

A Theory of Joint–Stock Citizenship and its Consequences on the Brain Drain, Sovereignty, and State Responsibility

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Abstract: Recent discussions about global justice have focused on arguments that favor the inclusion of political and social rights within the set of human rights. By doing so, these discussions raise the issue of the existence of specific rights enjoyed exclusively by citizens of a given community. This article deals with the problem of distinguishing between human and citizen rights. Specifically, it proposes a new concept of citizen rights that is based on what I call ‘the stockholder principle’: a principle of solidarity that holds within a specific country. This concept, the paper goes on to argue, is compatible with a broad idea of human rights defined by international law and enforced according to territorial authority. The stockholder principle is further compatible with the psychological concept of citizenship based on a specific collective identity and it leads to fair consequences at the domestic and global levels.

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I. INTRODUCTION

The French Revolution has passed down an ambiguous legacy: The Declaration of the Rights of Man and Citizen (Paine [1789] 1951). The rights of ‘man’ refer to human rights and apply to every human being without restriction. In contrast, the rights of citizens only concern a political community—the citizens—and therefore exclude any out-group individuals. The distinction between human rights and citizens’ rights is still discussed. For example, should we restrict rights such as a fair trial, access to healthcare, or voting only to citizens, or should we extend them to everyone? Today, civil rights (such as the right to a fair trial) aim at all humans. Social rights (access to healthcare or education) have also been

included among human rights—in spite of some still relevant controversy about ‘welfare chauvinism’ (Kymlicka 2015; Bauböck and Scholten 2016). Hence, political rights, such as voting or standing in elections, were the last rights to be specifically set aside for citizens and they have been used to solve this demarcation problem: citizens differ from non-citizens in that citizens are entitled to political participation. This criterion is intimately linked with the idea of sovereignty insofar as collective problems must be solved only by the members of the country, i.e. citizens, and by nobody else.

This criterion, however, is sometimes challenged—not only in debates within ethics (see Beckman 2006; Abizadeh 2008; Song 2009) but also in practice using real policies. The right to vote, for example, is enjoyed by permanent residents in New Zealand and by fifteen-year residents in Uruguay. Several countries grant such rights with respect to local elections, and more and more political manifestos endorse such an expansion of voting rights (Bosniak 2006). The main argument for the enfranchisement of foreigners indicates that people should participate in the collective choices of the community in which they live, instead of (or in addition to) those communities in which they have legal citizenship, because only in the first case do they interact with other people in a way that causes positive or negative externalities (Bauböck 2009; Shachar 2009). This argument leads one to conclude that citizenship should be derived from territorial presence instead of national belonging (López-Guerra 2014). The idea of dissolving one’s citizenship status into a set of easily acquirable rights challenges, however, the ability of specific communities to self-govern (Thaa 2001; Smith 2008). The concept of citizenship also includes a collective attribute: citizens are a stable and durable group which decides the rules which every member is subject to (Bauböck 2014). Such rules organize mechanisms of intra-generational (the rich pay for the poor) or inter-generational (the workers pay for the education of the youth and the retirement of the elders) solidarity. This collective self-government is negatively affected by globalization: when entry and exit costs decrease, some citizens have an incentive to leave to avoid being coerced by the rule to which they are bound. In the same token, wealthy individuals who have benefited in the past from generous public investments, may opt for joining another community in which they do not have to pay for public investments benefitting others (for other similar consequences, see Cremer et al. 1996). This collective dimension of citizenship rights has led many scholars to argue for a delay in the acquisition of political

(Bauböck 2008; Rubio-Marín 2000; Carens 2015) or social rights (Richter 2004).

In fact, increasing human mobility has created a dilemma between two concepts of citizenship that, in a less transient world, are easily consistent: first, a set of individual rights based on one's actual territorial presence and on one's submission to law and, second, a collective right based on a future and durable community belonging. If the citizenship status is stable across time and non-expandable, the second concept is fully realized, while the first is violated. Citizens' rights would then be promoted to the detriment of human rights. If the citizen status evolves in line with individual mobility, the first concept of citizenship is promoted, but the second is undermined. Human rights, then, dissolve citizen rights.

This article deals with this problem by proposing a theory of citizenship—called joint-stock citizenship—which aims to satisfy the protection of individual rights while giving “voice and agency” to citizens, otherwise deprived of it (Thaa 2001, 520). It does not aim to provide a criterion for classifying specific rights into categories such as ‘human rights’ or ‘citizens’ rights’. Rather, the aim of this paper is to develop a concept of citizenship compatible with the promotion of substantial universal rights.¹

The defining feature of joint-stock citizenship is that, while individual human rights are guaranteed through territorial presence, citizen rights are derived from the fact that individuals are (partly) tied to a specific community. Such ties are acquired when the community has invested in them. Therefore, citizenship is defined by a public investment in one's life projects. Free education or infrastructure, grants, and loans are examples of such investments in individual life projects. On the other hand, specific taxes can be viewed as returns on investment.²

The concept of joint-stock citizenship is a metaphor according to which individuals shall be regarded as joint-stock companies, and communities as stockholders. When a given community invests in an

¹ Some legal realist approaches reject the language of human rights (Strang 2018). This article assumes the existence of human rights based on the idea that persons have a moral claim to benefit from some liberties, protections and services regardless of where they live and regardless of their citizenship. In particular, I also assume that a person does not need to be a member of a community to claim their wish to take part in decisions that concern their own present, and near future.

² One could object that this definition excludes libertarian states. If some (libertarian) states do not want to invest in their citizens, there is for them no difference between human rights and citizen rights. Therefore, these states do not need to give citizenship to their people, except as a symbolic status.

individual, it acquires a ‘stock’ in this individual, which produces shared benefits and shared losses. This metaphor is not strict because, ethically, communities are not economic agents and citizens are not companies. However, the bottom line consists in giving citizens and companies opportunities to grow and, because of that, the stockholder principle is appropriate for both. Next to this metaphor, I will discuss how sovereignty and political agency may be conceptualized in a globalized world without violating individual human rights.

The article proceeds as follows. In section 2, I introduce the problem of citizenship in a globalized world, and I underscore the merits and limits of the solutions based on territorial requirements. In section 3, I present the core of the stockholder principle and its difference from other similar principles. Section 4 describes how political obligation defined by the stockholder principle can be justified on consensual grounds. In section 5, I analyze how the stockholder principle works without territorial borders and sheds new light on the brain drain problem. Section 6 discusses the concept of state responsibility which underpins the stockholder principle. Finally, in section 7 some specific ethical issues are investigated.

II. THE CITIZENSHIP PARADOX AND RESIDENCE-BASED SOLUTIONS

Any theory of citizenship must account for two requirements: first, it has to be consistent with the existence of civil, social, and political rights for foreigner residents. It has to also safeguard the right of citizens to emigrate and live abroad, because freedom of movement is a fundamental right (Carens 1987; Dumitru 2012). This also implies that, unlike human rights, citizen rights must be conditioned on a person’s consent as they have to remain free to choose *not* to be members of the community in which they live (Bauböck 2008, 6). Second, the theory needs to lead to specific forms of solidarity between fellow-citizens and an attachment to a community which is, at least partly, a source of collective identity and reciprocity.³ The latter feature does not only have a legal but also a psychological dimension (Carens 2000, 166). This aspect is important as it favors high levels of cooperation among community members; this in

³ This does not mean that citizenship is either the only or the main source of identity and solidarity. For example, communities as different as Amish and hipster communities, when they have the same citizenship should accept to be submitted to the same law, including to redistributive taxation and military defense. Therefore, as soon as they do not consider the national community as illegitimate, they acknowledge the existence of some levels of solidarity and identity between each other.

turn is a condition for someone to commit to the development of the political community. To promote such commitments, community members have to feel they are citizens and care about the other members. The link between legal status and the psychological dimension has to exist in the form of incentives, obligations, or social integration and whatever “draws a body of citizens together into a coherent and stably organized political community, and keeps that allegiance durable” (Beiner 1995, 1).

As I have pointed out, the current practice is generally based on a set of political rights. Only citizens can vote, hold political and administrative offices, serve on a jury and, more broadly, be included in collective decisions. They are, above all, political agents and their specific rights, duties, as well as their sense of belonging, arise from that fact.⁴

However, this set of political rights—conceived as specific citizen rights—are neither necessary nor sufficient to describe the aforementioned idea of citizenship. First, they are not necessary because political decisions concern not only citizens, but also a large set of resident and non-resident people (Beckman 2006). Unless one considers that a large part of the world population has the right to be a citizen (Abizadeh 2008), we cannot isolate citizens of a country as the only people concerned by their country’s political decisions. This argument is particularly relevant in the current globalized context. As the number of immigrants increases, the percentage of residents entitled to vote decreases. Although no restrictions in political rights have been voted, current societies are moving away from universal suffrage due to a spectacular increase in cross-border mobility. In such a context, those citizens entitled to the right to vote are making decisions knowing that other residents cannot. Therefore, the first requirement is not fulfilled because some individuals are coerced but cannot take part in decision-making processes where such coercions are defined and enforced. This violates the principle of *all affected interests* (Goodin 2007) or *all subjected to political coercion* (Abizadeh 2008), both aiming to protect individual (human) rights. Second, they are not enough because some choices typically considered as non-political, such as family and child care, can have a greater impact on the public sphere than many classic political decisions (Okin 1989, 124–131). Thus, to promote citizens’ collective agency there is no reason to limit citizenship to a

⁴ Political rights could be extended to activities aiming to influence political decisions such as freedom of speech, of association, or the right to petition. These are open to non-citizens. The set of political rights specifically reserved for citizens consists in being directly granted access to political decision-making, which goes far beyond influencing them.

restricted number of political activities. If political rights are extended both to people concerned by political decisions and those who are involved in care and public activities, we should conclude that every person who cooperates and interacts within the social network defined by the territorial law should be a citizen.

However, as Song (2012) and Bauböck (2014) point out, this approach is over-inclusive. Tourists, non-permanents residents, as well as people who request an entry visa, are all affected by and subjected to the host countries' laws and, therefore, according to both principles acquire a moral claim to become a citizen. This leads to a violation of the second requirement: there is no incentive for citizens to be bound to each other and produce solidarity. This is why several scholars have deemed that a transitory residence period which allows the development of social ties and attachments is necessary for the acquisition of national membership and franchise (Rubio-Marín 2000; Bauböck 2008; Carens 2015; Shachar 2009; Kostakopoulou 2009; Smith 2008).

In what follows, I will focus on Bauböck's stakeholder citizenship model which broadly includes the main arguments of other approaches. Bauböck (2009) developed the stakeholder principle which is a long-term and prospective version of the above two principles: "individuals acquire a stake in that polity whose future collective destiny is likely to shape their own life prospects" (479). Therefore, people should obtain the nationality of the country when they live in it and when they have a permanent interest in enjoying membership. This attempt to reconcile the two abovementioned requirements is, however, unsatisfying. On the one hand, the stakeholder principle does not entirely fulfill the first requirement according to which human rights should include the right to vote on the issues that strongly affect individuals' interests. On the other hand, the transitory period which would favor the development of social ties and attachments is only a proxy for long-term community belonging. Some people do not need time to feel included in a collective destiny, while other people, even after several years of residence do not feel any moral ties with their neighbors. The second requirement is therefore only imperfectly fulfilled.

For these reasons, the stakeholder principle—as other criteria based on a transitory period of residence—is not really a solution for the dilemma, but simply a balance between the two requirements. Some human rights are together with some aspects of collective rights. In the next

section I put forward the stockholder principle with the aim to better respect both human and citizen rights.

III. THE STOCKHOLDER PRINCIPLE

To clarify what kind of rights or duties are implied in the legal status of citizen, we need to have a clear idea of what rights are enjoyed in virtue of our personhood. It is possible to consider civic rights, some political rights and minimal social rights as fundamental and granted for all. As I have noted above, in some countries these rights are allocated to foreign residents although it does not imply any obligation to deliver the status of citizen. However, enjoying these rights does not imply either feelings of solidarity or specific political agency.

This claim leads to two assumptions: first, within their jurisdictions, people and states have to provide respect (civic and political rights) and assistance (social rights) to everyone. Second, such respect and assistance cannot be an appropriate criterion to distinguish citizens from non-citizens. Thus, citizenship should imply more than people's fundamental rights and duties: it should also imply some specific duties and rights resulting from solidarity that citizens have with each other.

These specific rights and duties are at the core of the concept of joint-stock citizenship, according to which citizens have two features: first, each of them is like a joint-stock company in which fellow-citizens invest. For instance, individuals become citizens through public investments in free education and training, in family policies or in support for entrepreneurship. The consequence of these public investments is a shared responsibility for individuals' achievements: individual successes or failures are imputable partly to individual choices and partly to the collective investment. This active support of the community for achieving individual goals is what differentiates citizens from non-citizens. Such support justifies feelings of membership among the citizens, which can be associated with gratitude and solidarity, exactly as it happens inside families, teams or among colleagues. More generally, getting public support through welfare state policies produces many civic attitudes and greater involvement as citizens—including an increase in electoral turnout and political participation (Campbell 2003; Dupuy and Van Ingelgom 2014).

Second, the right to benefit from public support is associated with the duty to invest in the other fellow-citizens' life projects. These duties are usually embodied in specific taxes for public investment. Thus, each citizen is also a stockholder with respect to other citizens.

In liberal societies, each citizen could be considered as the main stockholder of their own life, and as a small-scale stockholder in fellow-citizens' lives. Thus, individual freedom is protected and "the person whose life it is has primary and non-delegable responsibility for that success" (Dworkin 2000, 240). But non-liberal citizenship is a possibility, based on the right for fellow citizens to interfere with individuals' choices.⁵ This possibility makes joint-stock citizenship compatible with liberal democracies, although it is conceptually independent.

The main issues raised by the concept of joint-stock citizenship are linked to the concept of 'investment'. Why do investments differ from human rights provision? And, how can we determine the level of investment necessary for someone to become a citizen? In this article, I remain vague about the types of rights that individuals unconditionally deserve. What is important here, is that when human rights—whatever their definition—are implemented in a given territory, we may consider this territory as a minimal state. It is minimal because it enforces nothing but human rights. There is therefore no (further) investment.

However, some states may decide to increase the cooperation between their members through the provision of (more) public services, social security, public insurance, or education. These kinds of investments may produce collective wellbeing and social justice although they require high levels of solidarity and reciprocity among the citizens to justify membership. In this respect, the stockholder principle could be viewed as a version of the principle of fair play, according to which benefiting from mutual cooperative practice is by itself sufficient to generate rights and obligations (Simmons 1979; Dagger 1997). Indeed, both principles regard society as a cooperative enterprise and view citizens' obligations as the result of fair and reciprocal relationships with their fellow-citizens. However, the principle of fair play argues that obligations are non-voluntary and backward-looking, contrary to contractual obligations which are voluntary and forward looking (Dagger 2000). Therefore, according to the fair play principle, citizenship is not a contractual arrangement between fellow citizens under basic liberal rules. This is fundamentally different

⁵ One difficulty with the non-liberal view is that in circumstances in which only one state wishes to invest in an individual, the state will be in the position of offering a 'deal' according to which it invests a small amount in the individual, but retains virtually all of the pay-out. Given a lack of interest from elsewhere, it could be rational for individuals to consent to such offers. Despite being consensual, it is not clear that we would regard such deals as fair or rights-conferring. The liberal principle according to which individuals are responsible for providing for themselves (they are *the main stockholders of their own life*), prevents this possibility.

from joint-stock citizenship, which is a contractualist theory of citizenship. In other words, people become joint-stock citizens only with a voluntary and forward-looking agreement, regardless of what happened in the past. This argument is developed in the next section.

The second issue deals with the level of investment individuals shall receive from a state before becoming citizens. Some of them may be strongly bound to their fellow-citizens, because they have been largely invested-in by receiving, for instance, free education, healthcare, and access to facilities for many years. Others may only be slightly invested-in, for example, by benefiting from a public training for one year. Indubitably, in both cases individuals and the state have a mutual interest in their mutual success. This means that as soon as the individual has received investment by the state, she has a moral claim to be a citizen.⁶

To conclude, the concept of joint-stock citizenship does not only include a set of political and social rights, but also a set of duties (specific taxes, solidarity) which are associated with the existence of a system of cooperation and reciprocity. In contrast, as far as the minimal state is concerned, the rights of citizens and non-citizen residents are equivalent.

IV. COMMUNITY BELONGING AND LIBERAL RIGHTS

As with several theories of citizenship, joint-stock citizenship could be considered as an agreement between a person and a community, if people were always responsible for their actions. The example of the naturalization of residents is typically easy to solve because they choose to accept or refuse to be invested in by a community. But communities do not wait for citizens to come of age to invest in them. In fact, an investment in children may be regarded as the most relevant feature of a community. This is why citizenship differs from club membership: children have been included in the community and are partly committed alongside with people whom they have not responsibly chosen. Additionally, children do not take part in decisions that affect them and others since their parents and the state make choices for them. In these conditions, a purely contractualist approach cannot be entirely satisfied. This problem must be addressed on counterfactual bases: what would children have decided if they were adults?

I argue that the parents (or those who are legally responsible for a child) have the possibility to commit their child to a social agreement, in

⁶ Some concrete issues on such a claim will be discussed in section VII.

which the child contracts citizenship rights and duties when fellow citizens invest in them. Of course, the parents can refuse this collective investment. When this is the case, fellow citizens would be the stockholders of the child's future career, and they should invest in these opportunities efficiently. This constraint can be viewed as incompatible with basic liberal claims, according to which, nobody should be chained to a community. The right to emigrate, for example, prevents communities from forcing people to be included (Whelan 1981, 638).⁷

Joint-stock citizenship implies a kind of not fully consensual agreement between individuals and their community. However, it can be considered compatible with liberal principles on the basis of three desiderata, viz. the individual, the family, and the global point of view. From the individual point of view, two kinds of 'chains' should be distinguished: the 'hard chains', clearly incompatible with liberal principles, and the 'soft chains' which can be spotted in liberal societies. Chains are hard when they prevent people from choosing another community they wish to belong to, as, for instance, not allowing their citizens to renounce citizenship. In this respect, the stockholder principle is acceptable because it admits the possibility of changing community and identity. In contrast, chains are soft when people can leave their community, but keep some loose ties with their past community. Everyone has soft chains: their education, knowledge, language, relationships and, generally, family, and policy choices are examples of legacy from their first community. People can try to change community, but they remain partly linked to their origins. The stockholder principle, in taxing people for past investments their community made in them, offers a similar legacy.

One could argue that this legacy would be fixed by law. Joint-stock citizenship introduces legal ties contracted in individuals' childhood. But this is exactly what already happens. All of us are tied to a community by a birthplace often chosen by our parents. Our citizenship rights are already a legacy of our parents and, sometimes, our grandparents. We are already the legal beneficiaries (or the victims) of our parents' choices.

It is possible, however, to conceptualize this difference in a different way. Several soft chains, like one's mother tongue, is due to what a community—or a family—*did not do* for its members. For instance, if people do not learn English or Chinese during their youth, they will remain more attached to their linguistic community and they will lack opportunity to change their community in a globalized world. On the contrary, the soft

⁷ Article 13 of the Universal Declaration of Human Rights.

chain implied in the stockholder principle can be described as a consequence of what a community and a family *did* for its members. A community spends resources in increasing citizens' skills and in broadening their choices, but these resources imply a specific taxation-repayment. Similar policies can currently be observed in liberal democracies. Loans for public education for instance, have to be paid back even if the payee lives and works in another country.

Therefore, what would children have chosen if they had been adults—or, say, chosen from behind a veil of ignorance? Considering they will pay back only if they are economically successful, it is rational for them to increase their opportunities by contracting a debt with their community rather than receiving only what the universal rights of children and the willingness of their family can provide them. At worst, this choice is reasonable enough to justify allowing communities to offer their citizens this possibility.

Let's now examine this issue from the family point of view. According to the stockholder principle, the state cannot invest in children without the families' consent. Parents can request that the state invests in their children's education, but they can also refuse and take the costs upon themselves. As I noticed below, parents' choices already have a considerable impact on their children's tastes and opportunities. Suppose they discover in a child a great talent and a taste for playing the trumpet, but they do not have enough money to pay for the lessons. Should they be able to pay for the lessons with the money earned during their child's future career? If we consider our society as being based on families' educational choices, we should allow this possibility because it increases the opportunities that children can receive from their parents. As liberal societies are based on the autonomy of the family (Fishkin 1983), they must give families the right to paternalistically engage their children and improve their well-being.

To sum up, while joint-stock citizenship partly chains people to their country, those chains are soft, reasonable and approved of by the families. The stockholder principle is thereby compatible with liberal principles. On this assumption there is a third reason to adopt it, based on utilitarian arguments. If all collective agreements with people under eighteen are void, communities are deterred from investing in their members under eighteen, because the latter are free not to respect the terms of the agreement. Thus, banks do not lend, schools do not loan, and so on. This is a paradox in contemporary societies, because youth is an ideal and

efficient age for investments. On the other hand, people should be free to choose what investments they wish to receive, and children are not considered really free to make such a choice. The non-democratic effect of generalizing specific training for children—compared to providing a broad-based education—leads to a reduction of people’s opportunities. This dilemma is solved if people remain free not to comply with those investments. Suppose the community and the family invest in trumpet lessons for their daughter, but the latter decides to be a carpenter. In this case, whatever her earnings might be, she will not refund this training, because, it can reasonably be assumed, it has not influenced her career. To avoid such risks, the community has an incentive to provide a broad-based education able to open up the child’s future career, except when specific talents and motivations clearly appear.

Given this common incentive to invest in the youth, the stockholder principle maximizes the provision of skilled young people as well as opening up careers to talents. This point is more broadly discussed in the next section.

V. THE ‘BRAIN DRAIN PROBLEM’ AND THE BHAGWATI TAX

In this section I discuss the brain drain problem, described as a collective action problem.⁸ In a globalized world, with low mobility costs, countries (and firms) are in competition to attract high skilled workers. There is a trade-off between investing in high salaries to attract such workers and investing in education to train new high skilled people. The educational choice is both a long-run and uncertain investment. It is uncertain because the trained workers can decide to work in another country (or firm) that offers higher earnings. In such a situation, the best strategy could be a non-cooperative one, i.e. consisting in increasing high-skill salaries and in decreasing spending on education. If states do not cooperate, they will tend to decrease spending on public education to finance high salaries. In doing so, global public education would be underprovided for.⁹

If we consider public education as a citizen’s investment in their fellow-citizens, its under-provision denotes a lower citizens’ ability to invest

⁸ In international organizations, the brain drain problem has often been conceptualized as a kind of exploitation of the poorest countries by richer countries. However, the existence of such a phenomenon has been reassessed by many scholars. See Kapur and McHale (2006).

⁹ This argument has sometimes been challenged. Emigration of highly skilled persons can under certain conditions lead to individual investment into education and training among those remaining in the state of origin. See Stark (2004).

in fellow-citizens' projects. Moreover, each citizen who finances public education suffers from lack of reciprocity due to high-skilled fellow citizens who leave the country. This is because she or he does not see any return on investment. Inversely, new citizens and immigrants are unfairly treated by the new community in which they live, because they pay taxes for services that they did not receive.

This is an example of the tension between the state's accountability to its citizens and the state as a territorial jurisdiction (Bauböck 2008). Nevertheless, a 'duty of sedentism' would infringe on the fundamental right to free movement and could be particularly unfair in terms of equal opportunities (Dumitru 2012).

Joint-stock citizenship provides a way to solve this issue. When people move across countries, they do not lose their citizenship, or the specific duties and rights attached to it. Particularly, they have to respect the agreement between them and their fellow citizens. The state remains their stockholder because a consensual agreement has been concluded.

So, concerning the fellow-citizens' stock dividends, the agreement does not change if citizens change the country in which they work. In any case, the agreement signed between the state and the citizen continues to be binding, exactly as it happens when people invest in a joint-stock company. In such a perspective, international mobility for fellow-citizens could even be encouraged if states consider that this enhances the expected success of their citizens.

Of course, these dividends should be proportional to past public investments and to the actual financial success of the citizen. If a citizen did not benefit from state school, or, more generally, from public services, there is no reason to share the responsibility of their potential achievement. Therefore, a state cannot demand the same taxation for foreign residents as for citizens, because it has not invested in them. Assuming they have not benefited from any public investment, they should only pay the tax necessary to guarantee their fundamental rights inside the country. It should be noted that in this system, residents are taxed not only based on their resources, but also according to their past choices. This results from a consensual and transparent agreement between the state and the individuals, exactly as it is already the case for specific taxes for specific activities and tastes (such as drinking alcohol or smoking cigarettes). In both cases, some individuals pay more than others because of

their choices. This argument justifies a dual tax system.¹⁰ One tax is based on territorial presence and aims to ensure human rights in the territorial jurisdiction. A second tax applies the same tax regime to all citizens, according to the degree of public investment in them, regardless of where they live.¹¹ This tax-system gives the state an incentive to provide education and to invest in fellow-citizens, contrary to what currently happens in most countries. Moreover, it offers states an incentive to be efficient in helping citizens to develop their life projects, even when it implies a cross border movement.

This last feature points out to some similarities and differences with Bhagwati's arguments in favor of a specific tax for people who emigrate. According to Bhagwati, emigrants have to compensate fellow citizens for what they could have contributed if they had chosen to stay. Indeed, "the diaspora approach is incomplete unless the benefits are balanced by some obligations, such as the taxation of citizens living abroad" (Bhagwati 2004, 215). This Bhagwati tax supposes a duty based on the fellow-citizens' past investment, which is coherent with joint-stock citizenship. But it also supposes that emigration is a regrettable event that people should compensate with a specific tax. In citizen-based taxation justified by the joint-stock citizenship concept, there is no difference between migrants and sedentary people, and emigration could be, in some circumstances, even encouraged. Both forms of this citizenship-based taxation already exist. The U.S.A. taxes those citizens who stay abroad based on their worldwide income in a similar way to that described here, whereas Eritrea imposes a special 2% tax on all Eritreans living abroad, in line with the Bhagwati tax.

In spite of some criticism, some articles argue in favor of levying the tax on the basis of citizenship, particularly in a globalized world (Kirsch 2007; Zelinsky 2010). The existence of tax treaties and of international law facilitates the enforcement of such a law. Thirty years ago, the Philippines turned out to be unsuccessful in enforcing its tax on emigrants (Pomp 1989). This led to the abolishment of citizenship-based taxation in 1997. But exchange of information is easier than before, thanks to the

¹⁰ Technically, this is not a major issue. We already have such a dual tax system—residents pay additional taxes, for example, municipal taxes. In the present case, each state collects taxes to guarantee fundamental rights, but citizens' taxes are collected at the level in which public investments are made. It could hence be made at the institutional (e.g. schools), municipal, regional or national levels.

¹¹ This statement suggests that there may be several degrees of citizenship. This point will be developed in section VI. For arguments along these lines, see Beckman (2006).

development of Tax Information Exchange Agreements (TIEA's). Also, international law allows the implementation of national laws through foreign jurisdictions. Finally, when two countries have a citizen-based taxation, they can implement it with mutual-agreement procedures for tax treaties. Such tools tend to increase countries' fiscal control, even outside their borders.

Let us suppose now that foreign citizens have the right to be invested in by another state. For instance, they obtain the right to go to medical school for free, in exchange for an obligatory tax whose level depends on the economic achievement of that person. The investment into foreign citizens by local citizens enables the foreigners to claim citizenship. But they retain the possibility not to become a new citizen of the country which has invested in them. In this case, we can consider such a deal as an agreement between a state and a foreign private person, defined by the Institute of International Law, at the Session of Athens of 1979. Thus, the stockholder principle can also be regarded as a private agreement which includes citizens' rights, without feelings of identity. But even in this case, such an agreement brings about a special relationship between a person and a given community, which looks like the citizenship concept.

Such juridical tools tend to prove that globalization trends strengthen, rather than weaken, the case for taxing the income of citizens abroad, regardless of whether the income is earned from working or investments (Kirsch 2007, 448). This possibility of setting up such taxes gives citizens the alternative of investing in fellow-citizens, thanks to the chance of recovering their investment. This could provide a solution to the brain drain problem. Moreover, it reverses the current trend of under-providing resources to public education. However, such a system implies a specific idea of the role of national states in the economy. This point will be developed in the next section.

VI. DEFINING STATE RESPONSIBILITY

When citizens invest in fellow citizens' achievement through tax and transfers mechanisms, they become partly responsible for this achievement. This responsibility can be conceptualized in three ways:

First, the state is thought of as a referee. It only gives people rights, like access to medical care and education. In this case, the state is thought of as allocating rights so that nobody can complain about what she received. If these rights are properly distributed, the state is no longer responsible for people's condition. The state as referee comes from a liberal

tradition and can be summarized in the following way: “Let the holders of authority confine themselves to being just. We shall assume the responsibility for being happy for ourselves” (Constant [1819] 1988, 6). The second concept of responsibility is illustrated by the example of banks. The state provides citizens with loans, but citizens have to pay them back. Public education loans are such an example. In this case, the state invests in citizens, but it expects to recover its investment. The third concept refers to the state’s responsibility as a stockholder. Here, the state invests in citizens and the latter have to pay back according to their success in life. Thus, the state and individuals’ investments are evaluated *ex post*: when there is failure both are penalized, while in success both win. The progressive nature of income tax can be justified in this way. In 2013, the Oregon Working Families Party proposed a bill called “Pay It Forward” which guarantees free higher education to students in exchange for 3% of their earnings over the next twenty-four years, which would go into an education fund (Hoogeveen 2014). As far as I know, this is the closest example of stockholder responsibility.

The former two concepts subscribe to the idea that the state is responsible only for inputs, not for outputs and that it is only citizens who are responsible for the consequences of their choices. The third concept does not separate individual and state achievement: everyone loses or wins, as in a team. In such a way, the state undertakes a consequentialist choice: the quality of its investments in its citizens is partly captured by their effective achievement.

Some liberal scholars have underlined the difficulty of identifying subjective achievement with objective measurement (Dworkin 2000). Presumably, measuring success with individual earnings is the most reliable technique because, all choices being equal, it indicates quite well the relative success in a given profession. Of course, some ‘successful lives’ are compatible with low incomes. Let’s take, for instance, Van Gogh’s life: he preferred to paint high quality pictures rather than paintings that sold well. In his case, the community gave him excellent training, but it received no taxes out in return. On the other hand, the community was not only responsible for Van Gogh’s training, but also for the economic success of his high-quality pictures. And, for this second dimension, the collective performance was lower than Van Gogh’s. The accountability for Van Gogh’s pictures’ lack of commercial success does not reasonably lie only with the painter.

This example illustrates why the stockholder's responsibility is fair: when a failure occurs, the responsibility should not only be individual, but also collective. The state could be wrong in distributing opportunities, or in choosing how to invest. So, even when individuals assume most of the responsibility, fellow citizens have to accept their fair share.

Let's analyze these concepts of responsibility with respect to individual rights. A person has the right to be respected even when she does not want to be a citizen in a given community. Tourists, non-permanent, or permanent residents could refuse to weave special relationships with the people around them. Even in this case, they should keep human rights. Thus, the state in which they live has to be considered responsible for these rights as a referee: it fairly allocates and enforces fundamental rights. All residents—citizens or not—have to pay a territorial tax to finance which ensures their fundamental rights inside their country.

However, when people are or become citizens, the stockholder principle is the most appropriate concept of responsibility. When people accept that fellow citizens invest in them, they also accept to share their achievements and failures with the rest of the community. They choose to belong to a specific community, and their loyalty does not depend on the territory in which they live, but on a reciprocal investment in the future. Moreover, sharing responsibilities implies taking care of individuals' aims, which is a favorable ground for solidarity among citizens.

VII. FOUR APPLIED ETHICAL ISSUES

I have investigated two principles used to define rights and duties in a society. The territorial principle is responsible for the enforcement of human rights. The stockholder principle governs specific kinds of solidarity which are adopted in a given society, in addition to human rights. To discuss this claim, four main applied ethical issues are addressed.

1. *How should the tax system work?* First of all, not all taxes should depend on citizenship, because they are not based on shared investment that defines the stockholder principle. Some taxes are not used to invest in people, but to assure the functioning of fundamental rights, such as security, property, the right to a fair trial, to social security etc. In other words, some taxes aim to provide each human being with rights, and this depends on the territory in which people live, regardless of their nationality. This tax regime and these rights are based on the stakeholder principle because they concern all people who live in a given community and

are applied to citizens as well as non-citizens.¹² The enforcement of human rights has to be protected by the territorial law and, therefore, the cost of such implementation is also paid for by residents and, generally, by people who live in a given jurisdiction.

Citizen rights can be provided in a community in which there is specific solidarity and feelings of identity. In such a view, the tax system should be separated so as to provide two separate services: whereas human rights enforcement follows the territorial principle, citizens' rights are enforced by the stockholder principle. Every person who accepts to benefit from a special investment from a community has the legal status of citizen and pays taxes to invest in fellow-citizens regardless of where she lives. This double tax-system, based on different requirements, implies that it is possible for people to pay taxes in two different countries. But this does not imply a double taxation, because the territorial and the stockholder principle clearly define the amount of tax that each state may claim. Current multilateral tax treaties are capable of solving international disputes through the aforementioned principles.

2. Is joint-stock citizenship really an advantage for citizens? Compared to current citizenship, the stockholder principle hardly appears advantageous for citizens because it involves more duties (paying taxes to the country in which one was trained or educated). Citizenship so defined appears to be a burden to be avoided rather than a privilege to be sought out or earned. This consequence is only partly true. On the one hand, if being citizen of a given country was an undisputable advantage, citizenship would seem more of an aristocratic title than a set of protected rights, while citizenry would be conceived more as a highly selective club rather than a highly cooperative group. This scenario is somewhat similar to the current situation (Shachar 2009). This is why citizenship must not be conceived as a set of privileges. On the other hand, joint-stock citizenship is definitely not only a burden. Although people pay taxes due to their past investment, they also benefit from taxes from their successful fellow citizens. Of course, the richest citizens pay much more than the others, but this is also the case for many other theories of citizenship.

¹² This point is confirmed by the Universal Declaration of Human Rights, which says "Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty" (Art. 2).

Generally, sharing the responsibility of achievements and failures reduces the risk of future income loss and increases investments which, in turn, can lead to an increase in the collective growth. In this sense, belonging to a community is an advantage.

3. *Would individuals have an incentive to avoid accepting publicly funded education?* Wealthy individuals or families who are assured of their future social success could opt not to be invested in by the citizenry and instead invest their capital in themselves. This would be likely to widen the gulf between a privately funded education system for the rich and a publicly funded educational system for the poor that already exists in many countries. The existence of stateless wealthy people is likely to appear in a context in which citizenship implies some degree of solidarity. However, we should also consider that this choice puts people outside solidarity networks. For example, *ceteris paribus*, economic agents could prefer to trade with a person whose achievements lead to an advantage for their community. Moreover, the price of benefiting from public infrastructure is fixed by citizens. Switzerland, for example, only sells annual highway toll passes and this system ends up being more expensive for non-residents. This example could be followed for citizens who benefit from free public infrastructures. All in all, being excluded from public cooperation is a risky undertaking, even though it remains a valuable choice. On the contrary, people who accept to be included in the citizenry receive greater guarantees that fellow citizens will have an incentive to favor their achievements.

4. *Would states have an incentive to avoid admitting immigrants whose taxes would be sent to the country where they were educated?* This concern is the exact opposite of the one discussed in the previous paragraph. As stateless wealthy people could be discriminated against in the national market, immigration could end up being discouraged. However, the entirety of international mobility should be analyzed. Immigrants who invest and accept to be invested in by the host country's citizens will become citizens themselves. Although they do not pay taxes for the initial education, they can contribute to the national economy and they could pay taxes for what the new country has done for them. That is why we can expect that young unskilled immigration could be as welcome as highly skilled immigration. Although the latter are more productive, the former will pay less to their native country. As a consequence, and compared to the current situation, the stockholder principle gives unskilled people incentives to move elsewhere, with a substantial improvement in

global equality of opportunity. On the other hand, although it can be expected that states would be less open to high skilled immigrants, they would be also more motivated to produce high skilled emigrants. All in all, it is difficult to say if high skilled international mobility would decline.

These subjects are a sample of the main issues which could be discussed. Their answers provide some clues about the level of inclusiveness of such a concept of citizenship. On the one hand, over-inclusiveness—i.e. giving individuals status and rights in a country to which they are no longer attached (Bauböck 2014)—is avoided by the fact that the attachment of members is guaranteed by the taxation on past investments. Such an attachment includes individual costs that restrict the number of people claiming citizenship. On the other hand, under-inclusiveness is also avoided by the fact that each individual can chose to be citizen of a given country. Of course, the aim here is not to cover the question in its entirety, but only to suggest some trails which allow us to see how joint-stock citizenship can concretely work. In order to decide which rules govern the level of specific investments and repayments, one must determine who makes the decisions. Again, citizens' rights must be ruled by stockholders, in the same way decisions concerning human rights must be ruled by residents.¹³ In this view, citizens retain some very specific political rights essentially centered on the regulation of individual and firm subsidies, methods of funding and terms of repayment agreements. Technical issues related to investment policies, and systems of taxation are not developed here.

VIII. CONCLUSION

The theory of joint-stock citizenship aims to provide a concept of citizenship that protects the psychological needs and the material advantages of belonging to a specific community, in a way that is compatible with the free movement principle and with the widening of human rights. The main thesis is that social and political rights have a dual aspect. For human rights (such as being protected by police) all residents should vote and pay taxes for that, whatever their nationality. The territory in which they live defines who is included in the decision-making processes and in taxes. In contrast, when other policies are concerned—such as public investments in education or in the economy—only members vote and pay

¹³ Note, however, that having different people voting on different areas of the budget can be problematic. If non-citizens only vote for some matters, say the police, they could have incentives to raise or lower the budget of those issues as opposed to other issues.

taxes, wherever they live. And when people benefit from these investments, they also accept to self-commit to pay taxes and vote and, automatically, become citizens. This compatibility between human and citizen rights has to be understood as ‘as compatible as possible’. As Pevnik (2011, 116–117) wrote, “because equality of opportunity and self-determination conflict with one another, insisting on wholehearted support for both is platitudinous”. Indubitably, joint-stock citizenship does not eliminate this conflict. However, it offers a fair compromise between equality of opportunity and self-determination. Indeed, by keeping a kind of self-determination, it creates an incentive for communities to increase the opportunities of their members and, at a global level, increase the opportunities for people as a whole. On the other hand, it offers a way to maximize free movement and individuals’ opportunities without depriving people of their need to belong to a community that takes care of them. This approach also gives an answer to the dilemma summarized by van Gunsteren (1988): “the price for effective standing and equality among citizens apparently is inequality between citizens and noncitizens” (731). By distinguishing between human rights and citizen rights, joint-stock citizenship accepts inequality between citizens and noncitizens only beyond human rights. The latter have to be implemented by each state assuming the full equality between all human beings.

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