

CIDADANIA EM TRANSFORMAÇÃO: UM PANORAMA DOS PROBLEMAS ATUAIS

CITIZENSHIP IN CHANGE: AN OVERVIEW OF ITS CURRENT PROBLEMS

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RESUMO

O objetivo deste artigo é apresentar as características do conceito de cidadania e as transformações por ele enfrentadas no mundo contemporâneo, a partir da visão inovadora de Andreas Niederberger. Em sua primeira parte, o texto apresenta as características centrais da cidadania na visão tradicional, apontando sua importância para a política e a sua relação com as ideias de representação e desigualdade social, com referência nos autores clássicos para o estudo do tema. A seguir, o artigo aponta os maiores desafios enfrentados pelo conceito no mundo contemporâneo e as principais soluções levantadas para tais desafios. Neste ponto, o artigo analisa as implicações, sobre o conceito de cidadania, de fenômenos como a criação de ordens normativas privadas transnacionais, o trabalho temporário em um determinado território, o domínio do capital financeiro e as migrações internacionais. Finalmente, o texto expõe a solução defendida por Niederberger, que desenvolve a sua visão de cidadania a partir da ideia de cidadania-constelação, defendendo que o conceito é capaz de manter sua utilidade em um mundo composto de ordens normativas plurais.

PALAVRAS-CHAVE

Estado. Cidadania. Representação. Globalização. Transformação.

ABSTRACT

The aim of this article is to present the characteristics of the concept of citizenship and the transformations it faces in the contemporary world, based on the innovative vision of Andreas Niederberger. In its first part, the text presents the central characteristics of citizenship in the traditional view, pointing out its importance for politics and its relation with the ideas of representation and social inequality based on classic authors for the theme. Next, the article points out the major challenges faced by the concept in the contemporary world and the main solutions raised for such challenges. At this point, the article analyzes the implications for the concept of citizenship of phenomena such as the creation of transnational private normative orders, temporary work in a given territory, the domination of finance capital and the international migrations. Finally, the text exposes the solution defended by Niederberger, who develops his vision of citizenship based

on the idea of "citizenship-constellation", arguing that the concept is capable of maintaining its usefulness in a world composed of plural normative orders.

KEYWORDS

State. Citizenship. Representation. Globalization. Change.

INTRODUCTION

Citizenship has functioned as a *modality of belonging* to national political orders that provides citizens with a series of rights, goods and services, especially the possibility of participating in the formation of the norms that build the political order. Being a citizen of a country implies to be holder of a certain legal status composed of a series of rights and duties destined exclusively to these people.

As Andreas Niederberger (2015) teaches, much of the debate on citizenship has focused on the *content* of this legal status, aiming to establish differences among the various conceptions of democracy, for example, the liberal vision and the republican vision, which will be examined after. Most of the analysis has left aside the dimension of *belonging* that characterizes citizenship and the political and social conflicts related to such status.

Understanding the mutual relationships between citizenship, national state and the eventual possibility of creating a global society is what will allow us to better understand the characteristics and challenges of citizenship in the contemporary world. After all, considering the least thirty years of study on the phenomenon of globalization, it is not reasonable to approach the problems of citizenship in today's world without taking into account the globalization of social relations and the financialisation of capitalism, phenomena which, as we shall see, seem to be destroying the political-institutional presuppositions of citizenship's existence as we know it today.

So, it is not a matter of discussing only what the content of citizenship is or should be: it is also necessary to discuss its privileged place in the grammar of contemporary politics and law. In a word, it is a matter of debating whether the concept of citizenship, as we know it, is capable of, today, encompassing a series of modes of belonging that refer not only to state political communities, but also to normative orders of another nature, around the globe. As we shall see, such normative orders are challenging state borders as a condition and as a limit for the exercise of citizenship in today's world.

On one hand, increasing immigration and the temporary presence of men and women in various states, during work and study seasons, show how citizenship is still a monopoly of state nationals, being unable to give voice to all the

effects of the rules created within a given political order. Looking at the problem from this perspective, we face people who suffer effects from norms over which they have no power of influence at all; effects which may be prolonged in time, for example in the case of nationals of a country who work or study in neighboring countries for long periods.

On the other hand, a series of social problems are getting out of control of the political will of citizens, such as the control of international financial transactions, environmental issues and regulation of transnational corporations' activities. Activities such as these produce a set of rules of their own which tend to escape the power of influence of national citizens by calling into question the power of the states and the democratic regime's ability to ensure the participation of everyone in the production of standards which influence their lives.

Citizenship seems to be, in the first case, an instrument of unfair discrimination; an instrument of undemocratic domination and, in the second case, an ineffective instrument for men and women to determine autonomously their fate.

In order to address all these issues, we will first address the relationship between citizenship, democracy and the rule of law in its classic form, that is, citizenship referred to the borders of national states. Next, we will point out the main challenges of citizenship in the contemporary world and its alternatives, which include the debate on whether or not to form a world society, that is, a political regime that operates beyond the territorial limits of national states or, yet, of a regime that promotes a complex articulation between normative orders organized at multiple levels, including national states.

Next, we will present the main theoretical proposals present in the contemporary debate that intend to maintain the concept of citizenship as part of the grammar of contemporary politics, although with reformulations, that means, in the formulation of Niederberger, *cosmopolitan citizenship*, *political affiliation without citizenship* and *citizenship-constellation*. Finally, in the last part of this text, we will return to the discussion of the first two parts of the article to reinforce the conceptual links between the main concepts discussed here and to show the theoretical and practical possibilities of the idea of a *citizenship-constellation* proposed by Niederberger to problems faced by citizens in the contemporary world.

1 CITIZENSHIP, DEMOCRACY AND THE RULE OF LAW

The current debate on citizenship focuses on the definition of its content, leaving behind its meaning as a form of belonging to a political community. So, for the liberal view of citizenship, being a citizen means *being able to exercise free choice in most areas of your life* (NIEDERBERGER, 2015, p. 84). According to this position, a political order will be considered legitimate if it allows men and women to decide freely, without external obstacles on their will, the problems that affect them.

The only legitimate limit to the individual will, to the liberal view, is that which seeks to ensure that the same portion of freedom can be exercised by all. The exercise of my freedom, therefore, cannot be an obstacle for other people to exercise theirs: this is why there is the need to create some limits for the citizens' freedom. For example, the creation of a police power, viewed from this perspective, aims to prevent individuals or groups from taking the laws in their hand and, with the use of violence, dominating the others.

In the same way, controlling competition in the markets can be seen as a way of avoiding the formation of large business conglomerates that are powerful enough to manipulate free market rules and unfairly undermine smaller firms. From another point of view, apart from markets issues, the existence of arbitrary private powers that determine people's lives based on scientific, moral arguments, among others, stopping these affected persons from taking part in the creation of its norms, is also in the sights of the liberal version of citizenship, which seeks to guarantee individual freedom above all else.

On the other hand, for a republican view of citizenship, following Niederberger's (2015, p. 84) exposition, its content can vary according to the political orders historically considered without a special connection between citizenship and freedom. For this view of the topic, individual freedom is only one dimension of citizenship, a central dimension no doubt about it, but one that must be combined with other social values.

The centrality of individual freedom, in this way of seeing the problem, lies in the need for the content of citizenship, and therefore the norms that create the political order as a whole, to come from the will of its members. Republicans and Republicans therefore admit that individual choices are limited in the name of the common good, provided that such limitations are the result of the will of all, ascertained through the political system.

Indeed, to this view, eventual limitations on individual liberty would not affect the right to liberty, for example, it would be necessary to guarantee a certain degree of equality so that freedom could, in fact, be exercised. Such a classic argument, as is well known, goes back to Jean-Jacques Rousseau and Karl Marx (ROUSSEAU, 1989; MARX, 2010). For Rousseau, excessive economic inequality impairs the exercise of citizenship, since it stimulates greed and the search for social differentiation, on detriment to collective interests. In Marx's view, at this point an original disciple of Rousseau, inequality under capitalism subordinates one part of men and women to others, that means, it subordinates to private owners of the means of production all those who are no longer able to maintain subsistence, being compelled to sell their labor force in the market.

In this last formulation, the formal existence of political citizenship in a society dominated by economic dependence between men and women is a kind of farce whose function is to legitimize the fact that a part of the population does not have the autonomy to determine the direction of its lives. After all, selling the labor force in the market means allowing it to be used as an instrument in the production process, under the orders and rules imposed by the owners of the means of production. According to this criticism, under economic dependence on others, the freedom promised by liberalism becomes a chimera, a farce concealed by legal norms.

For the Republican vision, both values, equality and freedom, enjoy the same status and, for that reason, being a citizen means, above all, having the power to take part in the creation of norms that seek to reconcile the two values, that is, *to exercise the legislative power*, either in person or through its representatives. Even if such exercise imposes limits on the individual freedom against the benefit of collective interests, for example, by creating compulsory clauses for a number of private contracts in order to protect, for example, the consumers, the workers and the environment.

To take a simple example: creating limits for deforestation of certain immovable private property located on the banks of rivers is designed to protect the environment in the name of collective interest, after all, by preventing erosion of the river banks, consequently these rules protect all the community from the risk of any interruption in water supply and cessation of fishing activity.

According to what has been said so far, it seems reasonable to say that, whether in the liberal or in the republican sense, citizenship offers *a justification for the political order* beyond the individual interests of citizens. A political order serves, of course, to satisfy the interests of citizens, however, beyond this dimension, it is intended to guarantee their freedom and equality, removing the will of the State. I will explain it.

State power only acts legitimately if its actions can be justified in the laws that guarantee the rights of citizens. In this sense, the concept of citizenship, in its legal and political expression, allows the vertical control of the sovereign by the citizens (NIEDERBERGER, 2015, p. 85), a control that has been mainly institutionalized through jurisdictional bodies. In this sense, it is possible to propose lawsuits against the State in order to guarantee the full exercise of the rights related to citizenship, if the State creates obstacles or illegal limits for the exercise of those rights. Actions such as habeas corpus and the writ of mandamus, to mention only two, have as their central objective to promote the control and eventual invalidation of illegal acts practiced by the State authorities.

A political order that recognizes citizenship in these terms also allows the horizontal control of private relations. After all, as we explained above, one of the objectives of the political order should be to ensure that citizens are not merely object of domination. The political order must guarantee to all equivalent powers in the constitution of their mutual relations and in the participation of the production of the State's will. We know that there is, in fact, a series of asymmetries of knowledge and power among citizens, which can result in the private domination of one another. For example, inequality resulting from the right of inheritance, which can attain one of the central values of a liberal order, that means, equality of opportunity. Let's see it.

Depending on how organized the society is, a rich heir will have more opportunities for educational training than other citizens, and can use resources to create businesses and in which he/she will be further able to increase his/her economic power. This asymmetry of power at the starting point, viewed from the perspective of freedom and individual merit, is not properly justified. After all, the fact of being born is not merit of anyone: who was born rich was only lucky in the lottery of the birth; did not undertake any activity or own effort that justify the enjoyment of departure advantages over other citizens.

In order to avoid those kind of distortions of meritocracy, it is necessary to establish some kind of control over horizontal relations in order to ensure that freedom and equality can be effectively exercised (NIEDERBERGER, 2015, p. 86), controls that may limit individual rights, for example, the right to attribute and to enjoy inheritance.

This need is also applied to the liberal version of citizenship which sees equal opportunities as one of its central elements. Just to mention again the same example, it is possible to avoid that inherent inequality prevents the realization of equal opportunity by

imposing a tax on inheritances that equalizes the initial conditions for competition in the market among all citizens.

Summing up what has been said up to now, it can be said that citizenship, understood as the possibility of everyone participating in the formation of the States' will, solves two fundamental political problems. It provides means of vertical and horizontal control of power, preventing the sovereign from assuming an arbitrary character by imposing upon him/her the necessity of justifying his/her acts; and to avoid that the asymmetries of private power result in the domination of individuals or groups over other citizens.

Citizenship, understood in this way, is necessarily linked to the democratic regime and the rule of law. All political order must respect the laws, which declare and provide means of protection to the rights of citizenship, usually expressed in constitutional texts. Every act of power must be justified by laws, produced with the participation of all citizens. In addition, there can be no more legitimate source of production of general norms beyond the power of the State, so that the possibility of situations of private domination of one citizen by the other is excluded. Exercising power is only possible on the basis of the rules produced by the will of all.

In his classic study on the subject, T. H. Marshall has shown that diverse conceptions of citizenship are subject to disputes over time, especially in societies marked by class inequalities. As the author shows, citizenship is a *status* of equality granted to all members of a political community for their full participation in it. On the other hand, class is a mark of economic inequalities (MARSHALL, 1977, p. 62). They are conflicts between classes by the participation in the political community that are formatting the diverse historical configurations of the citizenship, marked by the gradual acquisition of civil, political and social rights.

Civil rights, in Marshall's classic formulation, are those that refer to individual liberty, the right to come and go, freedom of the press, thought and faith, property and access to justice. Such rights form the basis vision of the liberal version of citizenship. Political rights are those that guarantee participation in the exercise of political power, that is, the right to vote and to hold public office.

Such rights, it is important to be said, were not readily won by all social classes, as Marshall shows, after all, always posed a clear threat to the interests of the owning classes (MARSHALL, 1977, p. 85). Elected representatives of disadvantaged classes could threaten the economic position of the proprietary classes by influencing the creation of laws

according to their interests. Social rights, which emerged in the 20th century, are a clear example of this, since they offer all citizens a certain level of economic and security equality, including the right to education and health. Such rights create clear limits to free enterprise, especially freedom to hire work. It is said that civil rights and political rights can also threaten power by allowing any citizen to resist acts of power and to take part in the process of creating laws.

It is also worth remembering that the sequence of creation of these rights varied historically from country to country (CARVALHO, 2002). In the case of Brazil, for example, civil and political rights were restricted at various times when authoritarian regimes were in force. Social rights, however, had their initial mark of implementation in the 1930s, when the country was dominated by an authoritarian regime and decades later were deepened by the Constitution of 1988, which marks the country's departure from the civilian-military dictatorship implemented in 1964.

Taking back the main point of this exhibition, it was not for another reason that Franz Neumann, a few decades before Marshall, argued that the rule of law could have revolutionary effects on unequal societies (NEUMANN, 2013; RODRIGUEZ, 2013). For Neumann, a functioning state of law allows the various social interests to seek the form of rights in order to broaden the content of citizenship so that it takes into account the interests and needs of many social agents, agents that do not stop appearing throughout history.

The rule of law is based on legitimacy, precisely, the promise to govern taking into account the interests and needs of all. For this reason, any individual or group that feels unequally treated can use the grammar of citizenship to claim rights that can enable them to the same level as the others. It is reasonable to say, therefore, that in unequal societies, citizenship is also at the basis of processes of social transformation.

2 CITIZENSHIP, REPRESENTATION AND PARTICIPATION

The possibility of participating in the formation of the rules that organize the political order has been mainly given by voting, that means, by the periodic election of people's representatives to occupy the positions in the structure of the State. The need to elect representatives, explains Max Weber (WEBER, 1993), is related to the development of mass and market societies that promote an increase in the number of people living in society as well as and working time for survival.

In societies organized this way, it is impossible, as it was done in Athens, to gather all the citizens in the agora to discuss the problems of the city, excluding slaves and women. The working time needed to ensure the survival of each one makes it impossible to exercise politics by the direct participation of all citizens. In “Politics as a Vocation”, a text about these issues, Weber (1993) mentions the example of a doctor who is incapable of exercising his function and politics at the same time.

For all these reasons, a class of professional politicians who are engaged in full-time political activity and periodically dispute the vote of citizens rises in national States, with all the risks inherent in this innovation and as discussed in Weber’s text. After all, by delegating politics to professionals, society opens the possibility for its representatives to remain in their positions, access to their jobs, above the activity of representing society.

Nowadays, citizenship seems to be unable to escape, therefore, from the institute of representation, even though tempered as mechanisms of direct participation. In a complex society with limited free time and extensive working hours, there is a structural obstacle to the direct participation of citizens in political activity.

Indeed, in Nadia Urbinati’s (2006) explanation, representation can be exercised in two different ways, depending on how the representative and society think about the relationship between representation and democracy. The representative can be seen as part of a contract with his/her constituents: this is the legal model of representation. This way of looking at representation is based on the assumption that society is made up of individuals with conflicting interests and that the time of the election is to competitively dispute the available votes. When they elect their representatives, citizens are expected to assert these interests in their sphere of action, fulfilling the contract through voting and referended by the ballot box (URBINATI, 2006, p. 192).

The legal model configures the relation between represented and representative based on the lines of an individualistic and non-political logic, since it supposes that the voters judge the personal qualities of the candidates, instead of their political ideas and projects. In this way, representation is not and cannot be a process, nor can it be a political matter that implies, for example, a demand for representativeness or just representation, for the simple reason that representation is, by definition, anything that is made after the correct type of authorization and within its limits.

This model of representation is based on a well-defined dualism between State and society which makes representation an institution centered strictly on the State, whose relationship

with society is left to the judgment of the representative. Moreover, this way of conceiving representation restricts popular participation to a procedural minimum, that means that the elections are understood as a means of choosing and appointing representatives (URBINATI, 2006, p. 198).

This view of democracy and representation elaborates the institute in terms of winners and losers, that is, the winners of the election must carry on the interests of their constituents, fulfilling their contract with them, to the detriment of the rest of society. In this operating logic, the representation can lead to situations where the winner takes everything, even if the difference of votes among the competitors is small. After all, the elect will not govern for society as a whole, taking into account their conflicting interests, since voting does not represent general ideas, but rather interests of this or that group (URBINATI, 2006, p. 212).

A deliberative view of representation is moving into another direction. For this view, representation is conceived as a process, a participatory dialogue between representatives and represented. Representation does not belong only to government agents or institutions, but designates a political process structured in terms of the circularity between institutions and society. In this sense, representation is not confined to deliberation and decision only at the moment of voting, but implies a continuous process of debate with social forces in a constant redefinition of their objectives (URBINATI, 2006, p. 212).

This view of representation holds that, in a government that derives its legitimacy from free and regular elections, the activation of a communicative chain between civil society and the political system is essential and constitutive of political activity. The multiple sources of information and the various forms of communication and influence that citizens activate through the media, social movements, and political parties should give the tone of representation in a democratic society.

In this order of reasons, political representation does not eliminate people from their exercise, but despises the idea that voters, instead of citizens, occupy this center. For the representation understood as deliberation, the act of authorization should not be more important than the political process of deliberation that links representatives and represented continuously and helps to define the content of citizenship to creation and eventual revocation of rights.

3 CHALLENGES OF CITIZENSHIP IN THE CONTEMPORARY WORLD

The present moment imposes a series of challenges for citizenship, both with regard to their dimension of power control and belonging to a political order, and to their capacity to

legitimize and promote the participation of citizens in the creation of norms that regulate their lives.

Firstly, as Andreas Niederberger (2015, p. 89) argues, we see a significant increase in the number of people who live more or less temporarily in a given territory, and they are subject to this political order but are not considered as citizens, for example, temporary workers. Second, the citizens of the various political orders are now subject to the effect of norms that were not produced by the States in which they are situated; norms on which, quite often, not even their States have influence. In this case, it is the power to legislate supposedly guaranteed by the citizen status that is compromised.

A good example of this second phenomenon lies on the so-called transnational private orders, as designated by Gunther Teubner (2013). Teubner shows that a series of private norms designed to regulate themes such as the internet, world football and international trade, begin to claim application across the globe, even without being approved by the national States. The so-called *lex digitalis*, *lex FIFA* and *lex mercatoria*, to mention only three examples, have effects on the citizens of many national States, even though they do not have the opportunity to participate in their elaboration and influence their possible modification.

And these are just three examples of norms created by private bodies that regulate a series of activities and relations of transactional scope in which certain social agents take part, not all able to influence the creation of these norms. Such transnational private orders help to diminish the reach and relevance of the legislative power of national states and, as a consequence, the power of democracy and the citizens who participate in it. After all, these transnational private orders actually regulate a series of activities and phenomena that were previously governed exclusively by state norms.

We can imagine that the solution to the problem of the transitory inhabitants of a certain territory could be the granting of some power of influence to all the people who suffer the effects of a certain political order, even if they are not considered citizens of this order. However, this solution presents the difficulty of overcoming the symbolic and identity ties that bind citizens and their respective States. Granting power of influence in a given political order to a transient inhabitant might mean assigning a status very similar to that of a citizen to persons who are not seen as members of that order (NIEDERBERGER, 2015, p. 89).

The second problem we have mentioned is even more difficult to solve given the impossibility of remitting citizenship to a broader political order, supposedly capable of imposing limits on all existing normative orders (NIEDERBERGER, 2015, p. 90). The multiplication of political orders at the most diverse levels, local, national, regional, international and transnational, makes it difficult to create structures capable of articulating and coordinating all this normative complexity. After all, a good part of the norms in today's world seem to be migrating to normative orders that run alongside the state order, with private agents such as companies, sports associations, risk agencies and financial agents, among others.

The result is that our lives are affected by the most diverse norms of origin, in relation to which we take multiple different positions, not always as citizens with the power to decisively influence on their creation. For example, a football supporter supports the effects of FIFA rules, which determine the way a series of championships operate around the world. Such rules also impose penalties to teams for the fans' behavior, who have no say in the creation or modification of these rules.

In the same way, an Internet user suffers from a series of rules produced by lots of agencies that regulate the various dimensions of the Internet, for example, the functioning of Internet providers, the registration of websites, the type of content that can be published on social networks and so on. In several of these cases, it is useless to be a citizen of a national State, since such status has no power over the production of these norms.

A third problem faced by citizenship in today's world is its loss of importance in several States in which access to this status does not guarantee power of influence over the production of norms or access to goods, services and rights (NIEDERBERGER, 2015, p. 90). The transfer of power to committees and technical bodies makes it increasingly difficult to identify the locus where decisions are taken on a wide range of subjects. To say the least, parliament is no longer the only space where relevant norms to our lives are created.

Moreover, as STREEK (2013) clearly shows, the expansion of financial capitalism and the growing indebtedness of national States create limits for the expansion of social rights and the expansion of citizenship in general. The need to finance state debt by banks causes them to work for two masters at the same time.

On one hand, public debt lenders are demanding fiscal austerity and increasing expenditure restraint and, on the other hand, citizens continue to articulate new

demands for rights. This state of affairs, that means, the necessary commitment of States to financial institutions, makes it increasingly clear to the citizens that their power to determine the rules governing their own lives is limited, even if their candidates won the election; a fact that, in STREEK's opinion, opens a serious crisis for democratic regimes around the world.

In addition, a number of recent measures have diminished the importance of citizenship even in its classic liberal sense, such as anti-terrorism laws. This legislation, made for combating the risk of attacks, has relativised a number of fundamental rights for the investigation and prosecution of possible crimes by providing a series of norms that extend the chances of arrest and detention without the traditional guarantees of due process (NIEDERBERGER, 2015, p. 91). In this context, it is argued that this is not the case.

A fourth problem faced by citizenship in today's world is the fact that it is no longer just one arena in which society contests its way of life and its future project. The political order is thought by its members as an instrument of protection of individual interests, but not always as an instrument to achieve collective goals.

For example, in some countries there is a strong tendency to appeal to the judiciary in order to transform the norms that create the political order without making the demands go through the process of voting and political participation (NIEDERBERGER, 2015, p. 92), a question that in Brazil has been debated under the misleading term of "judicialization of politics" (NOBRE & RODRIGUEZ, 2011). As a result of this phenomenon, the creation of norms that regulate life in society is no longer only carried out by Parliament, but now counts on the participation of the Judiciary, a fact that contributes to the withdrawal of the centrality of the elections for the exercise of legislative power.

4 ALTERNATIVES FOR CITIZENSHIP

There are some proposals on the table that attempt to deal with the problems we have just listed. They are, in the synthesis of Niederberger (2015, p. 93) cosmopolitan citizenship, political participation without citizenship and citizenship-constellation. Let us examine each of them, however succinctly.

The proposal of a *cosmopolitan citizenship* has been defended by David Held and Daniele Archibugi and consists of maintaining in operation the traditional citizenship, linked to the national States, adding a new dimension to citizenship; an additional dimension to domestic citizenship whose purpose is to address their shortcomings. Under the aegis of the cosmopolitan citizenship, individuals would be guaranteed both the status of citizen of their States and the possibility of participating in international bodies and jurisdictional bodies with global reach.

So, cosmopolitan citizenship would include the right of individuals to prosecute States in international tribunals, to regulate possible undue influences or conflicts between national political orders, to obtain resources to deal with disasters involving refugees, among other measures that are imposed beyond national borders. Such citizenship would be a complement to domestic citizenship, as it would deal with problems which it cannot cope with overcoming its natural scope (NIEDERBERGER, 2015, pp. 93-94).

This proposal faces a series of difficulties, to begin with, the inexistence of institutions capable of realizing the rights promised by it. After all, in fact, there are now no international bodies or courts capable of addressing the shortcomings of domestic citizenship. There are no formal institutions in the international arena powerful enough to impose mandatory standards for all countries and individuals around the globe. Moreover, even if such institutions existed, they could quickly assume a tyrannical character if they failed to take into account the will of the States and the citizens of each locality.

Plus, it is not easy to clearly identify what are issues of regional interest and what would be issues of cosmopolitan interest. Often the divergence between social agents is due to disagreements on the scope of relevance of a particular problem, for example, in cases involving a possible humanitarian intervention by international organizations in countries involved in internal conflicts or wars. The hierarchy between the domestic order and the cosmopolitan order is therefore not so obvious as to allow clear decisions on the possible measures to be taken.

The second proposal under discussion, in Niederberger's formulation, is the idea of *political participation without citizenship*. According to this proposal, it would be guaranteed to those affected by a certain normative order the possibility of participating in it. So, it would be sufficient for someone to be affected by a given decision in order to be able to influence it, as if that person were a citizen of that political order (NIEDERBERGER, 2015, pp. 94-96).

There is an obvious difficulty in this proposal: it ignores that a number of issues decided within the framework of a legislative order depends on long-term cooperation among citizens. For example, access to the benefits guaranteed by social rights requires the creation of an entire collection structure, organized by national States with the objective of collectively financing the various social programs.

The constant change of the members of a political order, in this case, could lose feasibility of offering such benefits, after all, such a variation would affect both its financing and the demand for new social benefits. In addition, this proposal could be applied only to closed systems, well located territorially. As we have already seen, there are a series of normative orders that transcend state boundaries and therefore could not function under the terms of the proposal to grant political participation rights without citizenship.

Another version of this same idea, called *transnational citizenship* (NIEDERBERGER, 2015, p. 95) was written by David Owen and advocates the possibility that anyone can participate in structures and institutions that influence their lives and have access to cooperation systems, provided they are willing to bear their costs and the duties imposed by them.

This proposal is also difficult to implement, after all, there is no way to clearly differentiate the political participation of citizenship itself. For this reason, to offer the possibility of participating this way, it would be equivalent to associate the beneficiary to the citizens of a given State, which would have undesired symbolic and identity implications. Moreover, this proposal seems to be interesting only for the case of people circulating around the world, people who can enter and leave the sphere of influence of clearly identified political orders. Transnational citizenship fails because of the fact that political and normative orders tend to overlap each other and often get in conflict.

Finally, Niederberger mentions the proposal of Roger Bauböck, the *citizenship-constellation* (NIEDERBERGER, 2015, pp. 95-96) before presenting his solution, drawn from it. *Citizenship-constellation* assumes that there are plural political orders arranged at different levels, namely, local, regional, national, international, transactional, and so on. For this vision of citizenship, people can be citizens of several orders at the same time, being titular, therefore of multiple citizenships.

So, there should be many ways of influencing and controlling political and normative orders. According to some of them, it will be possible to participate directly in the policy and, as a consequence, in the formation of norms. In others, on the other hand, the person will have a limited status and

derived from his/her participation in another political order, which could open to him/her the possibility to control only some effects of the norms that influence his/her life, but not to participate of the political process.

For example, one can imagine the possibility of guaranteeing to all, even those who are not full citizens of a given State, the possibility of voting and giving opinion at local level, for the region or the city where they live. In this way, multiple forms of citizenship and belonging to normative orders could coexist, guaranteeing to everyone the possibility of influencing the norms that affect their lives.

To Andreas Niederberger, the possibility of implementing this proposal of citizenship would require the construction of two types of formal institutions. On one hand, we would have *singular political orders* in operation, endowed with institutions that should be able to guarantee non-arbitrary operating conditions. On the other hand, it would be necessary to build structures and institutions of the second order, capable of ensuring that such political orders *do not dominate each other* and *do not become internally arbitrary* (NIEDERBERGER, 2015, p. 98).

The singular political orders for this proposal should guarantee for all the possibility of participating in the formation of its norms and constructing judicial mechanisms that guarantee their fulfillment. These second-order structures, on the other hand, should have a regional or global scope and the ability to intervene on those singular political orders that start to function arbitrarily, either because:

- a) they have become internally arbitrary, for example, in cases of human rights violations;
- b) elements of one order came to dominate the other, promoting arbitrary interference, for example, in the case of externalization of ecological damage;
- c) individuals are not able to act in non-arbitrary conditions, for example, when there are people living in civil war situations or in totally disarticulated States;
- d) where the change of certain elements of the regulatory order may increase its non-arbitrary nature, for example, by maintaining costly administrations in different places (NIEDERBERGER, 2015, pp. 99-100).

For the author, such second-order structures should take the form of judicial mechanisms, which would assume functions similar to those exercised by the national judiciary, but whose object was the various political orders operating in the global space (NIEDERBERGER, 2015, p. 100). As it is widely known, one of the functions of the Judiciary, among others, is to verify whether certain behaviors conform to legal norms and, in addition, in the

context of some political orders, exercise constitutional control for the purpose of examining the adequacy from certain norms and institutions to constitutional rules.

In such framework, citizens could freely build political orders at multiple levels, provided they did not dominate one another and work in a non-arbitrary way. There would be a plurality of heterogeneous political communities, each one dealing with different problems and subjects, through which people could collaborate to achieve the most different objectives, using, for this purpose, the most varied forms of political participation.

As we see, the reinvention of democracy in these terms required a change in the way in which we look at a singular political order, a perspective that must escape the traditional view, centered on national States that could form a possible world society. According to the citizenship-constellation proposal, the state-centered view of democracy must be overlooked. The political plurality of normative orders requires the recognition of multiple forms of belonging, maintaining the non-arbitrary nature of the functioning of these various normative orders and a relationship of non-domination between them, guaranteed by regional and global judicial structures.

5 CONCLUSION

Citizenship must be transformed to maintain the centrality in the grammar of contemporary politics based on social changes that occurred at the end of the 20th century and at the beginning of the 21st century. These changes have undermined the centrality of national States as a source of the rules that influence people's lives because of the financial globalization and the creation of normative orders of another nature, and have created situations of transitory housing and movement of people who are contributing to the relative obsolescence of the concept of citizenship. In addition, problems like the fight against terrorism are leading to the relativization of a series of typical rights related to citizenship, supposedly in favor of increased security.

Being a citizen of a national State, traditionally, means to belong to a particular political community and, therefore, being taken into account in the creation of the rules governing life in society and having access to a series of rights and benefits. For the reasons discussed in this original article, all these dimensions of citizenship are being threatened, which causes the concept to lose its centrality in describing the political status of men and women living around the globe.

In order to maintain the centrality of the concept, Andreas Niederberger examines several conceptions of citizenship in discussion in the contemporary academic debate and proposes the idea of *citizenship-constellation* that admits diverse forms of belonging to the varied existing normative orders and proposes the creation of jurisdictional institutions with the power to keep these orders functioning in democratic standards and to prevent one order from threatening to colonize the other.

The proposal, then, is to maintain the basic structure of the concept of citizenship, which is able to guarantee participation in the creation of the rules that govern our lives and access to a series of rights and benefits. The alternative would be the fragmentation of normative orders and their eventual colonization by one another. The normative nature of Niederberger's proposal is clear, a proposal that aims at preserving the democratic gains of the concept of normative citizenship while taking into account contemporary social transformations.

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