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A REVERSAL OF PERSPECTIVE: THE SUBJECT AS CITIZEN UNDER ABSOLUTE MONARCHY, OR THE AMBIGUITY OF NOTIONS

Europe has never had a single definition for the term 'citizen.' Indeed, over the centuries the significance of this term has undergone far-reaching evolution. In different historical periods, different states, and different European languages, this term has had diverse meanings and has been used in varying contexts. The concept of 'citizen' has repeatedly been defined anew depending upon specific political, social, and economic conditions. At various periods, the term 'citizen' has related to a wider or narrower portion of a given state's society. The criteria by which an individual was said to form a part of the body of citizens have also differed. The changes which have taken place in the definition of a 'citizen' over the centuries are enormous.¹

This is not to say, however, that there has been no common core to the concept of citizen as it has taken shape over the course of hundreds of years. As far back as ancient times, a member of the state could influence the shaping of that state's authorities and could participate in government. It is the Aristotelian concept of the citizen – a concept that has influenced all historical models of citizenship since – which is at the root of the citizen understood as a political

¹ To mention just a few examples: Draco's laws in the 7th century B.C. called soldiers 'citizens' and made the granting of full citizenship rights to men dependent upon their ability to arm themselves. In Athens, possession of citizenship was later dependent on the criterion of origin, whereas Rome made it dependent on the place of birth. In the Middle Ages, in principle, only a city dweller who was a holder of property could enjoy full citizenship rights. The modern spread of political rights to men in the state in Europe actually begins with the French Revolution. In the 20th century, women became citizens, and contemporarily the idea of citizenship has become enriched with notions having to do with social rights. We have entered the 21st century with the supra-national institution of European citizenship. The term 'citizen' is no longer associated only with membership in a state or city, but also with belonging to an association of states.

animal (*politikon zoon*). In addition, personal freedom has always been a *sine qua non* for possessing citizen status. Thus, a citizen has always been, and remains, the opposite of a slave. It has also come to be accepted that citizenship implies the primacy of an individual's rights in a state over an individual's obligations to that state. The polar opposite of this situation in the historical dimension is subjection to the monarch in an absolute monarchy. Thus the 'citizen' also stands in opposition to the 'subject.'

When speaking of the historical models containing the said 'citizenship traits' of a person's status in the state, we usually refer to the model of the citizen in ancient times, in medieval municipal citizenship, and in modern times, in the fully-formed nation-state. It is difficult to imagine a citizen in an absolute monarchy, and in a world of subjection. Still, it is possible to give rein to one's imagination and perceive citizens in such a setting; one could even go a step further and call the subject of an absolute monarch a citizen. But is imagination truly necessary in order to conduct such a seemingly obvious reversal of perspective?

On absolutism, the nation and nationality, subjection and its anti-citizenship nature

Absolute monarchy began to take shape in Europe in the 16th century and developed fully over the following two centuries. In absolutism, state power was almost exclusively concentrated in the hands of an autocratic monarch who single-handedly laid down the law in keeping with the rule *quod principi placuit, legis habet vigorem*. Such a ruler was not subject to anyone's control; although he directed the entirety of the state's affairs, he was only responsible before God, by whose grace and will he fulfilled his supposed earthly mission. The ruler's executive authority was exercised through an extensive administrative apparatus, functioning on the principles of centralism and bureaucracy. This helped reinforce the ruler's position. Professional functionaries, who answered only to the monarch, replaced the old *noblesse d'épée* which – in the older tradition of an estate monarchy – had grown used to a wider decision-making role in state affairs. From the perspective of the individual's place in the state, this shift was of momentous significance. The emergence of the absolute monarchy at the time of the Renaissance transformations signalled the beginning of the slow demise of the estate order. A definite sign of change was the growing tendency to codify law, which became, by a long and slow process, universal and nationwide – although certainly not the same for everyone.² The fact that the absolute ruler also played

² We are speaking here of the equality of all state inhabitants before penal, not civil law. See J. Bardach, 'Czy istniało obywatelstwo w szlacheckiej Rzeczypospolitej?' ['Did Citizenship Exist in the Nobles' Commonwealth?'], *Czasopismo Prawno-Historyczne* [Legal and Historical Journal], No. 2, 1965: 263.

the role of legislator in the new political system constituted a real qualitative change. He who had formerly been an arbiter, cognizant of all the laws and their executor, now became the sole legislator.

The classic example of these changes is provided by France, where the king initially reinforced his power on the basis of, as Z. Izdebski called it,³ a 'temporary community of interests,' that is, an alliance with the increasingly affluent burgher class and with the middle nobility, an alliance which was directed against the upper aristocracy. The increasingly powerful third estate thus became a natural rival of the feudal lords, a situation which led to the rise of antagonisms, which were used by the monarch to consolidate his position as autocrat and arbiter. A characteristic trait of the maturing process of absolute monarchy was the gradual curtailment or wholesale elimination of estate assemblies, which had thrived during the Middle Ages. The dismantling of the estate parliaments facilitated the emergence of permanent mercenary armies, which the ruler maintained from taxes. Such armies' primary role was to protect the state from foreign threats to its security, but they could also be used quite effectively to overcome the resistance of internal forces hostile to the monarch.

The monarch's omnipotence went hand in hand with a general conviction that society was not mature enough to make decisions in matters that affected it directly.⁴ The rise of absolutism occurred in conjunction with limitations on the rights of individuals who, in the Middle Ages, could have been called citizens if they possessed city liberties, or could have been called so in the wider Aristotelian sense, if they had an influence on, or shared in the power of, the central authorities.⁵ During the period of absolutism, the people, in principle, could influence neither the choice of authorities nor the law laid down by the king and carried out in his name.

This apparently backward state of affairs, however, had solid foundations on which to persist and even develop. Paradoxically, in its initial stages at least, absolutism based its power on the trust and expectations of a large portion of the state's inhabitants. During the Reformation and Counter-Reformation, severe monarchical rule was an answer to the needs of a time when Europe was fraught

³ See Z. Izdebski, 'Poglądy Jana Bodinusa na państwo i prawo' ['Jean Bodin's Views on the State and Law'] in J. Bodin, *Sześć ksiąg o Rzeczypospolitej* [*Six livres de la république*], (Warsaw, 1958) VIII.

⁴ For more on this subject, see F. Koneczny, *Państwo i prawo w cywilizacji łacińskiej* [*The State and Law in Latin Civilization*], (Komorów, 1997) 59; G. del Vecchio, 'Osobowość i prawa człowieka w świetle nauki prawa' ['Personhood and Human Rights in Light of the Study of Law'] in M. Szyszkowska, ed., *Zarys filozofii prawa* [*An Outline of the Philosophy of Law*], (Białystok, 2000) 267.

⁵ For more on this subject, see K. Trzeciński, *Obywatelstwo w Europie. Z dziejów idei i instytucji* [*Citizenship in Europe: The History of the Idea and the Institution*], (Warsaw, 2006) 65–99.

with wars of religion, and its Christian civilization was threatened from without by the dynamic spread of Islam in the Balkans.

Absolutism, as a powerful force defending the internal and external stability of the state, the security and property of the ruler's subjects, and also the interests of the burgher class in the growth of trade and industries, came, in a way, to stand guard over the prosperity of the state and its inhabitants – as well as protecting state unity in the face of, as G. Jellinek put it,⁶ 'centrifugal forces, imbedded in the different tendencies of the estates.' The system of absolute power was a substitute of sorts for the general freedom of man and of the citizen.

Beyond the political givens of absolutism, the wide horizon of Renaissance humanism, with its interest in the human being for itself, appeared.⁷ Absolutism was certainly not, of course, a product of Renaissance humanism, but neither was it, in spite of its many limitations, in direct contradiction with it. Norman Davies has pointed out that in the field of politics, it is precisely Renaissance humanism that represented the beginnings of the independent modern state, since 'the sovereign nation-state is the collective counterpart of the autonomous human person.'⁸ Absolutism, which flourished in the time of the Renaissance, and the growing tendency to see the state – in keeping with the model of ancient Rome – as a sovereign entity identified with the monarchy, contributed to the process of national integration in Europe. The humanistic individualism of the human being corresponded to an ever stronger sense of the distinctness of the nation as a community of people inhabiting a specific state defined territorially (customarily ruled over by a home-grown monarch or dynasty),⁹ possessing a common

⁶ J. Jellinek, 'Ogólna nauka o państwie' ['General Studies on the State'], Vol. III, *Nauka o państwie z punktu widzenia prawnego* [Studies on the State from the Legal Viewpoint], (Warsaw, 1924) 315.

⁷ The arts, literature, or university life often constituted a substitute for a number of individual rights. B. Truchlińska, 'Człowiek – obywatel 'republiki muz'' ['The Human Being – Citizen of the 'Republic of Muses'] in M. Szyszkowska, ed., *Człowiek jako obywatel* [Man as Citizen], (Warsaw, 1995) 161, in writing of the humanistic version of the citizen as a 'concept of mankind as a citizen of the world of human works' described this surrogate for citizens' rights beautifully. The individual in the authoritarian setting of the Renaissance period could be seen as *homo creator*, who finds an outlet for his existential needs in the field of art and culture, an area – the only one – where a human being's talents or tastes could be properly exposed.

⁸ N. Davies, *Europe: A History*, (Oxford, 1996) 479. B. Zientara, *Świt narodów europejskich. Powstanie świadomości narodowej na obszarze Europy pokarolińskiej* [The Dawn of European Nations: The Emergence of National Consciousness in Post-Carolingian Europe], (Warsaw, 1985) 11, searches for the roots of the nation-state as early as in the Middle Ages, but he also seems to incline to the opinion that it is in the days of Renaissance absolutism that 'medieval universalism, the unified 'Christianitas' increasingly fell apart [to form] nations and nation-states.'

⁹ For more on this subject, see E. Renan, 'Co to jest naród' ['Qu'est-ce que c'est qu'un nation?'] in L. Zdybel, ed., *Być w narodzie. Szkice o idei narodu, narodowej kulturze i nacjonalizmie* [To Be in a Nation: An Outline of the Idea of the Nation, National Culture, and Nationalism], (Lublin, 1998) 202.

historical past, a same or similar culture,¹⁰ usually a common language and faith, and, perhaps, even common spiritual bonds.¹¹ However, the nation-forming process usually took place on the basis of a fully formed ethnic community.¹² Nationality, in the sense of belonging to a specific nation, understood as ethno-cultural community, increasingly became nationality conceived in the sense of being a member of a particular state, regardless of ethnic descent.¹³

In the time of absolutism, such nationality of the entirety of a given state's inhabitants, with their subordination to the sovereign state authority, personified by the monarch, is called subjection. This subjection was fundamentally different from the serfdom characteristic of feudal (estate) monarchy, which was primarily related to the system of property and land use, and where the centre of gravity oscillated around the dependence of serfs on landed proprietors. In the system of serfdom, exploited peasants sought refuge in cities, which usually ensured them personal freedom, and initially even gave them citizenship. In the subjection of the absolutist period the sovereign was the only ruler, and all the inhabitants of the state he ruled over were his subjects. There was no escape from dependence upon the centre here, unless it was to fall under the absolute authority of another monarch. The shaping of the state of subjection, understood as the equality of all subjects before the ruler, constituted an important step on the road to weakening the estate and feudal order, although it did not eliminate either of these phenomena entirely. The new type of subordination practically eliminated feudal relations in the west of Europe, but it did not bring an end to the serf's dependence on the feudal lord (rather one can speak in this context of a change from relations based on servitude to those based on rents), but, at the same time, it made the feudal lords themselves much more dependent on the monarch. All subjects were dependent on the centralized monarchical authority and were subjected to its administrative measures. The essence of this dependence was the strong emphasis placed upon the rights of the state,¹⁴ and the obligations of the subjects.

¹⁰ See F. Znaniecki, *Współczesne narody* [*Modern Nationalities: A Sociological Study*], (Warsaw, 1990) 13, and 40–41. See also E. Gellner, *Narody i nacjonalizm* [*Nations and Nationalism*], (Warsaw, 1991) 16.

¹¹ See E. Renan, *op. cit.*, 209–210. See also S. Jedynak, 'Refleksje historyka myśli społecznej w sprawie problematyki narodu, czyli *Est modus in rebus*' ['Reflections of a Historian of Social Thought on the Question of the Nation, or *Est modus in rebus*'] in L. Zdybel, ed., *op. cit.*, 16.

¹² For more on this subject, see J. Maritain, *Człowiek i państwo* [*L'Homme et l'État*], (Cracow, 1993) 11–12; D. Miller, 'The Ethical Significance of Nationality,' *Ethics*, No. 4, 1988: 656; and F. Znaniecki, *op. cit.*, 10.

¹³ See Z. Sokolewicz, 'Obywatelstwo a narodowość. Uwagi w związku z ustanowieniem obywatelstwa Unii Europejskiej' ['Citizenship and Nationality: Observations in Connection with the Institution of European Union Citizenship'], *Studia Europejskie* [*European Studies*], No. 1, 1997: 25.

¹⁴ In the period, the state can be treated as synonymous with the ruler representing it. The best example of this is to be found in the famous statement attributed to Louis XIV, '*l'État c'est moi!*' supposedly spoken to the chairman of the French parliament on 22 December 1655.

Paradoxically, in spite of its 'anti-citizenship' traits, subjection was an important step towards the development of the institution of state citizenship, because as a situation of subordination to a given authority and, at the same time, a situation of being a member of a particular state, it constituted a clear outer differentiation between locals and foreigners. In a feudal (estate) monarchy, the existence of municipal citizenship, which provided a sort of asylum for runaways from the feudal system, was an indicator of the internal division of the population within what was usually one and the same ethnic community, even if differentiated in estate terms.¹⁵

Subjection in a state with distinct (which is not to say immutable) territorial boundaries of monarchical authority clearly implied the membership and status of a given population and served to shape national consciousness.

¹⁵ It is worthwhile to note the specific role of the cities under absolutism. The almost exclusive concentration of power in the hands of an omnipotent monarch certainly had an important impact on the economic development of urban centres. The growth of cities was accompanied by their loss of political significance, however. Capital cities, however, were the exception to this rule. Their establishment was inherently connected with the process of political centralization and their role – given the location within their walls of the seat of the authorities and offices of the state administration – became unusually important. See R. Mackenney, *Europa XVI wieku: Ekspansja i konflikt* [*Sixteenth Century Europe: Expansion and Conflict*], (Warsaw, 1997) 117. Generally speaking, the self-government of cities, so important in the Middle Ages in light of the feudal and estate relations of the times, was slowly becoming a thing of the past. The affluence of city dwellers attracted the attention of state rulers, and this became a serious threat to municipal autonomy, a fact that manifested itself most often in the form of increasingly heavy fiscal dues exacted by the state. For more on this subject, see T. Munck, *Europa XVII wieku: 1598–1700. Państwo, konflikty i porządek społeczny* [*Seventeenth Century Europe: State, Conflict and the Social Order in Europe, 1598–1700*], (Warsaw, 1998) 194. During the period of the 'oligarchisation' of city authorities, the majority of city inhabitants were already deprived of any influence on the selection of their leaders, and the political rights connected with local citizenship were slowly becoming history. With time, certain burgher freedoms came to be included in the substance of nascent national law, in which estate privileges were progressively abandoned. In principle, the modern state emerged in opposition to municipal autonomy and municipal citizenship, whose system of privileges was fast becoming anachronistic given the new situation. See R. Brubaker, *Citizenship and Nationhood in France and Germany*, (Cambridge, 1992) 42. The absolutist regime did not provide any special rights for any category of subjects, with the possible exception of the closest collaborators of the ruler, who, *ex definitione*, did not tolerate any signs of insubordination. Autonomous cities could constitute a real threat to the ruler's autocratic position. For this very reason, in the period of absolutism, the citizens of cities became ordinary subjects of the monarch. Without any wider possibility of choosing and controlling their representatives, they could not have any real influence on their city's obligations towards the king and the state. At the same time, the patriciate, strengthened by the monarch's protection, gained the possibility of pursuing unbridled economic expansion at a time of rapid growth in trade and of geographical discoveries, while a portion of the educated burghers could, in certain countries, occupy high office in the state administration. See J. Delumeau, *Cywilizacja Odrodzenia* [*La Civilisation de la Renaissance*], (Warsaw, 1987) 290. See also D. Richet, 'Władza a społeczeństwo we Francji u schyłku XVI wieku' ['Pouvoir et société à Paris au XVIIe siècle'] in *Władza i społeczeństwo w XVI i XVII w.* [*Power and Society in the 16th and 17th Century*], a collective work, (Warsaw, 1989) 59–60.

We have already mentioned above that under the authority of a state ruled by an omnipotent monarch the subject was only a surrogate citizen. Yet, in the thinking of such an apologist of absolutism as Jean Bodin there is room for a specific idea of a subject-citizen; this citizen was a member of a particular state, but was usually devoid of political rights, and could not be active in the public sphere. This model of citizenship certainly did not correspond to that proposed by Aristotle. Nevertheless, the subject-citizen did enjoy personal freedom, his property was protected by law, and his point of reference was – in place of the local community – the state (represented by the monarch) in which he lived and with which he identified.¹⁶

Jean Bodin's model of the citizen in the absolutist state

Jean Bodin of Anjou is considered the architect of the founding concepts of modern absolutism, which, however, 'has no right to be a tyranny.'¹⁷ This outstanding French theoretician of the state presented – in *The Six Books of the Commonwealth*, published in 1576 – a new model of the citizen understood as 'a free subject who is dependent on the sovereignty of another [person]' and whose full freedom is 'limited by the sovereign power to which he owes obedience.'¹⁸ This vision of the citizen emerged out of the understanding of

¹⁶ S.E. Finer in his voluminous work *Empires, Monarchies and the Modern State*, (Oxford, 1999) 1298, concludes that, in principle, a subject in an absolute monarchy can be called a citizen with limited rights. Finer is not alone in holding such an opinion. In order to define a community of citizens understood in such terms, the phrase 'apolitical society of citizens,' borrowed from R. Koselleck, seems most apt. See R. Koselleck, 'Trzy światy obywatelskie? Wprowadzenie do porównawczej semantyki społeczeństwa obywatelskiego w Niemczech, Anglii i Francji – zarys dziejów teorii' ['Three bürgerliche Worlds? Preliminary Theoretical-Historical Remarks on the Comparative Semantics of Civil Society in Germany, England, and France'] in K. Michalski, ed., *Europa i społeczeństwo obywatelskie. Rozmowy w Castel Gandolfo* [*Europe and Civil Society: Talks in Castel Gandolfo*], (Cracow, 1994) 115. Passive citizenship at the time of absolutism was supposedly based on the right to life, the personal freedom of the individual, growing legalism, and respect for private property, which was often considered inalienable and sacrosanct. All this together limited, in a way – albeit in a narrow way – the autocratic rule of the monarch and defined boundaries to the general freedom of the individual, who, consequently, was not just an object to be managed (for more on this subject, see S.E. Finer, *op. cit.*, 1298–1299). R. Koselleck (*op. cit.*, 115) even claims that a society could exist of citizens deprived of influence upon the ruler – who was, however, 'aiming for the public good.' This opinion corresponds to the point of view adopted in the 16th century by Jean Bodin.

¹⁷ J. Baszkiewicz, F. Ryszka, *Historia doktryn politycznych i prawnych* [*A History of Political and Legal Doctrines*], (Warsaw, 1973) 182.

¹⁸ J. Bodin, *Sześć ksiąg o Rzeczypospolitej* [*Six livres de la république*], translated by R. Bierzanek, Z. Izdebski, and J. Wróblewski, (Warsaw, 1958) 48. Translated here from the Polish.

sovereignty¹⁹ formulated by Bodin and constituting the key to his entire thinking. It is a modern understanding of sovereignty as the unlimited and permanent sovereign authority of the state, in which the sovereign is the absolute monarch. Bodin defined a state ruled by a just and moderate ruler and lawgiver by the term *civitas*²⁰ (a commonwealth understood as a state under the rule of law, but not a republic) – an association of citizens governed under the same laws and customs.²¹

In Bodin's sovereign state, all inhabitants were subjects – which was supposed to result from the natural state – but not all subjects could, at the same time, be citizens. Bodin used the term citizen in connection with, primarily, the free subject, the opposite of a slave who, 'in light of the law has no personality.'²² The position of women and children in this scheme was rather peculiar, as their freedoms, particularly that of disposing of property, were limited by the domestic authority of the head of the household, as in Roman law.²³ For this reason, they tended to remain basically passive citizens. Bodin also differentiated between natural citizens (subjects of the sovereign's authority since birth), and naturalised citizens. According to Bodin, a naturalised citizen was one who 'voluntarily submits to the sovereign authority of another, and is accepted by him as his subject.'²⁴ From a formal point of view, in order to acquire the status of citizen, it was necessary, in this instance, to obtain letters of naturalisation (*lettres de*

¹⁹ The comparison is with the Roman understanding of sovereignty (such as that of Gaius), made by A.J. Carlyle, *Political Liberty: A History of Conception in the Middle Ages and Modern Times*, (Westport, 1980) 28.

²⁰ Bodin does not clearly explain his own understanding of the concept of *civitas*, which he defines using a legal term, he places it in opposition to the concept of a city, or refers to the tradition of the Roman *civitas*, or, he likens the concept to the meaning of *Respublica*. Despite his critique of the Aristotelian understanding of the term 'association of citizens,' Bodin basically tends to define *civitas* using that notion, an example being his referral to the history of Carthage, in which *civitas* existed despite the destruction of the city. See Bodin, *op. cit.*, 51 and 53–57. On the subject of the translation of Bodin's political terms, see also Z. Izdebski, 'Poglądy Jana Bodinusa na państwo i prawo' ['Jean Bodin's Views of the State and Law'], *op. cit.*, LXXV. See also A. Sylwestrzak, 'Filozofia suwerenności i sprawiedliwości Bodinusa' ['Bodin's Philosophy of Sovereignty and Justice'], *Studia Prawnoustrojowe [Constitutional Studies]*, No. 1, 2002: particularly 8, 11 and 21, for comments about the lack of clarity, consequence, or exact definition of terms in Bodin's thinking.

²¹ The term *res publica* signified a state understood as a community aiming for the common good of its members. See Q. Skinner, 'Political Philosophy' in C.B. Schmitt, ed., *The Cambridge History of Renaissance Philosophy*, (Cambridge, 1992) 446–447.

²² J. Bodin, *op. cit.*, 48.

²³ Bodin attached great importance to the position of the family in the state. He claimed that, without the family, the *Respublica* had no *raison d'être*. In principle, relations in a state ruled by a monarch reflected the situation in a family, since the public authority of the monarch reflected, in a way, the private authority of a man as the head of the family.

²⁴ J. Bodin, *op. cit.*, 50.

naturalité) from the ruler.²⁵ The acquisition of citizenship could take place in three different ways: 'naturally,'²⁶ by way of naturalisation, or by liberation.²⁷ The possession of citizen status was organically tied to subordination to the ruler and the necessity of showing him practically boundless obedience.

What thus differentiated Bodin's subject of an absolute ruler from an Aristotelian citizen? According to the Aristotelian concept referred to in the *Six Books*, a citizen is he who participates in wielding power or in the administration of justice, or has influence on the course of affairs in a state.²⁸ Bodin claims, however, that 'it would be a mistake to say that he who has no part in wielding power or a deciding voice in popular assemblies, either in passing judgement or in affairs of state, is not a citizen.'²⁹ The French thinker was therefore definitely against the vision of an active citizen equipped with political rights and he offered instead the vision of the citizen as the beneficiary of natural liberty and certain *civitas* rights and privileges, whose enjoyment was 'dependent on the status and circumstances of every person, dependent on whether a given person is of noble or common birth, whether woman or child, according to the age, sex, circumstances, and merits of each.'³⁰

This leads us to two obvious conclusions. Firstly, in Bodin's understanding, any free subject possessing rights (i.e., not a slave) in an absolute monarchy was in principle a citizen, and, secondly, citizens were not equal in the legal sense. Therefore, Bodin did not provide for unified and universal citizenship status, but rather for a qualified subject-citizen *par excellence*. The sum of the citizen's 'rights' depended on social standing, i.e., on his or her belonging to a given estate, and also on material situation, age, sex, and merits (that is, if they were of significant value for the state). This situation did not, in principle, preclude the existence of the idea of a citizen who would be able to participate in public affairs and in the making of decisions of importance for both the state and society. Such a citizen was – very probably – a mature, affluent, serious, and meritorious man from either the nobility or the burgher estate, who was one of those chosen by the ruler to hold a state office. In an absolutist state, the number of such citizens was limited to a narrow court elite, however. Such persons could be referred to as active citizens – even where the role played by representative institutions was limited – if not for the fact that their position in the state was entirely dependent on the will of the sovereign.

²⁵ For more on this subject see *ibid.*, 66.

²⁶ Through birth to parents who were both subject-citizens, or in a relationship in which at least one of the parents enjoyed the status of citizen.

²⁷ In obtaining his personal freedom, a former slave was automatically supposed to assume the citizenship of the state of his former master.

²⁸ See Aristotle, *Politics*, particularly 1253a and 1275a.

²⁹ J. Bodin, *op. cit.*, 57.

³⁰ *Ibid.*, 59.

The other part of the 'citizen' body put forward by Bodin was made up of a group of passive citizens who – while enjoying personal liberty and property rights protected by law – were deprived of political rights, or, rather, of any influence on the course of the state's affairs. The greater part of this community of citizens thus remained apolitical. All citizens, however, enjoyed guarantees – originating with the sovereign, the all powerful and lifelong absolute ruler – of protection,³¹ state stability,³² and prosperity. In addition to full obedience and assistance to the sovereign, every subject-citizen had to bind himself to abide unconditionally by all the laws instituted by the ruler.

Thus, in analysing the essence of citizenship, Bodin came to the ultimately logical conclusion that privileges and rights could not form its principal substance, as these were not the same for all citizens.³³ According to him, there had never been a state in which all citizens enjoyed complete equality of rights,³⁴ 'but always some possess more or less than others.'³⁵ For him, citizenship has rather the form of a political and legal status – the mutual obligation 'of the sovereign towards his subjects, for whom, in exchange for loyalty and expressed obedience, he is obliged to administer justice, and give council, provide assistance, support, and protection.'³⁶ Only such a situation could form the basis for the individual's enjoyment of certain defined rights in the state, in keeping, of course, with the individual's aforementioned social position, understood in the wide sense.³⁷

³¹ The protection of the ruler was supposed to provide, by means of the army and the law, security for the persons, property, and families of the state's members. For more on this subject, see *ibid*, 81.

³² According to Bodin, a commonwealth was supposedly born in convulsion and violence, and a sovereign ruler precluded a return to such a state.

³³ Bodin claimed that, considering the variety of possible rights and privileges, one could formulate thousands of definitions of the citizen. He thought, in addition, that if possessed rights were to define the basic substance of citizenship, one could observe that in certain states foreigners were more citizens than the locals. In confirmation of this thesis he advanced (*op. cit.*, 69) the example of Florence, where a portion of the inhabitants requested the prince that they be considered and treated as foreigners, on account of the freedom which foreigners enjoyed. Compare with R.E. Goodin, 'What Is So Special about Our Fellow Countrymen?,' *Ethics*, No. 4, 1988: 667–671.

³⁴ The best example here is the inequality in the fiscal condition and estate of state members. For more on this subject, see Bodin, *op. cit.*, 79.

³⁵ *Ibid.*, 80.

³⁶ *Ibid.*, 59.

³⁷ Bodin also defined the citizen in light of the rights that set him above the foreigner. The subject of a given sovereign did not have to incur various burdens that could be placed upon a foreigner. We can only assume that the French thinker had certain fiscal burdens in mind, even if the argumentation concerning this point presented in the *République* referred solely to ancient Athens. Another issue was that of bequeathals and inheritance or, rather, limitations that could be placed on foreigners in the area of ceding property rights. Bodin had recourse here to

The author of the *Commonwealth* claimed that, in principle, one could not renounce one's citizenship (except with the agreement of the sovereign), and a change of the subject's place of residence did not in the least entail the cessation of the monarch's sovereignty over his subject. Bodin wrote that 'the authority to limit and bind subjects is not at all connected with a [specific] place.'³⁸ The impossibility of simply losing one's citizenship led to a lifetime bond between the subject-citizen and the sovereign of a given state, even if other ties to the state itself no longer existed.³⁹ Domicile thus seemed to have only a secondary significance in relation to subordination to the sovereign.

In the thinking of this French apologist for absolutism, certain limitations on the absolute power of the ruler existed in the form of immutable – even sacred – property rights, which were, at the same time, an important indicator of the liberty of the subject-citizen. Bodin claimed that 'persons who are free and masters of their [own] property, if one wishes to bind them and appropriate that which belongs to them, are easily stirred to revolt, as their hearts are bold and nourished by liberty, not deprived by slavery.'⁴⁰ In consequence, Bodin's citizen – with all his subordination to the sovereignty of the ruler – enjoyed a considerable degree of independence, which was measured in terms of the value of the property he possessed.⁴¹ The opinion that, in Bodin's thinking, wealth could constitute, for the subject-citizen of an absolute monarch, a force stifling his political aspirations, thus seems warranted. This seems an analogous situation to that of the patriciate in the tyrannies of the Italian Renaissance, where the more enlightened burghers sacrificed the freedoms of the civic life they had known on

the old *ius albanagii* law which, as the *droit d'aubaine*, defined in France the right of the ruler to confiscate the property of a deceased foreigner who had no legal heirs. Such a situation did not arise very often, however, so that limitations concerning the heirs of the foreigner seemed more significant. The heirs of the foreigner who were locals, *regnicos*, had priority in the inheritance (*ibid.*, 74). This principle took the form of a special clause in letters of naturalisation. The property of those foreigners who died in a country where they did not have heirs could be sequestrated in its entirety, something against which foreign merchants often fought by securing special privileges (in this context, Bodin makes use of examples of immunities for foreign merchants visiting certain fairs in France. For more on this subject, see *ibid.*, 75). One more important difference between the citizen and the foreigner had to do with the *droit de marque*. According to Bodin, this law only concerned foreigners and consisted in the possibility of their being expelled from the country, both in times of peace and of war.

³⁸ *Ibid.*, 78.

³⁹ Bodin held that the state of citizenship arises out of the ties binding a subject-citizen to a specific ruler, so that dual citizenship could only take place by means of an understanding between the two sovereign monarchs concerned. The lack of such an agreement could lead to a situation where the subject-citizen, in usurping the right to more than one citizenship, could effectively avoid obedience to whomever.

⁴⁰ *Ibid.*, 264.

⁴¹ See G.L. Seidler, *Myśl polityczna czasów nowożytnych [Political Thought in Modern Times]*, (Cracow, 1972) 181.

the altar of benefits derived from holding lucrative administrative positions. Under an absolute monarchy, ruling over wealthy subject-citizens could have seemed easier than, for instance, under a feudal (estate) monarchy or under the English monarchy, as wealthy subjects would have lost far more than they would have gained by opposing an omnipotent ruler. Bodin's citizen who had a considerable estate could also – by way of paying taxes⁴² – share his wealth with the sovereign. In this context, Bodin stressed the necessity for the ruler to secure the agreement of his subject-citizens for taxation. Given the real situation under absolutism such a requirement belonged in the realm of wishful thinking. B. Manning came to the following conclusion in writing about the financial problems of absolute monarchies: 'the fundamental difference between the English monarchy and the absolutism of the European continent [...] is that the King could not deprive his subjects of their property without their acquiescence [expressed] through Parliament.'⁴³ It is undeniable that any agreement on the part of subject-citizens who were deprived of all parliamentary representation and who were unequal in terms of rights and entirely subordinated to the ruler – as was the case in Bodin's absolutist state – was purely fictitious.

Final Remarks

What have we learned from the concept of the subject-citizen in absolutism? Primarily that the notion of 'citizen' had a different significance in different historical periods and forms of governments. Such a statement sounds like a mere banality, yet who amongst us has not thought of the citizen of ancient Athens in terms akin to the universal citizenship of our day? In this context, we often forget that only a small group of individuals possessed full citizenship rights in Athens and that liberty in the modern sense did not exist there.

The understanding of the notion of 'citizen' and of the character of the entire idea and institution of citizenship varies in Europe today, particularly at the plane of discourse on legal theory. The essence of the controversy around the 'purity' of the term seems to be the substance of citizenship. Ordinarily, by citizenship we understand the nationality of the individual, associated with full participation – in common with other individuals – in the rights and obligations defined by the legal order of a given state.⁴⁴ However, according to some analysts, citizenship is an

⁴² Moderate taxes, to be sure, as Bodin was an outspoken supporter of fiscal freedom, considering taxes to constitute an infringement on the sanctity of private property. For more on this subject, see Z. Izdebski, *op. cit.*, XLVIII–XLIX.

⁴³ B. Manning, 'Szlachta, lud i ustrój' ['The Nobles, the People and the Constitution'] in *Geneza nowożytnej Anglii* [*The Genesis of Modern England*], collected by A. Mączak, (Warsaw, 1968) 448–449.

⁴⁴ Let us refer to the definition of Z. Cybichowski, *O pojęciu i istocie przynależności państwowej* [*On the Concept and Essence of Nationality*], (Warsaw, 1920) 6, according to which

abstract condition and simply manifests itself in the individual's membership in a given state, i.e., the individual's subordination to a specific state authority. This view follows the thesis that the quintessence of citizenship is not formed by the whole of a person's rights and obligations in a state, but is rather its complement. On this subject, J. Jagielski writes that 'an argument against the inclusion of rights and obligations within the framework of citizenship is [...] the absence of rights and obligations objectively and exclusively connected with citizenship,'⁴⁵ as even political rights are also related to other factors, particularly that of age or place of residence. Isn't this approach reminiscent of Bodin's concept of the political and legal relationship – the tie connecting the citizen (the subject) to the state (the sovereign)?

Opponents of such far-reaching comparisons would no doubt say that today a member of a state enjoys a considerably larger catalogue of rights than in the days of absolute monarchy. This is indeed the case in principle, but, in practice, is it the case in all the countries of the Old Continent? The citizen status of individuals in democratic states differs from the citizen status of those under non-democratic systems. The notion of citizenship also has its *raison d'être* even in state organisms where a stronger emphasis is placed on citizens' obligations than on citizens' rights, although a considerable part of the latter is often protected by law and respected in such states.⁴⁶ The civic loyalty of the members of this kind of state may be very firm and is more often connected with patriotism than with the possibility of having an influence on the course of public affairs. Let us recall once again that subjection is a relationship of the whole of a state's inhabitants to the sovereign and the absolute authority of a monarch, a form of political and legal tie between the individual and the state in which the subject is primarily burdened with obligations, whereas the state authorities possess primarily rights. The analogies are obvious.

At present, the term 'subject' appears in Europe in the sense of a citizen of a constitutional and parliamentary monarchy, in which the head of state is a king or queen. The term 'subject' is used in Western European monarchies interchangeably with the notion of 'citizen.'⁴⁷ In the case of the members of a state which

the 'right to citizenship invariably rests on nationality, but extends further, including also participation in the public life of the state.'

⁴⁵ J. Jagielski, *Obywatelstwo polskie. Zagadnienia podstawowe* [*Polish Citizenship: Basic Issues*], (Warsaw, 1998) 14.

⁴⁶ K. Wojtaszczyk, *Kompendium wiedzy o państwie współczesnym* [*Compendium of Knowledge on the Contemporary State*], (Warsaw, 1999) 69, writes that 'in a democratic state, the primacy of the individual over the state is assumed, whereas in a non-democratic state, the state has priority over the individual.'

⁴⁷ J. Szreniawski, 'Podstawowe problemy prawne obywatelstwa' ['Basic Legal Problems of Citizenship'] in *Konstytucyjny ustrój państwa. Księga jubileuszowa Profesora Wiesława*

has a non-democratic form of government, one does not use the term 'subject.' But are not the citizens of certain East European countries reminiscent of the subject-citizens of Bodin's commonwealth? Is the thinking of the French philosopher really obsolete? If the question remains open as to whether absolute monarchies had citizens, it might be worthwhile to ponder the question of whether, in some present European states where rulers behave as if they were independent princes, we are not still dealing with subjects? Perhaps we should just call them 'members of a state,' but not citizens. This is an interesting question and is not merely semantic in nature.

Skrzydły [*The Constitutional System of a State: Studies Dedicated to Professor Wiesław Skrzydło*], (Lublin, 2000) 297, indicates that in Great Britain, for example, this does not concern the term 'subjection,' which was simply replaced, after World War II, by the term 'citizenship.'