable asset, namely its ‘reflexive’ dimension. One of the most important effects of the European construct is to make sure that no form of patriotism – even constitutional – is immune to criticism. It thus obliges us to constantly question our identification motives and steer clear of any form of unconditional loyalty.42 The EU would break with its own principles if it were to become a ‘normal polity’ based on a ‘single’ demos and a widespread emotional attachment to the ‘values’ encapsulated in the federal constitution.

To those who deplore the somewhat hazy and abstract nature of the European identity as opposed to our ‘thick’ national identities, one might reply that the aim of European construction is not to ‘compete’ with national forms of identification but rather to tame them. At first sight, this position might seem to rest on an exaggerated – not to say ridiculous – fear that the EU could reproduce some of the exclusive logics of nationalism.43 It is indeed highly unlikely that the young and fragile European polity could create a strongly emotional form of attachment similar to national loyalty. Nevertheless the dangers attached to any attempt to make European identity more substantial by basing it on supposedly ‘shared values’ must not be underestimated. Such risks have already been illustrated by the (failed) attempt to refer to Europe’s ‘Christian heritage’ during the debates on the constitutional Treaty. It is also obvious that the identity issue is at the core of the controversy over the accession of Turkey. Valéry Giscard d’Estaing ‘certainly showed greater subtlety than his Christian Democrat allies and their Christian Club. But when the apparently neutral geographical argument is used as evidence that Turkey is not in Europe the civilisational argument can be read between the lines.’44

In her plea for European ‘civic patriotism’, Cécile Laborde is probably right when she emphasizes that ‘critical’ post-nationalists – whom I call here ‘liberal post-nationalists’ – may be more influenced by the national paradigm than they think, in so far as they ‘equate any process of collective political identification with the creation of a deeply integrated community’.45 This author aptly insists on the idea that identities do not necessarily have to be national. However, she seems to underestimate the fact that forms of collective identity always emerge through two related and simultaneous processes – first association: people with similar
characteristics and tastes tend to unite, and second opposition: they tend to disso-
ciate themselves from those who are different.46 There is no patriotism – even
conceived in purely ‘civic’ terms – without such double association and opposition
dynamics. This is confirmed by studies in social psychology that reveal the signifi-
cant role played by the relations with the ‘Other’ in the representation of the
European identity. Thus to an unfavourable attitude towards foreigners corre-
sponds a conception of identity seen as a community of values based on references
to differences (languages, cultures), but also to a single history, a single culture, and
common and specific values (non-American), notably fraternity, liberty, public spirited-
ness. Conversely a favourable attitude towards foreigners, in addition to low
national identity, seems to underpin a more sceptical, and even critical, vision of
the European identity, as Europeans tend to regard it as pure abstraction or utopia,
or even as non-existent (no real common identity).47

It would be unfair to accuse those scholars who analyse the conditions required
for the emergence of ‘European patriotism’ of having exclusive motives or over-
looking the necessity of adopting a reflexive approach to Europe. Indeed most of
them stress the fact that Europe should critically address its own ambivalent his-
torical attitude towards the Islamic world and Muslims in general.48 However,
reifying the ‘European mentality’ might ossify oppositions that hinge today on the
modernity issue. ‘According to a certain vision of Islam, Muslims tend to be
assigned traits that are in opposition with those used to define the identity of
citizens in modern democracies.’49 One could here recall some of the criteria
defined by Habermas – ‘the social privatization of faith’, ‘an ethos of struggle for
more social justice’, etc. – as potential justifications that may be used to deny any
European identity to some peoples. This would be an easy and practical way ‘of
making such prejudices more compatible with an image of self respectful demo-
cratic values’.50 This is precisely what Habermas himself seems to have in mind
when he deplores, in a more recent article, ‘the hysterical call for the defence of
our values’ which is apparently nothing else ‘but a semantic call to arms against a
non defined enemy within’.51

Beyond the European issue, there are today many examples which show that the
rhetoric of ‘values’ is not used to found or justify rights but rather to question
them. Suffice it to mention how G. W. Bush’s team in the 2004 presidential cam-
paign invoked the ‘family value’ to oppose same-sex marriage, the ‘life value’ to
challenge the right to abort, or the ‘security value’ to restrict prisoners’ rights, etc.
More generally, the call for ‘moral values’ aims at weakening rather than re-
inforcing individual liberties. Of course this is not always the case, and the values
of ‘equality’ or ‘justice’ could be invoked for example in order to recognize same-
sex marriage or grant the right to vote to foreigners. There remains the fact how-
ever that in the contemporary public debate the rhetoric of ‘values’ contributes to
restricting individual rights. All things considered, ‘there are philosophical and
historical reasons’, according to Ogien, ‘to give preference in democratic societies
to the immanent and human language of rights, liberties and consent over the

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transcendent, quasi religious and paternalist language of “moral values”.

I would add that there are just as many good reasons to prefer a ‘Europe of rights’ to a ‘Europe of values’.

An Elucidation of Liberal Post-Nationalism

In that respect, it is true that ‘liberal post-nationalists’ consider all forms of collective identity as potentially oppressive, or at least as always exclusive. But it should be added that they do not refuse to acknowledge the importance, or even the grandeur, of collective identifications; nor do they think that universal principles may be detached from specific ethical or historical contexts. ‘Resisting particular identifications’, as proposed by liberal post-nationalism, does not mean refusing identifications as such, but simply refusing to reify some particular identities as if they represented the functional requirements of liberal democracy. Following Abizadeh, one might consider that what is distinctive about post-nationalism is precisely that it picks up the fact that different citizens may effectively identify with their common political institutions for different reasons – some because these institutions give expression to a culture or a nation they see as theirs, others because they believe these institutions embody legitimate principles and so on.

In other words, I could aptly take up Markell’s definition of constitutional patriotism and describe Europe as ‘a political practice of refusing and resisting particular identifications’. However, the term ‘patriotism’ is something of a misnomer – unless one relishes this type of oxymoron – to describe such ‘resistance to particular identifications’. It thus seems more appropriate to confine the word ‘patriotism’ (and hence ‘constitutional patriotism’) to the national level. More precisely, such ‘resistance to identification’ should be interpreted as a political practice that may be divided into two stages. In the first stage, a national community adheres to ‘constitutional patriotism’. This first step is grounded on the conviction that modern collective identity can never be completely identical with itself. Hence the necessity of adopting a self-critical stance with a view to maintaining and making manifest the failure of equivalence between universal normative principles and the supplements of particularity which enable them to become objects of attachment and identification. ‘This is thus a normative, and not a descriptive, stance in line with the liberal idea according to which, whatever one’s implication in a given community, one may always acquire some distance from one’s role in order to assess the meaning of one’s attachment and commitments as regards universal principles.

In other terms, this first step implies evolving from a narrative and commemorative form of identity to an argumentative and self-critical form of identity, enriched by the experience of a tragic past caused by the arrogant defence of national identities. But such a shift from ‘historical’ patriotism to ‘constitutional’ patriotism takes place in the main locus of democratic deliberation – i.e. the exist-
ing national states. Such an interpretation thus runs counter to two widespread ideas about constitutional patriotism.

The first one holds that constitutional patriotism is founded on ‘the rejection of any reference to any non-national, cultural, specific, deep or symbolic sense of political membership, loyalty or obligation’. Against such a conception, it has been amply shown that constitutional patriotism ‘does not imply a denial of a particular historical legacy but rather a scrutinizing attitude towards one’s own past’. Constitutional patriotism differs precisely from ‘legal patriotism’ in that it rests on a relationship with one’s history. However it differs from ‘historical’ – or conventional – patriotism because it rests on a critical relationship with one’s history. That is the reason why constitutional patriotism must necessarily be rooted in a cultural and ethical community. It is precisely because one has a feeling of ‘personal involvement and responsibility’ that one may feel shame for past and present crimes committed by one’s own polity.

The second preconceived idea about constitutional patriotism is to consider that it is a specifically German phenomenon which is thus not transferable to other EU states. However, if constitutional patriotism demands that political communities ‘come to terms through remembrance and fortitude with repugnant legacies’, there is no reason why other European countries may not do the same. Britain’s and France’s history may well be less tragic than Germany’s, but they both have their dark sides – suffice it to mention Vichy and the collaboration with the Nazi regime or some of the most unpalatable aspects of British colonialism. A regular reading of the recent French press reveals that the self-critical ‘politics of memory’ is clearly no longer a German peculiarity.

In fact the problem is not to think that constitutional patriotism could not be relevant in the case of other national identities (through various forms and processes), but rather to adapt, without further ado, a concept that originated in a specific national context to a confederal organization like the EU. In other words, I consider with Cronin that, even if there is no conceptual connection between nation and democracy, their historical and socio-psychological interdependence may be deeper than most post-nationalists initially thought. For instance, as long as vernacular language remains the medium of public communication, democratic life will remain nationally marked – at least in a foreseeable future. For this reason, constitutional patriotism would be better characterized as ‘post-nationalist’ than as ‘post-national’, since it asks for a critical type of attachment rather than abandonment of national cultures. That is why the first stage of constitutional patriotism does not apply to the European project as such, even if the emergence of a reflexive national identity must be conceived as one of the necessary conditions for EU membership. Without such a self-critical stance, no reconciliation process may be possible. No community of states may emerge either. That European integration has fastened these processes of critical self-reflection is obvious in Central and Eastern European countries in which ‘the prospect of inclusion has made ... politicians and intellectuals more willing to de-centre and
question national identities’. Similarly, that Turkey comes to terms with its own past by recognizing its responsibility for the 1915 Armenian genocide can be considered as a legitimate prerequisite for its accession to the EU.

The second stage is precisely when such a distancing process ‘from oneself to oneself’ makes it possible for constituted political identities to acknowledge and accept the point of view of the ‘Other(s)’ in their own democratic self-determination process. Joseph Weiler has shown that there lies the most original normative contribution of the European project. In a democracy, the authority of the majority over the minority is generally accepted only because both see themselves as being part of the same people, as being ‘the same’. But in the European Union, both citizens and states accept to be bound by some form of constitutional discipline jointly established by distinct peoples. One may thus say that ‘this is a remarkable instance of civic tolerance to accept to be bound by precepts articulated not by “my” people but by a community composed of distinct political communities: a people, if you wish, of others’. The latter conception thus differs from the more conventional – i.e. more nation-state-like – one advocated in The Divided West, according to which minorities can only allow themselves to be outvoted when an ‘awareness of shared membership exists’.

If one rather subscribes to Weiler’s vision, it then becomes inappropriate to use the term ‘patriotism’ – even in its constitutional sense – in the case of Europe. European integration does not aim at creating and affirming a new collective identity but rather at implementing a series of measures that may right the wrongs inherent to life in community and creating the necessary conditions for some form of political cooperation between distinct peoples that do not want to be regarded as ‘the same’. The model of ‘federalism of free states’, as outlined in the European project, differs from the federal model since its objective is not to create a new ‘collective us’, but rather to further the ‘de-centred’ process which is already at work at the national level and incorporate the practices and interests of the Other into the collective decision-making process. Such transnational cooperation obviously requires a feeling of mutual trust among Europeans, and some form of reciprocal acknowledgement of past crimes. This fragile process needs to be constantly renewed, notably through the recurrent reappraisal of specific national prejudices.

But European ‘post-nationalism’ does not imply the emergence of a larger scale identification process, which might deprive the European project of its uniqueness and specificity as a new political entity founded on a deliberation and confrontation process among distinct peoples and distinct political identities. European citizenship might serve as a concrete illustration of this point. Indeed, EU citizenship carries a few rights that establish a direct link between the citizens and the Union – the right to participate in the election of the European Parliament, to petition it and to appeal to the European Ombudsman. Its substance is essentially transnational since the rights attached to it mainly refer to the relations between the citizens of one state and another state. The freedom to
move in the territory of the Union has been combined with the illegality of discrimination based on nationality. ‘European citizenship reveals the essential core of the European project, which is to erode the borders of citizenship.’

In that sense, one is ‘European’ not because one adheres to a set of ‘common values’ but simply because one is not discriminated against when one is in another member state. Indeed, it is in these terms that the citizens understand it: when they are asked what the European Union means to them, 52 percent of them answer ‘the freedom to travel, study and work everywhere in the EU’, that is, many more than those who answer ‘peace’, ‘democracy’ and ‘prosperity’ that are usually presented as the normative pillars of the European project. The notion of Union citizenship is neither antinational nor supranational but transnational. Far from being against the state, it presupposes a reappraisal of the myths attached to the sovereign nation state.

In that respect, ‘being a European’ does not mean creating a new positive and singular social identity, but rather trying to define a locus of communication and mutual recognition between distinct reflexive national identities. Put differently, ‘Europe’ is not an end in itself and there are no normative reasons (although there might be pragmatic ones) to privilege some ‘European Others’ over ‘Other Others’. European construction does not herald the end of the states, but it must relativize the absolute dimension of the state by questioning the close association which is made between nationality and citizenship. That would lead to democratizing (and not abolishing) borders, i.e., following Etienne Balibar, turning their discriminating function into a function of reciprocity. In more concrete terms, that would imply implementing at least two measures. The first one would be to start negotiations on the crossing of the external borders of the European Union instead of resorting to unilateral decisions combined with strengthened security measures. The second measure would be to confer ‘a right to take residence’ in the Union for non-Union citizens who live in Europe, otherwise European construction would just add to the existing national forms of exclusion.

Notes

2. Ibid. p. 47.
4. Ibid. p. 94.
6. Ibid. p. 821.
8. Ibid. p. 99.


20. Ibid.


34. Ibid.


36. Müller (n. 13).


40. Ibid. p. 54.

41. Ogien (n. 1), p. 56.
45. Laborde (n. 43).
48. Laborde (n. 43).
49. Sanchez Mazas et al. (n. 47), p. 317.
50. Ibid. p. 315.
52. Ogien (n. 1), p. 56.
57. Turner (n. 28), p. 298.
58. Laborde (n. 10).
61. Laborde (n. 43).
63. Laborde (n. 43).
64. Cronin (n. 10).
67. Müller (n. 13).
68. Ibid.
71. Habermas (n. 18), p. 69.
73. Eurobarometer 63, quoted by Magnette, “How Can One Be European?”.
75. Ibid. p. 316.