

For a European Constitutional Patriotism

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In recent years, two dominant models for understanding the source of common political identities have emerged in the European context: the universalist paradigm of constitutional patriotism and the communitarian paradigm of 'civic nationalism'. In view of this dichotomy, one could be tempted to think that only a combination of these two positions could deal with the mixed nature of European architecture. The European Union would thus give birth to the appealing synthesis of a 'cosmopolitan communitarianism'. This choice of a middle way is challenged in this paper. Instead, I argue that the national or communitarian challenge would be better met by the development of constitutional patriotism rather than by a loose compromise. Contrary to what most commentators seem to believe, constitutional patriotism has practical significance, is historically embedded and seeks to promote a shared political culture.

In recent years, the quickening pace of European integration has led to a spectacular revival of the intellectual debate on the notion of political identity and on its articulation over cultural and national identities. On the one hand, enlargement scheduled by the European Union leads one to wonder about the eligibility criteria of applicant countries, and about the true meaning of 'Europeanness'. Who is European? Who can claim membership? And above all, what is a political community? A large family? A club? An association? On the other hand, while the European Union has, in recent years, assumed an increasingly important role in the everyday life of the people of its member states, it is still far from providing an identification mechanism for the civic body as a whole.

What is worse is that the increase in formal legitimacy of the European institutions, brought about by the treaties of Maastricht and Amsterdam, appears to be going hand in hand with a decrease in the legitimacy of European integration in the eyes of the public (Telò, 1995, p. 18). Here we are touching upon the 'subjective' dimension (Magnette, 1998a, p. 108) of the democratic deficit. This is marked by a widening gap between what Michael Walzer (1997) calls 'the moral community' (being the social, geographical and cultural unit in which individuals are united by their shared understandings) and the 'legal community' (which defines the scope of policy measures that legally bind a community of citizens). Walzer stresses that if overlapping between these two groups is not complete, people start asking questions about the legitimacy of the polity in which they happen to live. This is the case in the European Union today, where the method of the Founding Fathers of the European Economic Community, i.e. that of 'practical achievements calling for real solidarity' (Schuman Declaration of 9 May 1950), has reached its limits. Nearly half a century of integration shows that the unification of societies is not enough to create a common political awareness. In spite of the increasing

objective interdependence between European countries, the subjective affiliations have, for the main part, remained attached to the national level.

Such concerns about the lack of Union identity, or more precisely, about the public's lack of civic identification with the European undertaking, have given rise to two main responses. The first one holds that European integration would provide an opportunity for a profound renewal of the classical categories of political thought, thereby allowing a dissociation between the juridical order of the political community and the cultural, historical and geographical order of national identities. This point of view is adopted by those in favour of a 'constitutional patriotism' to which is linked the concept of 'post-national' identity. For these authors, the European Union's political identity could establish itself on principles of universality and autonomy that underpin the concepts of democracy and the rule of law.

The second position is that of the 'national republicans' (in the French-speaking world) and the 'civic nationalists' (in the English-speaking world), who maintain that universal principles are incapable of establishing a fixed political identity. They believe a political identity must come from, and be sustained by, a force already prevalent within men's hearts, by the internalisation of a national tradition and of a common substantial culture.

In view of this dichotomy, one could be tempted to think that only a combination of these two positions could deal with the mixed nature of the European architecture. The European Union would thus give birth to the attractive synthesis called 'cosmopolitan communitarianism' (Bellamy and Castiglione, 1998; Bellamy, 2000). This choice of a 'middle way' will be challenged in this paper. Instead, it will be argued that the 'national' or 'communitarian' challenge can be better met by an elucidation of constitutional patriotism rather than by a loose compromise. Before turning to this, the two rival paradigms of the political identity arising in the European debates will be briefly presented: the universal paradigm of constitutional patriotism and the communitarian paradigm of civic nationalism.

Two Rival Paradigms

According to the exponents of 'constitutional patriotism', European political identity cannot take a national shape. These authors invite us to go beyond the nation-state model that has prevailed in Europe since the end of the Middle Ages. Their arguments are twofold.

First, they point out that the European Union, divided in many national and sub-national cultures, cannot be associated with any mythic European fatherland and even less with a European nation. For these authors, it is neither realistic nor desirable to suppose that the secular phenomenon of nation building could take place at the European scale. They remind us that national institutions have seldom been created without a certain amount of both internal and external violence. It is needless to say that no one would imagine building a European nation by force. But they are not satisfied with even a peaceful strategy of identity building, which would draw on European traditions and cultures because such 'a chauvinism of

European unity would mean duplicating the nationalist principle at the supranational level' (Ferry, 1992, p. 53). What is at stake in the European debates is precisely the need to dissociate the contingent solidarity between the nation and democracy. This is the second argument of the champions of constitutional patriotism: a political democracy does not need any identification with a peculiar historical or cultural identity. It should rather enhance the coexistence and the cooperation of these diverse pre-political identities. The proponents of constitutional patriotism acknowledge that the nation has played a key role in modern history in fostering the democratic values and that the concept of popular sovereignty was established within the boundaries of the historical nation-state. Yet, this initial fusion of nation with democracy should not be given any normative significance: 'the nation-state established only temporarily the close link between the *ethnos* and the *demos*' (Habermas, 1992a, p. 22). The post-national identity is grounded on the conviction that the very fact that we happen to belong to a particular cultural and historical community no longer constitutes a sufficient base for citizenship (Ferry and Thibaud, 1992, p. 165). Constitutional patriotism goes beyond 'historical patriotism' as it was articulated by Ernest Renan, insofar as it establishes that, whatever our reasons for holding on to our national or regional communities, these memberships are not sufficient in themselves to establish our political identity. In other words, neither the cultural argument (namely the reference to Judeo-Christian ethic, to Roman law, to Germanic freedom etc.) nor the communitarian argument (membership of a historical community of shared values) constitutes constitutional patriotism. Democratic citizenship need not be rooted in the national identity of the people: the social bond in liberal-democratic states should be legal, moral and political, rather than historical, cultural and geographical (Ferry and Thibaud, 1992, p. 174).

It is worth underlining that this universal paradigm of 'constitutional patriotism' informs the current official conception of the European Union. In both the European treaties and the accession criteria to the European Union (as they were defined at the European Council of Copenhagen in 1993), one will hardly find any reference to a historical and cultural community to describe the European polity. Article 6 of the Treaty on European Union simply lays out that the 'The Union is founded on the principles of liberty, democracy, respect for human rights and fundamental freedoms, and the rule of law, principles which are common to the Member States'.

Directly opposed to the exponents of 'constitutional patriotism', the 'national republicans'¹ (Thibaud, 1992; Debray, 1999; Todd, 1995, 1999; Schnapper, 1994) and the 'civic nationalists'² (Miller, 1995, 2000) consider the nation as the ultimate horizon of a political identity. For these authors, a dissociation between historical and cultural membership, on the one hand, and political membership, on the other, is a mere chimera. They acknowledge that modern democracy is defined by universal principles and that it should tear off the individuals from their natural memberships to assert their radical autonomy. Yet, they doubt that the bond of social unity created by constitutional patriotism is sufficiently strong for a liberal political community to achieve some of its central goals. This is the very reason why the nation is the only unit in which a 'limited form of universal' (Rosanvallon, 1997, pp. 43–4) has come to acquire practical significance. One

cannot disentangle the republican ideal of 'legal patriotism' from its national realisation. The *ethnos* can only be turned into *demos* at the national level, the only level where the values of liberty, civic responsibility and political justice acquire their true meaning.

The civic nationalists point out that universal principles cannot by themselves sustain any particular polity. If we want democracy to survive, we need to flesh it out with the strong feelings and emotions involved in a national tradition. This is why, contrary to what most commentators seem to believe, the formulation of the concept of nation by Ernest Renan was not limited to his famous formula of the 'daily plebiscite'. It also involved the 'invention of a tradition', founded on a selective (not to say falsified) memory, on a 'rich legacy, a past, great men, glory' (Renan, 1992, p. 54). The nation is thus defined in terms of shared language, history, traditions, or some combination thereof, thereby allowing the possibility of the acquisition of membership by persons who lack these characteristics but who choose to embrace them. Yet, it differs from a purely civic conception of citizenship that conceives a political community as based on an allegiance to shared principles of political justice flowing from a liberal political morality. According to the civic nationalists, human beings are made up of passions as much as reason. This is the paradox on which modern democracy is founded: even if it belongs to the rational sphere, it has no choice, if it wants to survive, but to use the language of ethnicity, history, mythology. The 'pure democracy' envisioned by the champions of a post-national identity would indeed be very fragile because it would be deprived of the strong emotions associated with historical and cultural peculiarities. This is why the separation of the political and national spheres would threaten the very democratic process itself. Furthermore, it could stimulate the narrow-minded nationalists who conceive the nation in ethnic terms rather than in terms of a general will and a common destiny. 'If democratic politics fail to take a stand on matters of cultural identity, they might end up monopolised by anti-democratic movements such as the French rightist National Front' (Laborde, 2001b). A 'liberal' or a 'republican' nationalism would thus be the only way to resist all forms of ethnocentrism and fundamentalism.

Here, it should be underlined that the civic nationalists do not try to promote a unanimist model of democracy. Instead, a relative cultural homogeneity is, in their view, the condition for a deliberative democracy, since compromise and deliberations are far more likely to take place amongst people who identify strongly with each other (Bellamy, 1999, p. 194). Constitutional patriotism on its own is insufficient to generate the sort of social trust that is required for democratic decision-making, for example, the sort of trust that makes compromise possible in the face of conflicting interests and scarce resources.

If political decisions are going to be made in a genuinely democratic way – through public discussions in which all sections of society have their voice heard – one crucial requirement is a sufficient degree of trust among the debating constituency ... Trust of this kind is much more likely to exist among people who share a common national identity, speak a common language, and have overlapping values. Conversely, in multi-national states, where trust exists much more within the national groups

than among them, politics tends to take the form of bargaining and each decision is regarded as a victory or a defeat for the group that one belongs to' (Miller, 1998, p. 48).

Hence an 'anti-civic' spirit in the European Union. According to these authors, European integration would threaten to aggravate the twin dangers facing contemporary democracies: individuals' growing autonomy, on the one hand, and disinterest in public affairs, on the other. Both the loss of popular sovereignty and the extension of individual rights due to European integration are likely to reinforce the primacy of 'negative' freedom over 'positive' freedom and to aggravate the chief symptoms of democratic malaise, 'namely cynicism towards democratic rule, reluctance to share the burden of social justice, resentment towards aloof and acculturated elites, decline of civic dispositions' (Laborde, 2001b). Consequently, the citizens are no longer 'authorities' actively involved in the law-making process, but mere legal subjects that the authorities should protect. They are consumers rather than citizens.

This national criticism of European integration can be considered as an exemplar of the communitarian criticism of political liberalism. This may exemplify a growing convergence between the European political model and the North American model, both characterised by the dissemination of power among several institutions and by the existence of a strong legal power. The European and the North-American public spaces are also quite similar insofar as the sectional representation of interests tends to reduce social and political cleavages and to encourage the articulation of claims in terms of 'rights'. This observation has led some European authors (Cohen-Tanugi, 1985) to believe that the national criticism of the European Union could be reduced to a mere phenomenon of acculturation. They expect it to vanish as soon as the Europeans adapt themselves to this 'liberal' or 'procedural' model, which is far more suited to the economic and social issues of the age. However, one should bear in mind that this liberal model has also come, in the USA, under trenchant criticism. Indeed, the arguments advanced by the communitarians against liberalism cannot be dissociated from their criticism of the political model in which they happen to live, insofar as they consider that the political philosophy which informs contemporary American politics – and which can be found across the political spectrum, from Democrats to Republicans – is a version of the liberal political theory (Sandel, 1996, p. 5). Communitarians agree with civic nationalists in disputing the universalist and individualist right-based starting point of any political theory. Rather than considering rights as foundational principles pre-supposed by all legitimate societies, they contend that their relative importance and their degree of acceptance are likely to vary from one particular society to another. A democratic identity requires, in Walzer's words, a 'thick' morality as opposed to the 'thin' morality of the liberals (Walzer, 1994). This 'thick' background is needed if we are to identify with our juridical and political institutions and recognise all the civic duties that they impose on us. A democracy pre-supposes the existence of a community of citizens who are aware of forming a unity. This unity cannot be defined *a priori* by the philosopher but should be significant for the people themselves (Taylor, 1992, p. 65).

This 'nation-centred view' is too narrow when confronted with the current mutations of democracy. Yet, it rightly stresses the importance of the 'subjective' affilia-

tions and of the pre-judicial roots of any constitutional process. It rightly insists that democracy is not only a set of institutions and procedures but also includes a common political culture and specific values (Telò, 1995, p. 18). The similarities of the criticisms raised against both the European and the American political models express indeed a feeling of loss, due to the growing fragmentation of democratic societies and to the increasing difficulty people feel to identify with their political community. It raises a valid question, that of the political and moral values likely to nurture a multinational body such as the European Union. This criticism has thus the virtue of forcing us to proceed to an elucidation of constitutional patriotism's ambition.

In Defence of Constitutional Patriotism

I shall plead here in favour of constitutional patriotism by challenging three of the most widespread criticisms made of it. First, it is often said that constitutional patriotism has no real existence outside the philosopher's mind because people do not identify with abstract principles alone. Many political theorists, including some who describe themselves as liberals, express profound scepticism about whether the kind of voluntary, willed civic links can provide any but the weakest basis for political stability. Constitutional patriotism is thus regarded as next to an oxymoron. The word 'constitutional' is often believed to have cold and juridical connotations whereas the word 'patriotism' evokes a warm feeling coming from our hearts.

However, if it were true that constitutional patriotism did not exist, being too abstract and too cold (i.e. that it would be unable to fill our hearts), it would mean that the love of political justice does not exist either, nor that of freedom (Ferry, 2001, p. 21). Yet, one can think of many examples of politicians – such as Konrad Adenauer or Willy Brandt – who deliberately decided that their commitment to universal principles should surpass their sense of belonging to their national community (Ferry, 1992, p. 175), and many people have risked their lives in war on the basis of shared principles rather than shared nationality, race, language ... etc. At first sight, the civic nationalist's claim that constitutional patriotism has no practical significance outside a few intellectual circles might seem to be closer to both common sense and 'ordinary' people's feelings. A closer examination reveals this argument to be both elitist and untrue. It is elitist because it implies that 'ordinary people' are not educated enough to be moved by abstract principles if the latter are disentangled from their national traditions. It is untrue if one remembers, for instance, the manifestations that took place, in several European cities, on 20 February 2000, to protest against the inclusion of the FPÖ's members in the Austrian government. On that day, one could see thousands and thousands of 'ordinary' people walking in the streets to claim their attachment to the universal principles of democracy and of the rule of law and to condemn what was taking place not in *their* but in *another* European country. If constitutional patriotism were deprived of any practical significance beyond the borders of the nation, this event would have no political meaning but only a private or a psychological dimension.

What must be firmly stated here is that constitutional patriotism has never denied the importance of local, national and regional identities. According to Habermas, 'constitutional patriotism can neither take shape in social practices nor become the

driving force for the dynamic project of creating an association of free and equal persons until they are situated in the historical context of a nation of citizens in a way that they link up with those citizens' motives and attitudes' (Habermas, 1996, p. 499). Constitutional patriotism thus merely claims that the *ultimate* (i.e. the deepest/most fundamental) motives for our attachment to a political community are neither communitarians nor nationalists' motives, even in their noblest versions. Rather, the ultimate motives are adhesion to the universal principles of human rights and democracy. However, to act on principles does not mean to be motivated by abstract principles *alone*. 'Instead, such principles guide actions and policies by constraining the set of local culture and legislation that impose moral duties on us. Principles guide action by ruling out certain policies as unacceptable, requiring others, and often leaving a range of permitted policies' (Follesdal, 2001, pp. 327–8). One can make this point more explicit in arguing that shared experience of history can count as reasons in a civic political community as long as they do not contravene the basic principles of political justice and as long as they are not immune from critical reflection and reassessments (Choudhry, 2001).

This leads to a challenge of a second criticism, according to which constitutional patriotism is a disencumbered ideal, insulated from 'thick' historical realities. This criticism overlooks the fact that the debate on constitutional patriotism was born and has evolved in close connection with history. It is worth remembering that it was born in the context of the 'Historians' debate' which, for two years (1986–88), opposed two schools of German intellectuals against each other on the issue of Nazism. In this context, Habermas argued that a German liberal democratic national state could be elaborated through critical confrontation with the nation's past. The constitutional patriotism he called for did not imply a denial of the particular historical legacy that the German Republic inherited³ but rather a scrutinising attitude towards one's own national identity (Laborde, 2001b). This is especially important in the European Union. Europe's self-perception differs from that of most nations in that it has not emerged from a military conflict but from the lessons drawn from the two world wars. It is neither a military victory nor a heroic defeat but rather the ravages of war that has given birth to the European idea. As Ferry has argued, constitutional patriotism differs from 'legal' patriotism⁴ in that it rests upon a relationship with one's history. Moreover, it differs from 'historical patriotism' (as Renan articulated it) for it rests on a *critical* relationship to one's history (Ferry, 2000, p. 168). It is in this very critical dimension that one can grasp the singularity of the European identity when compared to the national identities. At the end of the nineteenth century, in a famous lecture, *Qu'est ce qu'une nation?*, Renan suggested that forgetting, not to mention historical falsification, was an essential component for the building of a nation: 'the essence of a nation is that individuals have much in common and also that they have forgotten many things' (Renan, 1992, p. 41). European identity differs from national identity in the sense that it was, from the very beginning, founded on the permanent remembrance of its internal conflicts and divisions and on a sense of responsibility for the crimes committed in the past. Constitutional patriotism requires that states and peoples of these states move away from their self-centred national memory in a self-critical stance which recognises the other by recognising the crimes committed against him (Ferry, 2000, p. 177). Yet, some authors (Canovan, 1996, p. 56; Yack, 1996,

p. 200) have argued that constitutional patriotism makes good sense only in the German context where it can be seen as a way of shifting German national identity away from its earlier ethnic/racial forms towards commitment to a shared body of principles enshrined in the post-war constitution. This is to say that constitutional patriotism would be suited to Germany because of its particular history but not to other nations such as the UK where liberal principles have emerged from within its historical evolution. However, if constitutional patriotism demands that political communities 'come to terms, through remembrance and fortitude, with repugnant legacies' (Laborde, 2001b), one can see no reason why other European countries would not need it also. British or French recent histories might be less tragic than that of Germany. Yet, they also have their dark sides – one has only to think of Vichy collaboration or of several unpalatable aspects of British colonialism. This could also be exemplified by the huge national debate that has arisen in France on the use of torture in Algeria.

The third criticism states that the 'constitutional patriotic project pursues a strategy of a complete insulation of politics and culture that is self-defeating' (Laborde, 2001b). This argument fails to acknowledge that one of the objectives of constitutional patriotism is precisely to foster a *shared* (as opposed to a *unique*) political culture. Far from denying the importance of national peculiarities, this shared political culture should emerge from an open deliberation and confrontation process among the various national cultures involved in the European Union. The European project requires the 'mutual recognition of the various political sub-cultures that constitute it, leading in time to a progressive opening of national public opinions to one another through political debates and confrontations' (Nicolaidis, 2001, p. 473). This is also why the European Union has not been built, as the French Republic, on the subordination of the entities that compose it. The 'natural' character of the nation is often opposed to the 'artificial character' of European integration, overlooking the fact that most of our nations were built by the artifices of force and the 'invention of traditions'. As a polity founded on peaceful ideals, Europe has no ambition to replace national bonds. Instead, in the future European Union, the same principles would 'have to be interpreted from the vantage point of different national traditions and histories. One's own national tradition will, in each case, have to be appropriated in such a manner that it is related to and relativised by the vantage point of other national cultures' (Habermas, 1992b, p. 7). Ferry makes a similar point when he holds that a political community in Europe can draw on universal elements embedded in national constitutions and in international law (Ferry, 1992). The European Union should thus offer a political and juridical framework for both a civil confrontation and a voluntary co-operation among individuals and among nations.

A Cosmopolitan Communitarianism?

Two political theorists, Bellamy and Castiglione (1998), have recently tried to extrapolate the conceptual dichotomy between liberals and communitarians to the European issue. They distinguish between the 'cosmopolitans' (Archibugi, 1998; Ferry, 1992; Held, 1995, 1998; Pogge, 1994; Linklater, 1998) and the 'communitarians' (Miller, 1995; Sandel, 1982, 1996; Thibaud, 1992; Walzer, 1994, 1997). 'The first contend that we now live in a world society that ought to be governed

according to universal principles of rights and justice; whereas the second advocate the claims of community and deny that moral principles carry much weight outside the specific social and political contexts that give them their particular character and force' (Bellamy and Castiglione, 1998, p. 152). Within the first category (i.e. that of 'cosmopolitans'), they distinguish two possible views of the European Union: that of the 'supranationalists' – who plead for a federal Europe conceived as a nation-state writ large – and that of the 'postnationalists' – who consider the moves towards federalist principles as an alternative to (rather than a new form of) a unitary sovereign state. The second category (i.e. that of 'communitarians') include the conservative Eurosceptics – who think in terms of narrow political interests and conceive the nation in quasi-ethnic terms – and the 'civic nationalists' who tend to be left-wing and influenced by republican notions linking patriotism with democratic participation.

They thus identify four possible approaches to Europe – the supranational and the post-national federalist stemming from the cosmopolitan camp and the ethnic and the civic nationalist arising out of the communitarian (Bellamy and Castiglione, 1998, p. 162). Once this typology is drawn up, the authors rule out from their arguments both the 'hard-line' options of supranationalism and ethnic nationalism because 'the neofunctionalist federalist line greatly overestimates the integrative potential of global forces and the capacity of people to transfer their allegiances. The Eurosceptical argument underestimates the new realities of global competition and has xenophobic overtones of decidedly uncivic nature' (Bellamy and Castiglione, 1998, p. 165). The synthesis advanced by Bellamy and Castiglione rests thus on these two 'soft' variants of civic nationalism and postnationalism. On the one hand, say Bellamy and Castiglione, a 'pure' cosmopolitanism cannot keep its promise for the proper recognition of basic rights rests on their being specified and laid down in a given society. It misses the fact that a sense of commonness and of mutual obligation is a necessary precondition for both political and social justice.

On the other hand, a simple communitarianism is also unsatisfactory because it overlooks the multiplicity of our community affiliations and underestimates the new social and economic realities of globalisation. Indeed, for Bellamy and Castiglione, both cosmopolitanism and communitarianism have difficulties coping with the growing pluralism of our political institutions and of our democratic societies: 'In different ways, each risks the prevailing set of principles simply reflecting the ideals and interests of hegemonic groups. Cosmopolitans risk an imperialism of the dominant view of liberal values, communitarians a relativism that endorses the highly illiberal practices of certain national ruling classes' (Bellamy, 1999, p. 197).

Consequently, they have opted for a third way which would make it possible to combine 'a communitarian sense of attachment with the cosmopolitan respect for diversity' (Bellamy, 1999, p. 197). The European Union would thus work as a union of nations, with a strong consensus on some fundamental issues and some elements of a common identity. This choice would shed a new light on the institutional nature of the European Union. Today, both the cosmopolitans and the communitarians are, for opposite reasons, dissatisfied with its shape. The former plead for more supranationality and the latter consider that the loss of national

sovereignty has already gone too far. But they all see the European Union as a messy composite arrangement involving an uneasy mixture of national, intergovernmental and supranational elements. The choice of a cosmopolitan communitarianism would, according to Bellamy and Castiglione, reveal this complex and intermediate character of the European Union to be both coherent and legitimate. As a hybrid entity, displaying features of both a supranational polity and a confederation of states, the EU draws on normative justifications of both a communitarian and a cosmopolitan kind. On the one hand, it operates as an intergovernmental organisation ensuring the protection or even the 'rescue' (Milward, 1992) of the nation-state. On the other hand, the European Union embodies a number of supranational institutions dedicated to the promotion of a new European constitutional order having supremacy over national laws and direct effect upon individuals. This mixed model, not to say, this political *bricolage*, would be 'the only coherent strategy within a pluralist multicultural polity' (Bellamy, 1999, p. 203). The cosmopolitan communitarianism would thus acknowledge both the validity of certain general norms and the need for supranational collective actions in specific areas while at the same time recognising that these obligations need not be of the same kind for all parties nor require the adoption of a totally unified system. Rather, it would emerge from within the distinctive perspectives of the various participants and the dialogue that would ensue between them. This cosmopolitan communitarianism is thus characterised by the 'republican scheme' (Bellamy, 1999, p. 208) of a constitutional dialogue in which different communities reach compromise between their respective positions. Allegiance within this system builds neither on a cosmopolitan overlapping consensus, nor a communitarian sense of belonging. 'By contrast to Habermas, adjustments between different communitarian ethico-cultures do not occur around a shared cosmopolitan core. However, political integration does not build on a pre-existing European culture or set of values either. Instead, culture and politics develop in tandem as reciprocal exchanges between different communities of diverse sorts foster a more cosmopolitan perspective and helps shape new political forms' (Bellamy, 1999, p. 208).

Bellamy's and Castiglione's analyses constitute one of the few attempts to study the implications of political theory discussions for the European debate. Yet, the originality of their approach cannot conceal the doubtful character of both their typology and their results. With regard to their typology, their choice to include both the 'supranationalists' and the 'post-nationalists' in the same category⁵ (i.e. that of 'cosmopolitans') overlooks the fact that what divides these two conceptions might be more important than what unites them. The theoretical debate on European identity cannot be reduced to an opposition between pro- and anti-Europeans. Indeed, it opposes less the 'pro-Europeans' (all identified by Bellamy and Castiglione as 'cosmopolitans') to the 'anti-Europeans' (all identified as 'communitarians') than the 'nation-state centric view' (Nicolaidis, 2001, p. 472) to the 'post-nationalists'. Both the 'nationalists' and the 'supranationalists' consider the nation as the ultimate horizon of democracy, either within the borders of the existing nation-states or in those of a new European nation. Indeed, if one views national identity as the one real basis for a democratic community, then this leads to two options: 'The first is to view the federation as merely a composite of

various communities ... the second option is to attempt to construct the federal community as itself a competing or overriding community of identity' (Howse, 1999, p. 2).

This first category (that of the nation-state centric view) would thus include both the defenders of a loose 'Europe of nations' composed of sovereign nation states (*L'Europe des patries*) and the defenders of a new European fatherland (*La patrie européenne*). At first sight, these two approaches may seem to be at odds with each other. Yet, they follow the same methodology. Both are informed by a 'nationalist paradigm', in Ernst Gellner's sense 'a principle which states that the national unit and the political unit should be congruent' (Gellner, 1989, p. 11). The debate between Europhiles and Eurosceptics is often 'not a debate of opposites but of equals – equals in their inability to understand political and social organisation in non-statal, national terms' (Weiler, 1996, p. 1). This convergence is exemplified by the similarities between the cultural policy chosen, in the mid-1980s, by the European institutions (resort to European myths, to European history, introduction of a new flag and a new anthem etc.) and the way the major European states established their authority and their legitimacy by the 'invention of traditions' between 1870 and 1914 (Hobsbawm and Ranger, 1997). The symbolic terrain upon which the Eurocrats tried for a while to construct the new Europe was precisely that upon which the nation state has traditionally been founded (Shore, 1993, p. 791).

The second category, the 'post-nationalists', is thus alone in pleading for a dissociation of the national from the political spheres and in opening the possibility of a dissociation between the holding of a specific nationality and European citizenship⁶. Hence this paradox: those supporters of the European Union who insist on the need to safeguard national reference (like the post-nationalists, as we will see later) may have to bypass the nationalist principle, whilst, on the other hand, those who envisage European integration as a broader substitute than the nation may surreptitiously reassert the nationalist principle (Ferry, 1991, p. 116).

With regard to their conclusions, the third way advanced by Bellamy and Castiglione is far from being as original as it might seem at a first sight and includes a number of errors in its interpretation of constitutional patriotism. First, one can hardly see in what ways the political model envisioned by 'cosmopolitan communitarianism' differs from the post-national model. The former should, in Bellamy's words, emerge from within the distinctive perspectives of the various participants and the dialogue that would ensue between them. The latter should emerge, in Ferry's words, from an open deliberation and confrontation process among the national cultures in a common public space (Ferry, 2000, p. 77). As it has been shown, constitutional patriotism does not imply a *unique* political culture (nor a 'cosmopolitan core' or a 'cosmopolitan overlapping consensus') but a *shared* political culture made of distinct national traditions. According to Habermas, European constitutional patriotism differs precisely from the American version in that it should emerge from different national interpretations of the same universal rights and principles. Constitutional patriotism confers thus a crucial importance to an open deliberation and confrontation process among the various national cultures involved in the European Union.

Second, the choice of a middle way such as ‘cosmopolitan communitarianism’ leaves open the question of the ‘ultimate’ principle of identity for the European Union. It says nothing about the key issue of this debate – that of deciding if nationality is a social fact that sometimes can have an instrumental value in fostering the democratic virtues or whether it has an intrinsic ethical value. It would thus not help solving a conflict among different forms of allegiances.

Above all, the interpretation of the cosmopolitan position proposed by Bellamy and Castiglione often seems to resemble a mere caricature. According to them, the ‘cosmopolitans’ believe that ‘democracy has essentially instrumental use as a means of allowing individuals to voice and protect their vital interest by controlling the decisions that affect their lives’ (Bellamy and Castiglione, 1998, p. 160). Even if this opinion may be of relevance for some liberal authors, it can never hold value for Habermas, whose position is clearly different to that of other liberals by the crucial significance it grants to the democratic processes. Indeed, constitutional patriotism should not be reduced to a mere allegiance to the liberal principles. Both constitutional patriotism and liberal contractualism share a commitment to the constitutional order and seek to minimise the reliance on contested values in response to the challenge of pluralism (Follesdal, 2001, p. 331). Yet, for Habermas, the liberal conception alone is insufficient to ensure the stability and the endurance of a liberal democracy and must be supplemented by a supportive political culture. The political community he calls for finds its identity neither in ethnic and cultural communalities, nor in a liberal overlapping consensus, but in ‘the practice of citizens who actively exercise their rights to participation and communication’ (Habermas, 1996, p. 495). Therefore, the development of a shared political culture refers here to the model of a ‘confrontation consensus’,⁷ as distinct from Rawls’ ‘overlapping consensus’ insofar as it is the result of an open, public and democratic debate. It is clear, however, that this political culture will not emerge spontaneously. This is why the legitimisation process of European integration must, according to Habermas, be supported by the emergence of both a system of European parties and a European civil society formed around interest groups and NGOs.

Constitutional patriotism differs thus not only from the Rawlsian overlapping consensus, but also from the specific version of ‘multiple *demos*’ advocated by Weiler. For this author, the European Union should remain ‘a Union among (distinct) peoples’. Consequently, Weiler considers that *the status quo* (i.e. the absence of a formal constitution) represents the unique brand of European constitutional federalism, its most original political asset and its deepest set of values (Weiler, 2001, p. 6). However, for the proponents of constitutional patriotism, a central premise of legitimate political rule is that those who are affected by political decisions should be able to participate in legitimating activities of their common affairs. What is required is thus ‘a shift from *demosi-cracy* to *demos-cracy*, a shift from accountability to the separate peoples of Europe ... to accountability to the people of Europe as a whole’ (Van Parijs, 1998, p. 298). This is why, to the tenants of constitutional patriotism, the adoption of a constitution responds to a symbolic need insofar as they see it as the prelude to the emergence of a European ‘*demos*’ beyond the nation states. ‘The citizens of Europe will not be able to consider themselves as members of a single political body until they vote for a common Constitution. Only

then will they be able to accept that the responsibilities are distributed more evenly beyond the borders' (Habermas, 2001, p. 103). Constitutional patriotism thus acknowledges that a European demos should be both a *political* one and a *plural* one, for it allows a space for shared identities.

(Accepted: 10 April 2002)

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Notes

I would like to thank Jean-Marc Ferry, John Fitzmaurice, Cécile Laborde, David Miller, Kalypso Nicolaïdis, Georgios Varouxakis and two anonymous referees for their helpful comments on earlier drafts of this paper.

- 1 For more details on the French national-republicans, see Lacroix (2000) and Laborde (2001a).
- 2 David Miller would not accept being labelled as a 'civic nationalist' because he holds that national identities should include irreducible cultural elements so that a purely civic nationalism is an impossibility. But though Miller does indeed believe nationality has a cultural content, he makes clear that this need not be based on ethnicity and that the cultural component may be civically renegotiated by immigrants groups and other cultural minorities (Miller, 1995, chapter 4). Those who call him a civic nationalist do so in view of his embracing a republican rather than a liberal position that suggests that 'civic' rather than 'liberal' nationalist is a more accurate description. I owe this remark to an anonymous referee.
- 3 'Of course, constitutional patriotism's tie to these principles have to be nourished by a heritage of cultural traditions that is consonant with them' (Habermas, 1989, p. 262).
- 4 This expression was introduced by Nicolet (1982) to describe the attachment to the abstract principles of democracy and the rule of law.
- 5 Bellamy has recently noted that the 'cosmopolitans' can differ greatly regarding the European Union's political shape. He thus distinguishes the 'libertarians' (Buchanan, 1990) who consider the four freedoms of labour, capital, goods and services as the Union's main rationale and the political who favour confederal arrangements opposed to state sovereignty from the political and welfare liberals (Van Parijs, 1998) who have a fuller picture of the EU and support federal arrangements (Bellamy, 1999, p. 195–6). However, the main dividing line drawn by Bellamy and Castiglione well and truly separates the 'cosmopolitans' (supranationalists or post-nationalists who all favour the progress of European integration, this being under various political forms) from the 'communitarians' who resolutely protect national forms and therefore oppose the progress of European integration. This is why their typology fails to recognize the fact that the supranationalists really have more in common with communitarians than with post-nationalists.
- 6 The European treaties which define a European citizen as 'any person having the nationality of a Member State' deny this dissociation. Only national membership opens the 'right to have rights' at the European level.
- 7 I owe this expression to Jean-Marc Ferry.

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