

“We are citizens!”

The citizenship revolution of 1820-1822¹

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“One of the major changes brought about by liberalism was the shift from the concept of subject to that of citizen.”

[PATA, 2004: 21].

1. What one word contains

On 8 December 1820, in his militant demand for the right to vote in the constituent elections for the students of the University of Coimbra, young Garrett proclaimed, as a decisive argument: “*We are citizens!*”².

There are four complementary readings that can be drawn from this revolutionary proclamation:

- “Now we are citizens, and before we weren’t.”
- “Now we are all citizens, without differences based on birth or status.”
- “Now we are citizens by right, not by privilege or royal concession.”

¹ Revised and expanded text, including footnotes, of the author’s paper at the colloquium that gave rise to this book.

² Document published in MOREIRA & DOMINGUES, 2020d: p. 193.

– “*Because we are citizens, we cannot be deprived of the right to vote, which is at the heart of citizenship.*”

All these variants of the sentence are correct and, together, they contain the main change brought about by the Liberal Revolution: the abandonment of the condition of *subjects* of the sovereign and the conquest of *citizenship* as a general political attribute of the members of the community. An essential political achievement of the American Revolution (1776) and the French Revolution (1789), the struggle for citizenship, including the political level, would characterise subsequent liberal revolutions, including the Portuguese one³.

It is true that the notion of “citizens” was not unknown before in the *Ancien Régime*, but it was only applied to the local level of city government, specifically to the people authorised to intervene in municipal government and in the election of municipal representatives to the Cortes (as long as these existed, until the end of the 17th century), to designate the so-called “good men” of each municipality, i.e. merchants, landowners, magistrates, excluding not only women, but also servants, labourers, craftsmen, etc., in other words, anyone who was economically dependent on others or engaged in manual labour. “Citizens” were therefore only those who were involved in the government of their city, which was in line with the etymological origin of the notion in Latin (*cives, civitatis*)⁴.

What is revolutionary about the new liberal notion of the citizen is, first and foremost, the disconnection between *citizenship* and *city*, between the *citizen* and the *bourgeois* (resident of the borough), which

³ In this respect, the liberal revolutions are heirs to previous philosophical developments, including the contractualist theory of the state (from Hobbes to Rousseau), the theory of natural rights (Locke), Enlightenment rationalism, etc. For an analysis of some of the intellectual sources of citizenship before the liberal revolutions, see, for example, SOROMENHO-MARQUES, 1996, and especially COSTA: 2001, vol. 1.

⁴ In addition to the other Latin languages (*ciudadano, citadino, citoyen*), the correspondent English word *citizen* also has this etymological origin, via the Normans. Also in German, the word *Bürger* originally meant a resident of the borough (city).

now designates belonging to the political collectivity of the *republic* at a national level⁵. Therefore, “deterritorialisation” (PÉREZ LEDESMA, 2007: 39) is the first and most visible dimension of the new notion of citizenship, object of semantic transformation. From the exercise of local government in the city to the ownership and exercise of national sovereignty, this is an *unmeasurable transformation of meaning*.

A second basic idea of the new notion of citizenship has to do with its *universal nature*, regardless of origin or social class, i.e. designating the members of the community just for being so, for sharing this common quality. In the words of K. FAULKS (2000: 4), “*unlike slaves, vassals and subjects, whose status implies hierarchy and domination, citizens formally enjoy a legitimate and equal belonging to society*”.

This necessarily led to *civil equality*, i.e. equality before the law, which cannot now discriminate against citizens on the basis of their origin or social status in terms of rights (including access to public employment), obligations (tax or military obligations) or sanctions (crimes and penalties), as was the case in the *Ancien Régime*.

Fourthly, the new notion of citizenship is based on *individual liberty* and not being subject to the power of others (individuals or groups), as was the case in the *Ancien Régime*. In the words of the same author, “*citizenship is incompatible with domination, whether it comes from the state, the family, the husband, the church, the ethnic group, or any force that seeks to deny the recognition of an autonomous individual capable of self-government*” (FAULKS, 2000: 4). *Civil liberty*, or liberty by default, i.e., to do everything that is not prohibited by law, necessarily included economic and professional liberty, the basis of economic liberalism and the market economy.

Another profoundly innovative feature, this one against the royal autocracy of absolute monarchy, was the elevation of the political dimension of citizenship (*political citizenship*) to the level of the state, reflected in the ownership of political rights and, through these, the exercise of legislative power and indirectly in the government of the country (“representative government”). By definition, without

⁵ To emphasise this change, see in particular PÉREZ LEDESMA, 2007: 25/39.

prejudice to the restrictions analysed below, political citizenship includes a dimension of co-ownership and co-exercise of political power, which the Latin expression *status activus civitatis* has come to characterise.

It is no wonder, then, that here too, a little like in France, the notion of citizenship became central to the new political language that emerged from the Revolution and that the notion of citizens gradually replaced the traditional tripartite notion of *clergy, nobility and people*, although initially the summonses to public meetings of municipal councils to swear an oath to the Revolution still continued to use the old designation, out of atavism. This was obviously not the understanding of the young Almeida Garrett, nor of other protagonists who were more aware of the necessary conceptual break that the Revolution required⁶.

Thanks to its identity as a result of the change of political regime and the end of the figure of the *subject* or *vassal* of the absolute monarchy, as well as the traditional tripartition of the different social categories, the notion of citizen took on a “*mythical proportion*” (VARGUES), as a symbol of the civil equality of all Portuguese, regardless of the economic and social differences between them, and as an instrument for action in the political sphere. Now everyone was a citizen, with the necessary consequences in terms of civil and political rights and duties.

In sum, the new notion of citizen incorporated four key innovations: (i) universality: everyone was a citizen; (ii) individual autonomy, i.e. independence from integration into classes or corporate groups (*estates*, orders, professional guilds, etc.); (iii) equality of rights and obligations (“equality before the law”), putting an end to the discrimination of legal status according to origin or class, typical of the *Ancien Régime*; (iv) the political dimension, through the entitlement to exercise political rights at state level, albeit with exclusions.

Few texts have emphasised the difference between *subject* and *citizen* as clearly as this passage by an American author, curiously dated 1789 (the year of the French Revolution), quoted by PÉREZ LEDESMA (2007: 27):

⁶ On the generalisation of the notion of citizen(s) after the Revolution see, in particular, VERDELHO, 1981: 248 et seq.; VARGUES, 1997: 107 et seq.

“Subject” comes from the Latin words “sub” and “jacio” and refers to someone who is under the power of another; “citizen”, on the other hand, is a unit in the whole of the free people, who are the collective possessors of citizenship. Subjects are subject to a master; but citizens are so equal that none of them has hereditary rights over the others. Each citizen of a free state contains within himself, by virtue of nature and the constitution, as large a share of the common sovereignty as any other.”

In his classic 1949 work on the history of modern citizenship, T. H. MARSHALL (1950: § 2) distinguished between three types of citizenship, in terms of their *relationship with individual rights*, which have emerged successively since the 18th century: (i) firstly, *civil citizenship*, in the 18th century, based on individual liberties (personal liberty, liberty of expression, property rights, etc.); (ii) then, *political citizenship*, in the 19th century, based on political rights, namely electoral rights; (iii) finally, *social citizenship*, linked to social rights and the welfare state, in the 20th century. As can be seen, in this work we are only interested in the first two types of citizenship.

2. The political-constitutional revolution of 1820-1822

It is important to begin by outlining the main features of the political-constitutional Revolution of 1820-1822, the most far-reaching political revolution in national history, taking into account both the depth of the rupture with the previous regime, as well as the breadth of the legacy it left for the future⁷.

Under the close influence of the Spanish constitutional revolution of 1810-12 and, like it, the French Revolution of 1789, the Portuguese liberal revolution shared the main characteristics of the European liberal revolutions⁸.

⁷ On the main features of the Liberal Revolution in Portugal see, among many others, MOREIRA & DOMINGUES, 2020e: 15-43; and ALBUQUERQUE, 2020, 197 et seq..

⁸ Despite many convergences, the American revolution of 1776-87 had some important specificities in relation to the European revolutions: (i) it wasn't against absolute monarchy (which Britain hadn't been since the Glorious Revolution of the 17th

a) From absolute monarchy to constitutional monarchy

The first transformation consisted in replacing absolute monarchy with constitutional monarchy.

Absolute monarchy was typically characterised by royal monocracy and the unlimited power of the sovereign, due to the concentration of the three functions of the state (legislation, government and justice) in the hands of the king and the absence of rules limiting his power. The old customary “constitution” of the limited medieval monarchy – limited by the power of the three social orders in the Cortes, by the municipal autonomy and, externally, by the Pope – was being discarded as royal power was consolidated, from the 16th century, being reduced to the so-called “Fundamental Laws” of the kingdom, which object was reduced to the rules of succession to the throne and the regency of the kingdom, even ending up being transformed into mechanisms for legitimising the absolute power of the king and justifying *pure monarchy* as a form of state⁹.

From the outset, the main objective of the Liberal Revolution was to convene the Cortes to approve a *political Constitution*, i.e. a law regulating political power and political institutions, based on the separation of powers, the attribution of legislative power to the Cortes, the reduction of the king’s competence to the executive power and its

century), but against British colonial rule, and was the first successful anti-colonial revolution; (ii) it wasn’t aimed at establishing a constitutional monarchy, being openly republican from the outset; (iii) having been initiated by the joint rebellion of the thirteen British colonies, the American revolution adopted a federal model for the United States (1787 Constitution), including a *two-tier political citizenship* (at Union level and at state level), while the European revolutions (France, Spain, Portugal) opted for a strongly centralised unitary state, including the abolition of some territorial prerogatives existing under the *Ancien Régime*. In the case of Portugal, the rejection of federalist proposals in relation to Brazil in the Constituent Cortes, which would include the existence of two “regional” parliaments, one in Portugal and one in Brazil, precipitated the Brazilian secession on 7 September 1822, even before the final approval of the Constitution on 23 September. On the American Revolution see, for example, SOROMENHO-MARQUES, 1996: Ch. 6.

⁹ See DOMINGUES & MOREIRA, 2021b: p. 84.

subordination to the law and the courts, and the limitation of political power by constitutionally established individual rights.

Another essential difference was that while in absolute monarchy only the king had rights, not the individuals, in constitutional monarchy the relationship is reversed: it is now the individuals who have rights against the holders of power, including the king, insofar as he retains powers under the constitution.

b) From the sovereignty of the absolute king to the sovereignty of the Nation

While in absolute monarchy sovereignty belonged, by definition, to the king, by virtue of a direct or indirect divine concession, in constitutional monarchy sovereignty belongs originally to the national community itself, which exercises it through elected representatives, firstly for the approval of the Constitution¹⁰ and then for the exercise of legislative power¹¹. The “*collective appropriation of sovereignty*” (in the expression of Rosanvallon¹², confiscated from the king, now transformed into a simple constitutional magistrate of the nation’s sovereignty, constitutes the main key to the political revolution.

This transfer of sovereignty implied an authentic subversion of royal power, in two ways: on the one hand, the king went from being a *constituent power* to a *constituted power*; on the other hand, the legitimacy of power ceased to have a “divine origin” and began to derive from the will of the citizens, namely through the election of deputies to the Cortes¹³.

¹⁰ According to the 1822 Constitution, the power to make the Constitution or Fundamental Law, as well as to amend the Constitution, belonged exclusively to the deputies of the nation, “*together in Cortes*”, “*without dependence on the sanction of the king*” (Article 27).

¹¹ For example, as early as the Bases of the Constitution (1821) it was stated that “*the law is the will of the citizens declared by their representatives together in Cortes*” (Article 24), a principle that was reflected in the 1822 Constitution: “*law is the will of the citizens declared by the unanimous or plurality vote of their representatives together in Cortes*” (Article 104).

¹² ROSANVALLON, 1992: 75.

¹³ 1822 Constitution: “*Sovereignty resides essentially in the nation. However, it cannot be exercised except by its legally elected representatives*” (Article 26).

Consequently, while absolute monarchy was characterised by the political centrality of the king, in constitutional monarchy political centrality passed to the Cortes, as the representative body and holder of legislative and taxing power.

Finally, through the separation of powers and the political legitimisation of the holders of power “from below”, the Liberal Revolution broke down the confusion between power and its holder (the king) and replaced the relationship of personal allegiance of the subjects to the sovereign of each moment with a relationship of allegiance of the citizens to the state, the institutions and the laws, thus promoting a *depersonalisation of power relations*. As Quentin SKINNER (1978: x) rightly wrote, in the constitutional state, it is the state itself, and not the former monarch, that can be the “sole object of the allegiance of its citizens”. Instead of the old oath of the people’s personal allegiance to the king at the time of his enthronement, there is now a functional oath of the holders of power’s allegiance to the Constitution.

c) *From the “state of orders” to the state of citizens*

Absolute monarchy was a “state of orders”, since the political structure was based on three social bodies differentiated from a political and legal point of view (clergy, nobility and people), which determined the political and legal status of their members, particularly in terms of privileges and obligations. Conversely, the constitutional monarchy was based on the national community of free individuals, exempt from their integration into “intermediate bodies” that cancelled out their individual autonomy. The emancipation of the liberal citizen is not only liberation from subjugation to the state, but also from the “community” constraints of class, race, religion, in short, from the “intermediate bodies” of the *Ancien Régime*.

Secondly, while the society of orders was characterised by the different legal status of its members in civil, fiscal and criminal matters, the liberal society advocates *equality before the law*, without privileges or private subjection, including in fiscal matters, putting an end to tax and criminal exemptions (among others) for the privileged classes of the *Ancien Régime*.

Thirdly, while in the *Ancien Régime* there were no rights vis-à-vis power, but only individual or collective *privileges and prerogatives*, granted discretionarily and selectively by the sovereign, the new constitutional regime emphasises the recognition and guarantee of “natural rights”, inherent to all individuals, without discrimination. If before, under absolutism, the sovereign was the source of privileges and prerogatives, now he must respect individual rights, which are inherent to human nature.

Fourthly, while absolute monarchy presupposed allegiance and personal obedience to the king, constitutional monarchy presupposes allegiance and obedience to the Constitution and the law. Hence the traditional personal oath of allegiance by everybody to the king was replaced by the oath of allegiance to the Constitution and the institutions it provides for.

Finally, if in the pre-absolutist monarchy the Cortes represented social bodies (clergy, nobility, “third estate”) or territorial communities (municipalities) separately, now, in the state of citizens, political representation could only be conceived of in terms of unitary national representation of individual citizens, free from any social or territorial group subjection. As ROSANVALLON (1992: 68 et seq.) points out, the “*traditional corporatist representation*” gave way to the “*modern individual representation*”; and the deputies no longer represent their group of origin or their territory, but the *whole political collectivity and the whole country*.

d) Representative government and the centrality of parliament

At the beginning of the Liberal Revolution, there was still the conviction that the solution to absolutism, the main target of the revolution, laid in a return to the old limited, pre-absolutist monarchy, in which the constituent bodies of the nation were represented in Cortes, without whose consent the king could not make important decisions (particularly in fiscal and monetary matters) and through which the three “estates” of the kingdom, starting with the *third estate*, the most numerous, could air their grievances and propose to

the monarch the general governing solutions they deemed necessary and appropriate¹⁴.

However, it didn't take long to realise that this was an illusion, inconsistent with the new ideas of political citizenship and “representative government”. The problem was not only that the old Cortes were not a permanent institution, nor were they endowed with decision-making powers (which always depended on royal assent). The essential problem was that the Cortes did not represent the nation as such, but rather separately, the three “estates” of the kingdom (each with the same collective vote, despite the abysmal difference in weight of each in terms of population) and that, even in the case of the representation of the third “estate”, it was not a representation of the universal citizenry, but rather an institutional representation of the municipalities, or rather of only a part of them, those that had a parliamentary seat by charter or royal privilege. To paraphrase ROSANVALLON (1992: 47), the notions of representative government and political citizenship implied a shift “*from a selective representation of the territory to a universal representation of individuals*”.

In short, there are several dimensions to the *metamorphosis of the Portuguese from subjects to citizens*.

3. Political citizenship in the French Revolution

3.1. From classical political citizenship to the Liberal Revolution

The modern concept of citizenship is essentially due to the French Revolution, without ignoring the contribution of the American Founding Fathers¹⁵. As BRUBAKER (1989) put it, it was the French Revolution that “*invented the modern concept of citizenship*”. However, it is not possible to understand the modern “citizenship revolution” without going back

¹⁴ On this initial illusion among the revolutionaries of a return to a mythical past, see the analysis of MOREIRA & DOMINGUES, 2021b.

¹⁵ On the construction of the notion of citizenship in the liberal revolutions, see COSTA, 2000, vol. 2.

to the notion of classical citizenship put into practice in Athens in the 5th century BC. In the words of SÁNCHEZ LÉON (2000: 37), “*the liberal revolutions of the 17th and 19th centuries were largely built on images of ancient citizenship (...)*”.

As D. SCHNAPPER (2000: 12 et seq.) said, “*it was the Greek city that invented the “citizen” as a member of a community of free and equal citizens*”, *including the “equal participation of all in the exercise of power”*. In its classical formulation, in Hellenistic antiquity (Athens), citizenship was a strictly political concept, designating the quality of being an active member of the *polis*. As Aristotle argued in *Politics*, “*a citizen was one who could participate in deliberative or judicial power*”. Citizenship comprised two essential components: (*i*) regular intervention in the government of public affairs, namely in deliberative assemblies and in the election of magistrates; (*ii*) eligibility to hold public office (by lot or election in the citizens’ assembly). Citizenship was reserved for free men, excluding slaves and women, but did not discriminate between citizens in terms of economic means, although in practice only the wealthiest were available for intense involvement in the political life of the community¹⁶.

In the absolute monarchies of the 17th-18th centuries, against which the modern liberal revolutions were mobilised, there was no element of political citizenship. Except at local level, where a certain degree of municipal self-government remained, the governed had no say in political power in the absolute monarchy, and the old Cortes, which had characterised the “limited monarchies” of the Middle Ages since the 13th century, had disappeared¹⁷.

However, as mentioned above, the old Cortes were forms of “corporate” representation (of the three orders, *estates* or bodies of the kingdom) and not individual representation of the governed. Even in the case of the “third estate”, as we have seen, it was a territorial representation of the municipalities (in fact, only a small part of them),

¹⁶ On Athenian political citizenship, in addition to the classic M. I. FINLEY, 1985, see, among many, SÁNCHEZ LÉON, 2000.

¹⁷ On the transition from medieval monarchy to absolute monarchy in Portugal, see MOREIRA & DOMINGUES, 2020b: 81-83.

conveyed by the local elite, made up of the municipal councillors, the magistrates and the “good men”, i.e. the merchants, landowners, and liberal professionals, excluding the mechanical officers, manual labourers, servants and, of course, women.

Furthermore, since the Cortes depended on royal convocation (except in exceptional cases) and did not generally have deliberative powers, their deliberations required the assent of the king, who was responsible for them. The political participation of the governed was far from a genuine autonomous intervention in political power.

Made in the name of national sovereignty, “representative government” and the intervention of the community in the making of laws through a parliament elected by the citizens, the Liberal Revolution revived the classic notion of citizenship as the individual right of the governed to intervene in the government of the *polis* or the *republic*, albeit in new ways, namely by replacing the modalities of direct democracy at the level of the city-state of classical antiquity with the formula of *elective political representation at the level of the nation-state*.

As ROSANVALLON writes for the French case, “*in 1789, the figure of the citizen was at the heart of the revolution in events and representations*”¹⁸. However, the many differences between the new liberal citizenship and the old classical citizenship should not be forgotten, as will be seen below.

Firstly, liberal political citizenship is just one dimension of the broader notion of citizenship, which also includes civil citizenship, reflecting the new separation between the public and private spheres, as mentioned above. Secondly, although liberal political citizenship presupposes the political sovereignty of the collectivity, it translates into *liberties and rights vis-à-vis political power*. Unlike ancient Athenian citizenship, which was essentially based on the citizen’s *obligations* to the *polis*, liberal political citizenship is *based on individual rights* vis-à-vis the state. Alongside electoral rights (the right to vote and the right to be elected), which are crucial rights of “representative government”, there

¹⁸ On the problem of citizenship in the French Revolution, see in particular BRUBAKER, 1989; COSTA, 2000: 2nd volume; FAULKS, 2000: 30 et seq.; HEATER, 2004: 79 et seq.; DIAZ, KACI & LEMBRÉ, 2018: 55 et seq.

are other rights of political citizenship, such as liberty of expression and political opinion, guaranteed by the new liberty of the press, and the right of political petition (to parliament and the executive), among others.

3.2. The distinction between men in general and citizens in particular

However, since the beginning of the Liberal Revolution, there has been a tendency to distinguish between “civil citizenship” (as a member of “civil society”, with the inherent civil rights and obligations) and “political citizenship” (as a member of the local or national political community, with the right to participate in its governance and to hold public office, as co-owners of the nation’s sovereignty).

The first difference lies in the following: while civil citizenship is a social fact, inherent to human nature, political citizenship is a social construction, received and learnt, and it is the state’s task to ensure its “reproduction”, through public education, civic education, civic symbols and celebrations¹⁹.

While civil citizenship was by nature universal, inherent to all men, including foreigners, political citizenship was reserved for nationals and could be subject to greater or lesser restrictions. Whilst civil citizenship was a necessary condition for political citizenship (which was forbidden to foreigners), it was no longer a sufficient condition. First and foremost, political citizenship was, by nature, national citizenship, which made it necessary to strictly delimit nationality²⁰.

In Europe, the distinction between civil and political citizenship had its first constitutional expression in France, in the separation between “rights of men” and “rights of the citizen” in the Declaration of the Rights of Man and the Citizen of 1789. As the name implies, the former were universal rights, for the whole of humanity, while the latter

¹⁹ On the “reproduction” of citizens as a political responsibility of the state today, see VAN GUNSTEREN, 1994, p. 47.

²⁰ It should be remembered that in the Athenian polis, the metics were also excluded from citizenship, which was reserved for the Athenians.

were reserved for citizens in the political sense, i.e., French people who fulfilled the necessary requirements to participate in the government of the community.

The Cadiz Constitution (1812) went further, by distinguishing between Spaniards in general and Spanish citizens in particular²¹. Establishing a distinction between nationality and citizenship and between the civil liberty of all Spaniards and the exclusive political liberty of citizens, the Cadiz Constitution reduced the notion of citizenship to its political component, excluding from citizenship Spaniards who did not fulfil the conditions for citizenship, especially those of African origin who lived in the American colonies²².

Finally, another difference between civil citizenship and political citizenship is that the latter can have several overlapping territorial declinations, depending on the territorial level of political power – local level, national level, federal level (in federal states)²³. Unlike civil citizenship, which is unique, political citizenship can be multiple²⁴. In fact, the Liberal Revolution, while maintaining the political centralisation of the absolute state, emphasised the municipal self-government of the municipalities, establishing a broad suffrage base for the election of the city council and instituting the separation of judicial functions from administrative functions²⁵.

The following table summarises the main differences between the two types of citizenship.

²¹ Título I, Capítulo II: *De los españoles*; Título II, Capítulo IV: *De los ciudadanos españoles*.

²² On this distinction see PÉREZ LEDESMA, 2000: 49 et seq. and 2007: 60 et seq.; DARDÉ MORALÉS, 2010: 306 et seq..

²³ Today there is also *supranational citizenship* (citizenship of the European Union), and there is also talk of *global citizenship*. On European citizenship in particular, see MOREIRA, 2014.

²⁴ For example, VAN GUNSTEREN, 1994, p. 38.

²⁵ On the government of the “constitutional municipalities” in Portugal, within the framework of the 1822 Constitution, see MOREIRA & DOMINGUES, 2020b: pp. 232 et seq..

| | <i>Civil citizenship</i> | <i>Political citizenship</i> |
|-----------------------------|--|--|
| <i>Origin</i> | inherent to human nature | product of political society and task of the state |
| <i>Rights and liberties</i> | individual liberties, civil rights (“civil liberty”) | political rights (“political liberty”) |
| <i>Ownership</i> | universal and equal | exclusive to nationals |
| <i>Territorial base</i> | national | local, national, federal |

3.3. Distinction between “active citizenship” and “passive citizenship”

The distinction that came to prevail in France was between “active citizens” and “passive citizens”, particularly for the purpose of exercising the political citizenship rights, especially electoral rights. Whilst all citizens were virtually entitled to political rights, not all could exercise them. Political citizenship was not equivalent to democracy; unlike civil liberty, political liberty did not have to be universal; civil equality did not imply political equality. In fact, unlike the “rights of men”, which were considered “natural rights” prior to the “social contract”, the same was not true of the “rights of the citizen”, which were considered a result of the “social contract” and were therefore a *concession of the political society that had been established*.

This distinction was explicitly formulated by Sieyès in France at the beginning of the Revolution and was later taken up and theoretically densified by Kant in Germany²⁶. But it had roots in Enlightenment thinking prior to the Revolution. In his Encyclopaedia (1751-1765), D’Holbach wrote that “*it is property that makes the citizen*”. And Condorcet too, at the beginning of 1789, considered property to be a condition for suffrage. ROSANVALLON (1992: 57) recalls that the thesis of the equivalence between the political citizen and the property-owning citizen was due to the fact that political representation has a tax origin (approval or consent to taxes) and land should be the main taxable asset. But in the liberal conception, the notion of property-owning citizen

²⁶ On this distinction see, in particular, LE COUR GRANDMAISON, 1987; ROSANVALLON, 1992: 53 et seq.; JAUME, 2003: 134 et seq.; PÉREZ LEDESMA, 2007: 29 et seq..

received an additional foundation, namely the necessary *autonomy and independence of judgement of political citizenship*²⁷.

For Sieyès, from his famous *Qu'est-ce le tiers état* (1789) to his speeches in the Constituent Assembly, all French people were citizens, but only “active citizens” could exercise the right to vote in legislative elections and participate in the exercise of sovereignty, namely in the making of laws. Political rights were not natural rights but were granted by political society. The essential condition for active citizenship was *individual autonomy*, which essentially depended on property (property-owning citizen). In the Constituent Assembly, Sieyès declared: “*Legitimate property ensures independence. You are a servant when you depend on someone else's property*”.

Specifically, to be an active citizen, at the level of the primary electoral assemblies, you had to be over 25, to be enrolled in the national guard, have taken the civic oath and provide proof of payment of a direct contribution equal to three days’ work. But the tax requirement increased in order to be elected to the two electoral colleges in the indirect elections and to be a deputy²⁸. Qualifying as an “active citizen” was not only necessary for the right to suffrage and to be elected (*electoral citizenship*), because only they could also be part of the “national guards”, the civil militias in charge of self-defence and urban security during the Revolution²⁹.

According to Kant, already after the triumph of the French Revolution, in his texts of 1793 (*Theory and Practice*) and 1797 (*Doctrine of Rights*), the exercise of political rights, namely the right to vote, required *civil independence*, i.e., independence from the will of others and was therefore not compatible with the dependence of women on their parents or husbands, or people who were economically dependent on others, such as wage earners. Whilst all citizens have the right to the protection of the law, only “active citizens” have the right to

²⁷ On this point, see extensively ROSANVALLON, 1992: 135 et seq..

²⁸ On this “staggered” political citizenship, see DIAZ, KACI & LEMBRÉ, 2018: 63.

²⁹ For example, ROSANVALLON, 1992: 118 et seq.; DIAZ, KACI & LEMBRÉ, 2018: 65. Regarding the “national guard”, see infra, 3.5. f).

participate in the formulation of laws, i.e., in the legislative power, as “co-legislators”³⁰.

In fact, following the law of 22 December 1789, which for the first time defined political citizenship, the 1791 French Constitution expressly reserved electoral rights for “active citizens” and among the requirements to be qualified as such were, in addition to French nationality and the age of 25, the payment of a direct tax equivalent to three days’ work, which automatically excluded a significant part of the adult population from the right to vote (and to be elected)³¹. These economic requirements were progressively higher for the successive levels of the electoral process, in particular election as a deputy.

The distinction between “active” and “passive” citizens was eventually abandoned³², but “census suffrage”, as it came to be called (with its origins in the tax census), came to characterise a large part of electoral systems throughout most of the 19th century and the first part of the 20th century in some countries³³. However, as we will see below, this was not the case in Portugal during the *Vintismo* elections, either in the Constituent Cortes elections (1820) or in the ordinary Cortes elections (1822).

3.4. Ancient citizenship and modern citizenship

To paraphrase Benjamin CONSTANT’s famous distinction in his famous 1819 essay between the “liberty of the ancient” and the “liberty of the moderns”, we can also make a distinction between ancient citizenship and modern citizenship, which covers several aspects.

Adapting the lesson of FAULKS (2000:15), we can schematically see the differences between political citizenship in Athens and in the modern state in the following table.

³⁰ On Kant’s thinking on this point, see especially WEINRIB, 2008.

³¹ ROSANVALLO (1992, pp. 55 et seq.) considers that this was a moderate barrier as it affected less than a third of the adult male population, much less than the census suffrage of Restoration constitutionalism after 1814.

³² In France, it was soon abolished by the short-lived First Republic (1792), which abolished economic restrictions on (male) suffrage.

³³ For the Spanish case, see FLAQUER MONTEQUI, 2007:70 et seq..

| | Greek polis | Modern state |
|--|--|--|
| <i>Population scale</i> | Small | Large |
| <i>Political system</i> | Direct democracy | Representative government |
| <i>Relationship between collectivity and political power</i> | Integration | Separation |
| <i>Citizenship content</i> | Extensive political obligations and corresponding rights | Political rights and limited duties |
| <i>Citizens' political involvement</i> | Permanent and intense | Irregular and not very intense |
| <i>Guarantee of individual liberty</i> | Through direct participation in power | Through the separation of powers and the guarantee of liberties in the face of power |

The main differences are as follows: *(i)* between Athenian direct democracy and modern “representative government”, based on the separation between rulers and ruled; *(ii)* between citizenship as an obligation and citizenship as a right or liberty; *(iii)* between the absolute power of the *polis* government and the limited power of the liberal state, resulting from the separation of powers and the guarantee of individual liberties.

It is important to emphasise the main differences.

Firstly, unlike the ancient Athenian and Roman republics, in which all people with the status of citizens (who were not all people, since, apart from the slaves, women and servants were excluded) were entitled to participate in political life, in modern citizenship, where everyone is a citizen, not everyone has the right to participate in political life, especially the right to vote, which was reserved for “active citizens”, as we have seen.

Secondly, unlike the classical forms of citizenship in ancient times, modern political citizenship, born of the liberal revolutions, is anchored in individual *political rights* that are legally recognised in declarations of rights, constitutions, and laws. Modern political citizenship was born alongside the modern constitutional era.

Thirdly, although, as in ancient times, political citizenship is centred on the intervention of citizens in shaping the will of the collectivity, there is an essential difference: While in ancient times this intervention took place directly in a popular assembly, as a form of *self-government of the governed* (direct democracy), in modern national communities,

comprising a vast territory and a population of millions, the intervention of citizens essentially takes place through the election of representatives to a parliament, which acts as a substitute for the national community, establishing a separation between governed and governors (*representative government*). The core of citizenship becomes *electoral citizenship*.

Fourthly, while classical citizenship included the intervention of citizens in the choice of the executive magistrates of the *polis*, selected by a plenary assembly of citizens, modern citizenship, which emerged from the liberal revolutions, is based on a strict “separation of powers” between legislative power, reserved for the representative assembly of citizens, and executive power, which initially in European constitutional monarchies was constitutionally reserved for the king and his freely appointed ministers; in the case of the United States of America, which was born as a federal republic, executive power was handed over to a president indirectly elected by delegates from the federal states (but not directly elected by federal citizens).

Finally, as Benjamin CONSTANT (1989) emphasised in his essay on the *Liberty of the Ancients and the Liberty of the Moderns* (1819), while in ancient times individual liberty was the result of direct participation in the power of the *polis*, in the liberal state individual liberty is guaranteed by the separation between state and society and by constitutional limits on state power, including individual liberties. In Athens, citizenship was political citizenship, with no separation between a public and private sphere of citizenship³⁴; in the liberal state, political citizenship is a dimension of citizenship, alongside the civil dimension, a dualism resulting from the separation between state and society and between the public and private spheres.

3.5. The main rights (and obligations) of political citizenship

It is important to list the main political rights, or rights of political citizenship, emerging from the Liberal Revolution, without leaving out

³⁴ In the words of Manville, quoted by FAULKS (2000: 16), in Athens, “citizenship and polis were one and the same thing”.

that, with the subsequent evolution of constitutional democracy, other rights would be born, such as the right to create and/or participate in political parties, the popular legislative initiative, the referendum, the popular revocation of political mandates (recall), etc.

a) Right to political intervention in the public space

The first political right of citizenship, which underpins all the others, is the right to intervene in public debate and in shaping the political will of the community.

The main guarantee of this right is obviously liberty of the press, through periodicals (for information and opinion), pamphlets and books. It is no coincidence that one of the first measures of the liberal revolutions was the abolition of the ancestral prior censorship of printed materials, establishing liberty of the press, which will feature prominently in the first declaration of rights, from the 1778 Virginia Bill of Rights, through the 1789 French Declaration of the Rights of Man and of the Citizen, to the 1787 Bill of Rights annexed to the Constitution of the United States of America in its first reform (1791).

b) Electoral rights

In the system of “representative government” established by the liberal revolutions, the main instrument for citizens to intervene in defining the will of the community in the approval of the laws that govern it is the right to vote and the right to be elected.

The 1789 French *Declaration of the Rights of Man and of the Citizen* established the following in Article 6:

“The Law is the expression of the general will [of the collectivity]. All citizens have the right to contribute personally or through their representatives to its formation (...).”

This provision highlights the main differences between liberal political representation and the old political representation prior to the

consolidation of absolutism (which dispensed with the Cortes), which includes two points: (*i*) it is now individual citizens who are represented and not social groups (clergy, nobility and people) or territorial communities (municipalities); (*ii*) in the election of representatives, the right to vote, although not universal, was not restricted to a specific category of people, but potentially belonged to all citizens.

The concept of political representation as an expression of the “general will” (as stated in the Declaration of the Rights of Man and of the Citizen), i.e. collectivity of citizens, and not of groups or territorial entities, as in the traditional Cortes, will also revolutionise the very concept of representation, which will no longer be equated with the mandate of private law, which included the definition of the obligations of the representatives, whose non-compliance could give rise to the revocation of the mandate by those represented (“bound mandate”) to become a mandate previously defined in general by the Constitution and the law and whose free performance by the representatives could not give rise to the termination of the mandate before its expiry, by decision of the voters, precisely because, from the outset, the “representatives” are individually representatives of the whole community, and not of their own voters (“representative mandate”).

c) Right of access to public office

In addition to the right of electoral access to representative assemblies, the rights of political citizenship also included admissibility to other public offices, filled by election or appointment, without exclusivity or discrimination.

The aforementioned provision of the Declaration of the Rights of Man and of the Citizen added:

“Since all Citizens are equal in the eyes of the Law, they are equally admissible to all public dignities, places and jobs, according to their ability, without distinction other than that of their virtues and talents.”

This is an essential distinction from the *Ancien Régime*, in which access to public office was reserved for certain categories of people (such as access to municipal offices, reserved for the “good men” of the land) or depended on individual or collective privileges and prerogatives conferred by the sovereign, without forgetting the cases of offices held by purchase from those who could do so.

d) Right to petition

Also noteworthy was the conquest of the right to petition, particularly before parliament and the executive, which was no longer a simple royal concession, as it had been previously, but became a genuine individual or collective political right, constitutionally recognised and guaranteed. In the case of petitions or collective representations, this was a privileged instrument for representing group interests before the bodies of political power.

When addressed to parliament, the right to petition could be a “trigger” for legislative procedures initiated by deputies or parliamentary committees. In the case of complaints to the executive, they functioned as a substitute for judicial challenges and could lead to the repeal or review of the decisions complained of.

e) Rights of assembly and association

The rights of assembly and association were not part of the first bills of rights, as they were collective rights and therefore not very compatible with the individualist vision of the first liberalism, but they did not cease to be privileged instruments of political action.

It is enough to remember the essential role of political clubs and popular or patriotic societies during the French Revolution – in fact recognised by a law of the Constituent Assembly of December 1789 – as an extremely important means of training, informing and mobilising citizens³⁵, which

³⁵ On the revolutionary clubs in the French Revolution see DIAZ, KAGI & LEMBRÉ, 2018: 64 et seq.; LLEWELLYN & THOMPSON, 2019.

were replicated in other liberal revolutions, including in Portugal, as will be seen below (*infra*, 4.8.).

The importance of freemasonry cannot be overlooked in this context, to which some of the protagonists of the Revolution belonged, before or after it, and which, although politically divided, played an important role in the gestation and dissemination of the values of liberty, equality and fraternity, represented in the official trilogy of the French Revolution³⁶.

f) Integration into the national guard

Born in July 1789, at the request of the National Assembly, in the face of growing insecurity in Paris and the lack of a public security police force to guarantee public order and the functioning of the Assembly itself, the national guard immediately became an active force in the Revolution when it took the lead in the storming of the Bastille (14 July)³⁷.

Without a regulatory law until the following year, the national guard developed throughout France as a civilian militia of municipal scope, voluntarily recruited, essentially self-governing, dedicated to the defence of public order and the new political order. However, in 1790, various legislative measures institutionalised and disciplined the national guard, based on two fundamental changes: (i) the reservation of recruitment among “active citizens”, i.e. citizens with electoral capacity, and (ii) the obligation for them to join the local national guard, with the exercise of the right to vote being conditional on proof of such membership. In this way, the national guard was cleansed of socially undesirable elements and membership of the national guard was established as citizens’ main political obligation. The prerogative of the right to suffrage and to intervene in the making of laws demanded an individual obligation to defend public order and the new political order.

³⁶ On the importance of freemasonry in the French Revolution, see, among many others, the classic study of SOBOUL (1974), which relativises their role and highlights their political dispersal during the Revolution.

³⁷ On the national guard see, in particular, ROSANVALLON, 1992: 118 et seq.; DIAZ, KAGI & LEMBRÉ: 2018: 65 et seq..

g) Generality and equality

One of the essential features of citizenship rights brought about by the Liberal Revolution was the principle of generality and equality in terms of entitlement, as opposed to selectivity and discrimination of political privileges and prerogatives under the *Ancien Régime*, frequently reserved for nobility. It is worth highlighting in particular the difference in penal treatment to which nobles and commoners were subject, in terms of the crimes and penalties for which they could be convicted and punished.

The aforementioned provision of the Declaration of the Rights of Man and of the Citizen stipulated:

“It [the law] must be the same for everyone, both when it protects and when it punishes.”

And, as we have seen, this same provision made a concrete application of these principles in relation to access to public office.

However, if these were the rules in the sphere of civil citizenship, this was no longer the case in the sphere of political citizenship, as has been shown, since political rights, as well as being reserved for nationals (political citizenship = nationality equivalence), were subject to greater or lesser personal restrictions.

3.6. The right to suffrage in particular

If there is a right of citizenship by antonomasia, it is the right to suffrage, given its decisive importance in the theory of the sovereignty of the nation and the representative system.

However, contradicting the postulates of generality and equality of political representation, the right to suffrage began to be restricted, not only by the exclusion of women, but also of other categories of people, either because of their condition of personal dependence on others (servants, clergy) or because they did not have the economic conditions considered sufficient to exercise this right.

Thus, in France, the 1791 Constitution expressly established and regulated “census” suffrage, with particularly demanding conditions, as we have seen. And, although the Convention (1792) had established universal male suffrage, census suffrage was to be re-established soon after, until 1848³⁸.

4. The conquest of political citizenship in Portugal (1820-22)

4.1. The revolutionary debate

Like the previous liberal revolutions, the Portuguese Liberal Revolution also embraced, from the outset, a project to transform subjects into citizens, both as members of civil society and holders of civil rights (civil citizenship) and as members of the political community and holders of political rights, as the basis of the nation’s sovereignty (political citizenship). Naturally influenced by the debate at the time of the French Revolution and the Cadiz Constitution, Portugal did not, however, adopt the Spanish distinction between nationals and citizens or the French distinction between “active citizens” and “passive citizens”³⁹.

It should be noted, however, that the notions of political rights and political citizenship did not enter the current political and constitutional lexicon in Portugal until the end of the constitutional monarchy, as shown by the fact that the justly celebrated *Political Manual of the Constitutional Citizen*, by Trindade COELHO (1st ed., 1906), does not use them, referring, in addition to electoral rights, to what he calls “collective liberties”, i.e. the right to petition, liberty of assembly, liberty of association and liberty of the press⁴⁰.

As in the two previous revolutions, in Portugal the matter of political citizenship in 1820-22 essentially revolved around the right to

³⁸ On the evolution of the right to suffrage in France, see ROSANVALLON, 1992: 51 et seq.; DIAZ, KAGI & LEMBRÉ, 2018: Ch. 10.

³⁹ On the adoption and variants of the notion of citizenship in *Vintismo*, see above all, VERDELHO, 1981: 248 et seq.; VARGUES, 1997:107 et seq.; ALBUQUERQUE, 2012.

⁴⁰ COELHO, 1908, 401 et seq..

suffrage, given the central importance of elections in the establishment of the new political order. With regard to this aspect, it is also important to remember that, at the time of the Liberal Revolution in Portugal, with the exception of Spain, most of the constitutional regimes of the time, including the UK and the US, maintained economic restrictions on the right to vote⁴¹.

If the convocation of the Cortes with constituent powers was the first demand of the Porto insurrection of 24 August 1820, which triggered the Liberal Revolution in Portugal, the first revolutionary proclamations were anything but clear about how they were to be elected. Not even the hasty attempt by the Regency to convene the traditional Cortes in the early days of September 1822, as an operation to halt the Revolution by co-opting its main objective, helped to clarify the revolutionary intentions regarding the election of the Cortes⁴². The Provisional Government Board of Porto, which in the meantime had travelled to Coimbra on its way to Lisbon, limited itself to contesting the legitimacy of the Regency to convene the Cortes, claiming instead its own power to do so, apart from the Regency and the king, who had been absent in Rio de Janeiro since 1808, without, however, rejecting outright the revival of this type of Cortes⁴³.

Meanwhile, after the attempt to convene the Cortes by the Regency had been aborted, which was ousted in the military-popular insurrection of 15 September in Lisbon, paving the way for the triumph of the Revolution and the entry of the revolutionaries from Porto into the government palace in Lisbon (on 1 October 1820), decisions had to be made on the type of Cortes to be convened and how they were to be elected. To this end, the Preparatory Board of the Cortes, created alongside the Provisional Government Board following the union of the Provisional Government of Lisbon with the Provisional Government of Porto, chose to launch a public consultation on the subject (Ordinance of 6 October),

⁴¹ On this point, see MOREIRA & DOMINGUES, 2022b: Introduction, Ch. 1.2.

⁴² On this failed attempt to convene the traditional Cortes, see in particular MOREIRA & DOMINGUES, 2022a.

⁴³ See MOREIRA & DOMINGUES, 2022a.

having directly convened, by post, an important group of personalities (more than two thousand) to take part in this consultation.

It was an unprecedented initiative of *constituent participatory democracy*, both at home and abroad. Despite the short time granted for this purpose, the consultation received close to five hundred opinions, the majority of which were in favour of rejecting the model of the old Cortes, against the separate representation of the three estates, and for the election of the constituent Cortes by the nation, i.e. by the citizens, as had happened in neighbouring Spain with the Cadiz Cortes in 1810⁴⁴. The definition of the scope of suffrage and the electoral system remained open, but this consultation reveals the first expression of a genuine “culture of citizenship” after the Revolution.

4.2. The elections of the Constituent Cortes (1820)

Following this consultation, the two boards jointly approved the “Electoral Instructions” of 31 October 1820, which established a broad male electoral suffrage, without economic or literacy requirements, but limited to “heads of families”, with deputies being elected by an indirect election system, in two phases, at municipal and district level respectively⁴⁵.

However, this first electoral law did not succeed and was replaced, following the “putsch” of the “Martinhada”, by a new law, the “Electoral Instructions” of 22 November 1820, which would govern the constituent elections. The main difference was the provision for four phases in the indirect elections, like the parliamentary elections provided for in the Cadiz Constitution (1812), respectively at parish level (two phases), another at district level and, finally, the election of deputies by a college of electors at provincial level⁴⁶.

⁴⁴ On this consultation, see the study by MOREIRA & DOMINGUES, 2021b.

⁴⁵ Lisbon, BNP - S.C. 5607//5 A [Available at: <https://purl.pt/38137> (consulted on 23 May 2022)]; *Government Gazette*, no. 23, Friday, 10 November 1820.

⁴⁶ Lisbon, BNP - H.G. 34642 V; *Supplement to the Government Gazette*, no. 34, Thursday, 23 November 1820; *Lisbon Gazette*, no. 285, Monday, 27 November 1820; and no. 286, Tuesday, 28 November 1820.

The elections of the Constitutional Cortes, which took place over a large part of the month of December (10 to 30 December 1820), were the *first general elections in our history* and the first to give expression to the political citizenship, without distinction of social class, which had been won four months earlier by the Liberal Revolution⁴⁷. Although they kept the traditional name of “Cortes” – perhaps to capitalise on the romantic myth that had been created about them after their disappearance, as if they had been the expression of an ancient “popular monarchy” – they were obviously a *radically different institution*, as became clear in the debate provoked by the consultation on the convocation and election of the Cortes held by the Preparatory Board of the Cortes in October 1820.

An additional distinction was that while the old Cortes, regarding the representation the “third estate”, only represented the municipalities of the Portuguese mainland, with a few sporadic exceptions from municipalities in India and Brazil, the new Cortes could not fail to provide representation for all national citizens, regardless of their territory of origin or residence, not least because, since 1815, the United Kingdom of Portugal, Brazil and the Algarves had been created by the King in Brazil, with its headquarters in Rio de Janeiro. Therefore, as the Brazilian provinces and other overseas territories joined the Revolution, elections took place under the same terms as in Portugal, giving rise, for the first time, to multi-continental political representation⁴⁸.

4.3. Citizenship and political rights in the 1822 Constitution

The Preamble to our first Constitution begins like this:

“The Extraordinary and Constituent General Cortes of the Portuguese Nation, intimately convinced that the public misfortunes that have so

⁴⁷ On the constituent elections in Portugal: MOREIRA & DOMINGUES, 2018: 593-639; MOREIRA & DOMINGUES, 2020c: 41-65 and pp. 67-87; MOREIRA & DOMINGUES, 2020a: 181-213; BROCHADO, 2020: 193-231.

⁴⁸ On the constituent elections in Brazil: FELONIUK, 2015: pp. 278-306; MOREIRA & DOMINGUES, feb. 2019: pp. 61-78; FERNANDES, 2021: pp. 23-39; MACÉDO, 2021: pp. 459-474; MENCK, 2021; PEREIRA, 2021: pp. 133-162.

oppressed it, and still oppress it, had their origin in the contempt of the rights of the citizen (...), decree the following Political Constitution, in order to safeguard the rights of each one and the general good of all the Portuguese”.

The first thing to note is that it was in the name of the *Nation* and to provide for the *general good of all Portuguese* that the Constitution was decreed directly by the Constituent Cortes, dispensing with royal promulgation, and that the king was summoned to swear it in, which he had already done in advance, even in Rio de Janeiro. The second point to emphasise is the express invocation that it was the *contempt of the rights of the citizen* that had led to the public disgraces the country was suffering and which the Revolution had set out to remedy by recognising and respecting the rights of citizens.

It was a qualified negation of the *Ancien Régime*, both in the exercise of the nation’s constituent power, as a “union of all Portuguese” (Constitution, article 20), without class distinction, apart from the king (who was now bound by the Constitution), and in the explicit invocation of “citizenship rights”, which had to be rescued from the contempt to which they had been consigned.

Unlike the Cadiz Constitution, our first Constitution established that *all Portuguese, as defined therein, were citizens* (Constitution, article 21), meaning that all were part of the nation as a political entity without distinction, i.e. as collective holders of sovereignty and of the constituent power, as beneficiaries of the individual rights constitutionally guaranteed, and as potential holders of the political rights recognised in the Constitution.

The Constitution defined “Portuguese nationality” in broad terms (article 21), updating the criteria that at the time still appeared in the Philippine Ordinances (1603, Book II, Title 55), while maintaining the predominance of the soil criterion (birth and/or residence). So, the following were Portuguese:

- the children of Portuguese nationals born in national territory (Portugal, Brazil, etc.);

- the children of Portuguese nationals born outside Portugal, if they came to establish their domicile in the Kingdom of Portugal, which was not the case if the father was in a foreign country on national service;
- the children of foreigners born in Portugal, as long as they were domiciled in the United Kingdom, provided that when they came of age they declared, by means of a deed signed in the city council books of their domicile, that they wanted to become Portuguese citizens;
- the children of foreigners born abroad, if they obtained a naturalisation letter⁴⁹.

The Constitution explicitly autonomised the category of *political rights*, the notion of which appears in Article 24, within the general list of individual rights with which the constitutional text opens. And although the Constitution does not spell out what these rights are, they certainly include electoral rights (the right to vote and stand for election), recognised in Articles 33 to 35, as well as the right of access to public office without discrimination (Article 12), the right to petition the Cortes and the executive, including the right to have them examined (Article 16), an original right of complaint against unconstitutional acts and to request the effective liability of the offender (Article 17), as well as the right to intervene in the public debate of the collectivity,

⁴⁹ In this definition, the Constitution did not explicitly exclude the indigenous populations of the overseas territories (Amerindians, Africans, etc.), most of whom did not speak Portuguese and clearly lived on the margins of the national political community. Besides, these populations completely lacked the logistical conditions for the possible exercise of electoral rights (information, registration, assemblies and polling stations, etc.). In art. 240, the Constitution did not clearly include Brazilian Indians in the national political community. This raised the question of whether nationality and political citizenship should be recognised only for those segments of these populations that, since the Marquis of Pombal, had been recognised as “vassals” of the Crown, due to their social integration (the case of Brazil and Goa). On this issue see, in particular, SILVA & PIMENTA, 2019: Ch. 4. In any case, the possible participation of these populations in the constituent elections of 1821 and the parliamentary elections of 1822 remains to be studied.

as part of the *liberty to communicate thoughts* in general, without prior censorship (Article 7).

It is also important to mention among citizens' political rights the election of “fact trial judges” (Articles 178 and 181), chosen from among lay people to judge matters of fact, and the election of officers of the “national guards” (Article 174), a kind of civic armed force.

4.4. Citizens' obligations and duties

The liberal concept of citizenship was not only about individual liberty from power (“negative liberty”). While the obligations of vassalage towards the king, typical of the *Ancien Régime*, disappeared, new obligations towards the community and other citizens were born.

The 1822 Constitution itself listed the constitutional obligations towards the nation (Article 19), namely the defence of the homeland and the inherent military duties, tax obligations, the defence of public security and constitutional order, as well as the “national guards” of a civil nature and municipal scope (Article 174).

But there were also civic duties, enunciated in the official discourse, in constitutionalist periodicals and in civic training initiatives, and considered to be inherent to the condition of citizen, such as patriotism, the duty to intervene in the public sphere, the duty of instruction, “civic virtue”.

In a text from as early as 1820, referred to by Isabel VARGUES (1997: 108), on the definition of citizen, can be read:

“(…)*the citizen has duties to fulfil towards society in general and towards each of his fellow citizens in particular* (...) But in order to fulfil these duties, in order to repay society for the advantages he receives from it, what stock of virtues is not necessary? The virtuous citizen, then, is the citizen by antonomasia (...).”

Anticipating some features of the future republican conception of citizenship, the original liberal notion did not neglect the dimension of citizens' responsibility to the community in the defence of the constitutional order, nor the exaltation of civic virtues.

Civic virtues included not only those relating to the conduct of the citizens themselves (honesty, fulfilment of public obligations, etc.), but also *patriotism*, in the sense of allegiance to the state and its institutions, national symbols (flag and anthem), which replaced allegiance to the ruler of the *Ancien Régime*. As HEATER (2004: 70) notes, “*patriotism, allegiance and commitment to the state (...) have always been part of the definition of republican civic virtue*”.

4.5. Suspension and restriction of political rights

4.5.1. Suspension

According to the 1822 Constitution (Articles 21-23), all Portuguese citizens, without distinction of origin, residence or ethnicity, including freed former slaves, were in principle entitled to political rights. However, the Constitution provided for cases of suspension of the exercise of political rights in general and specific restrictions on the exercise of certain political rights.

The cases of suspension of political rights in general were set out in Article 24 of the Constitution, namely “*physical or moral incapacity*” and sentencing to “*imprisonment or banishment for the duration of the effects of the sentence*”. In addition to the indeterminacy of the notion of “moral incapacity” and the lack of determination of the competence to decree it – which would raise serious doubts in the parliamentary elections of August/September 1822 – it is worth noting the obvious omission of the requirement of civil majority age (in the terms then regulated in the Philippine Ordinances), as well as the lack of a specific penalty of suspension of political rights, nor the temporary suspension of political rights in the event of a state of emergency or siege.

4.5.2. Restrictions on political rights

The 1822 Constitution explicitly provided for restrictions on electoral rights, in terms of suffrage and eligibility.

a) The requirements of the right to suffrage

As we have seen above, the *Electoral Instructions* of 22 November 1820 – copied, with minor adaptations, from the chapter of the Spanish Cadiz Constitution that regulated parliamentary elections – which came to regulate the constituent elections, established a system of indirect elections in four levels. Although they did not explicitly regulate the requirements for the right to suffrage, it was implicitly granted to men over the age of 25, with no literacy or income requirements, with the sole exclusion of the regular clergy, which meant that male suffrage was almost universal.

Subsequently, the 1822 Constitution, which meticulously regulated the electoral system of the ordinary Cortes (Articles 32-74), established their direct election (a true political revolution)⁵⁰ and delimited the right to suffrage in new terms (Article 33). Thus, on the one hand, suffrage was broadened, as the 25-year age requirement was waived for married couples or military officers over 20 years of age, bachelor graduates and clerics of holy orders. On the other hand, the right to vote was withdrawn not only from members of the regular clergy, but also from people who were “*under the power and company of their parents*”, as well as servants and vagrants. More restrictive was the literacy requirement (knowing how to read and write) that was established for the future, for citizens over the age of 17 at the time of the Constitution, when they reached the age of 25 (i.e. from 1830), which in time – if the Constitution had lasted – would have progressively restricted the scope of suffrage, given the prevalent illiteracy at that time.

These exclusions from the right to suffrage were based in situations of social marginalisation (vagrants), personal dependence (people living with parents, servants, regular clergy) or lack of enlightenment (the future case of illiterates). The constitutional ideal of the citizen-voter was the socially integrated, personally autonomous, and enlightened citizen⁵¹.

⁵⁰ On the debate about direct elections, see TITO, 2021; and MOREIRA & DOMINGUES, 2020b.

⁵¹ On the electoral debate in the Constituent Cortes, see FERNANDEZ, 2020; RIBEIRO, 2006; MOREIRA & DOMINGUES, 2020b.

In any case, it should be noted that neither the electoral law of 1820 nor the Constitution established any economic or tax constraints on the right to suffrage, contrary to what happened in most constitutional countries of the time, so the *Vintismo* elections (both constituent and parliamentary elections) were characterised by an extension of suffrage unparalleled in our electoral history until the constituent elections of 1975, after the democratic revolution of 1974.

b) Eligibility for deputy

The right to be elected (eligibility or passive electoral capacity) was also extremely broad. In 1820, in the elections to the Constituent Cortes, all voters were eligible, except naturalised citizens and employees of the royal household.

In 1822, in the elections to the ordinary Cortes (Constitution, Article 34), there seemed to be a restriction, since all those elected were eligible, provided they had “*sufficient income to support themselves*”; however, the amount was not fixed, which made this restriction ineffective, especially since the deputies were paid from the public purse, which made it unnecessary.

4.6. Five controversies about the right to vote

We should briefly touch on five themes that help us understand the constitutional options on electoral rights in *Vintismo*.

a) Rights of citizens or of “heads of household”?

The first *Vintismo* electoral law, the electoral *Instructions* of 31 October, restricted the right to vote to heads of household (Article 9), which substantially limited the scope of suffrage. Furthermore, the reservation of the right to suffrage for families, a kind of “organic suffrage”, contradicted the individualist and anti-corporatist logic of the Liberal Revolution. However, this requirement was dropped in the second electoral law, the *Instructions* of 22 November, so it was not applied.

As we have seen, the 1822 Constitution excluded family children from the right to vote when they resided and were dependent on their parents, which was in no way equivalent to the restriction in the first electoral law of 1820 (of 31 October), since the right to vote was now granted on an individual basis and did not exclude citizens who lived on their own without having formed a family of their own. However, the exclusion of family children who lived in their parents’ home undoubtedly restricted the right to vote, compared to what had been practised in the 1820 elections.

b) *“Right to vote or death!”*

The electoral law for the Constituent Cortes stipulated that in the first phase of the electoral process, at parish level, the right to vote could be exercised by “*citizens domiciled and resident in the territory of the respective parish*” (Article 35), which excluded outsiders.

This requirement of domicile and residence gave rise to a controversy with regard to students at the University of Coimbra – most of whom came from other lands (including Brazil and other overseas territories) – when the city council, keen to reserve electoral choice for the people of Coimbra, decided to consider that students from abroad did not fulfil the legal requirement of domicile in the city⁵². This position, which in fact deprived the students of their right to vote, given the difficulties and cost of travelling to their hometowns at the time, provoked a lively reaction from the students, who, under the leadership of Almeida Garrett, then a finalist in Law, and with the radical slogan of “the right to vote or death!”, mobilised in December 1820 in a lively struggle against the town council decision, in which they were supported by the opinions of several law professors, and ended up winning the case⁵³.

The 1822 Constitution clarified the issue, requiring “*residence or at least one year’s residence in the municipality where the election is held*”.

⁵² It should be noted that most of the students would not be old enough to vote (25), but apparently this fact was not brought up in the subsequent discussion.

⁵³ On this episode, see MOREIRA & DOMINGUES, 2020a and 2020d.

c) Eligibility of workers and freedmen

Although the issue did not give rise to any objections in the elections of the Constituent Cortes of 1820, it was not peaceful in those Cortes for workers to be granted the right to vote in the subsequent parliamentary elections and for freed former slaves, who were already numerous in Brazil, to be elected. The opposition had to do with the fact that the elections were now direct, and not in several stages, as in 1820.

Against the workers' right to suffrage, it could be argued that they didn't own property, so they weren't interested in defending the liberal order, and they weren't autonomous citizens, since they were economically dependent on their employers; as for the latter's eligibility of the second category, although they were free, they were former slaves, so they shouldn't share all the citizenship rights, namely being deputies.

The speeches of Fernandes Tomás⁵⁴ were decisive in overcoming these objections and recognising the electoral rights of these categories of citizens. Based on the idea of the "social pact", that all citizens, rich or poor, were beneficiaries, the liberal leader criticised the denial to workers of "*the most precious right that man can have in society, which is to choose who will represent him*" (TOMÁS, 2020: 329-330); and with regard to the eligibility of freedmen, he considered it incongruous that a criminal after serving his sentence could be a deputy and that a freedman, just because he had been a slave, could not (TOMÁS, 2020: 332).

d) From the public vote to the secret ballot

In the constituent elections of 1820, which, as we have seen, were indirect elections in four phases, voting was public in the first two phases at parish level, as voters publicly declared to the polling station the names of the citizens they were voting for, and the names were noted by the polling station. It was the simplest way to tackle the problem of the high level of illiteracy at the time, although it strongly conditioned the liberty to vote,

⁵⁴ Respectively in *Constituent Cortes Gazette* (session of 19 April 1822), p. 881; and (session of 13 August 1822), p. 143. Collected in TOMÁS, 2020: 329 et seq. and 332.

leading voters to indicate the names of local influent people, including parish priests or bishops (who were not ineligible).

In the parliamentary elections of 1822, as a result of the debate on the subject in the Constituent Cortes, a secret ballot was opted for, since the electors voted by handing in to the polling station a folded ballot paper containing the list of names they had chosen. Although this method solved the problem of the liberty to vote at the time of voting, it was clear that the illiterate had to ask someone they trusted to fill in the ballot paper, and that this method offered the possibility of vote-buying on the part of influential locals. There are several reports of pre-filled lists being handed out outside polling stations.

e) The question of the literacy requirement in the 1822 Constitution

As we have seen above, while in the elections to the Constituent Cortes the right to vote was recognised without objection for the illiterate, who were the overwhelming majority of the population at that time, the 1822 Constitution added a literacy requirement for new voters who reached electoral age after 1830, although without retroactively calling into question the electoral capacity of illiterates who had acquired it in the meantime.

The issue of literacy as a requirement for the right to vote gave rise to lively debate in the Constituent Cortes and the rule adopted, which came from the Cadiz Constitution⁵⁵, ended up being a compromise solution between those who defended this requirement as a condition for an informed and free vote and those who, citing the disenfranchisement of the majority of the population that this solution would entail, argued that it could only be adopted after a period that would allow for the generalisation of educational establishments, which the Constitution advocated.

Given the short life of the Constitution, this solution was not implemented, but Portuguese electoral history records several moments when the literacy requirement was imposed, namely in the First

⁵⁵ The source was the 1795 French Constitution, the first to establish a literacy requirement, after the First Republic abandoned the census requirement (PÉREZ LEDESMA, 2000: 121).

Republic (1911) and in the final phase of the so-called Estado Novo (1969).

4.7. Citizens are not born taught

The *Vintismo* conception of citizenship, with proto-republican overtones, considered literacy to be a condition for high-level citizenship and was really committed to training citizens through education. The issue of public education was the subject of much debate in the Constituent Cortes and in the first ordinary Cortes⁵⁶.

Hence the constitutional consecration of public education as an obligation of the state (1822 Constitution, Article 237), including the teaching of “civil obligations” at school, i.e. a programme of civic education, as they would later say.

Another fundamental instrument of *citizenship education* were the “catechisms” and civic manuals for the “constitutional citizen”, which began to appear in Portugal in 1820⁵⁷.

Nor should we forget the contribution of the evocation and civic exaltation of the dates of the “Regeneration”, namely 24 August and 15 September, including the erection of public monuments (Lisbon, Porto, Funchal and Brazil), which the counter-revolution of 1823 made disappear immediately.

4.8. The practice of citizenship in *Vintismo*

It is important to summarise the main manifestations of liberal citizenship in *Vintism*. In her pioneering work on the learning of citizenship in Portugal during the *Vintismo* period, Isabel Vargues has extensively analysed most of them⁵⁸.

a) Popular acclaim for the Revolution

⁵⁶ On the issue of public education during *Vintismo*, see especially TORGAL & VARGUES, 1984.

⁵⁷ This volume contains one of the first constitutional catechisms published in Portugal in 1820.

⁵⁸ VARGUES, 1997: 139 et seq..

Although the Liberal Revolution was not a popular revolution in the proper sense of the term, since it was prepared and unleashed by a small group of soldiers and civilians in Porto, it is no less true that in its development towards the south it gained widespread popular support, namely in Coimbra and then in Lisbon, with the insurrection of 15 September, including the direct election of a “provisional government” in the middle of Rossio Square⁵⁹.

From the point of view of the sociology of the Revolution, apart from the military, the most favourable class was obviously the merchants, who were duly represented in the *Sinédrio* (the secret association that prepared the Revolution), and there are records of collective statements by the merchants of Porto in favour of the Revolution. In several municipalities, but especially in Lisbon, it should also be noted the support of the *Casa dos Vinte e Quatro* (House of Twenty-Four), which was the representative structure of urban professions and trades.

b) Boosting liberal public opinion

Without waiting for the end of censorship that the new press law (12 July 1821) would enshrine, the Revolution unleashed a communication revolution, with the publication of information and opinion newspapers, including the publication of readers’ letters, and the publishing of propaganda and liberal doctrine books, as well as the distribution of numerous information and propaganda pamphlets⁶⁰. Printed engravings and allusive allegories also played an important propaganda role.

Literature and literary soirees were a privileged instrument for mobilising the illustrated elite, with numerous events taking place in Porto after 24 August, in Coimbra (promoted by the academy) and in Lisbon. Young poets, such as Almeida Garrett, were true agitators for the revolutionary cause.

⁵⁹ On popular intervention in the Revolution see MOREIRA & DOMINGUES, 2020b, especially pp 42-43.

⁶⁰ On the liberal periodical press, see, among others, VARGUES, 1997, pp. 227 et seq..

As already mentioned, one of the main instruments for the formation of a liberal civic culture was the publication of “constitutional catechisms”, either original or translations, which began to appear as early as 1820⁶¹.

c) Participation in the constituent consultation of October 1820

An initiative unparalleled in other constitutional revolutions was the launch of a public consultation on the convening of the Constituent Cortes in October 1820, by decision of the Preparatory Board of the Cortes, set up shortly before as a result of the integration of the provisional government of Lisbon into the Government Board of Porto.

Although the consultation period was short (less than a month) and the means of postal communication were slow, the initiative elicited the response of more than five hundred opinions, on both the type of Cortes to be convened and the electoral system to be adopted. Although participation was naturally limited to the country's literate elite, the diversity of the academic and professional backgrounds of the authors of the opinions and their territorial origins was impressive. Moreover, several opinions were then published by their authors and liberal periodicals published other articles on the subject, broadening its public repercussion⁶².

This was certainly an exceptional moment in the exercise of political citizenship, in the form of a *participatory constituent democracy*, which contributed greatly to the legitimisation of the Revolution and to the decision to move away from the model of the old Cortes, of socially tripartite political representation, and to call for the election of new Cortes based on the individual vote and unitary representation of the nation. It is clear that only this option was consistent with the triumphant notion of citizenship, based on the universality and individual autonomy of the citizen.

⁶¹ On the constitutional catechisms, see especially VARGUES, 1997, pp. 159 et seq.; and the study by J. DOMINGUES & V. MOREIRA included at the end of this book on one of them.

⁶² On this consultation see VARGUES, 1997, pp. 118 et seq.; and MOREIRA & DOMINGUES, 2021b.

d) Elections to the Constituent and Ordinary Cortes

As has already been mentioned, in both the constituent elections of 1820 and the parliamentary elections of 1822, most male citizens over the age of 25 had the right to vote. Unfortunately, the fact that the counter-revolution of 1823 had the documents relating to these elections destroyed does not allow us to know the extent of the electoral participation they generated (number of people entitled to vote, number of voters, etc.). In any case, considering that the elections were held on Sundays, often in churches, and that they were preceded by mass, which at that time was a general religious obligation, it is possible that voter turnout was very high.

It should also be borne in mind that at the time there were no organised political parties or groups, nor were there any candidates or electoral campaigns in the proper sense. Voters voted for names, as many as there were seats in each electoral assembly, and it must be admitted that individual candidates for election did not fail to garner support through personal contact or in the socialising places of the time (taverns, churches, fairs, etc.).

It is important to note that the electoral law took care to publicise electoral operations. Elections were preceded by an address by the parish priest on the importance of elections. And there are many indications in the press of the time that the elections were really well attended.

e) Attendance of parliamentary debates and the right to petition

Once the Constituent Cortes were installed on 26 January 1821, they immediately became the focus of political attention, both through reports in the periodical press and through the direct attendance of the people of Lisbon at its agenda, in the galleries set aside for this purpose, sometimes with noisy manifestations.

At the same time, the Cortes was soon flooded with “memos”, representations, and petitions, both individual and collective, from all over the country. The right to petition was soon enshrined in the Bases of the Constitution (9 March 1821). Just as in the old Cortes there were

“chapters” for municipal complaints and demands, the new Cortes became the recipient of local and professional representations of all kinds.

As M. Halpern PEREIRA (2020) pointed out, the Cortes and especially their specialised committees were “*the target of an unexpected and powerful petitionary movement*”, including draft constitutions and representations and memos on all aspects of public policy, as we would say today⁶³. Several of these petitions and representations gave rise to legislative initiatives, thus creating “*a two-way relationship between parliamentary legislative activity and the petitionary movement*”. This activation of legislative power constitutes an early form of “popular legislative initiative”.

Along with liberty of political expression and the political press, the right to petition was the most widespread, spontaneous and permanent expression of political citizenship in the *Vintismo* period. As noted by M. Halpern PEREIRA (2000: 14), the *Vintismo* petition movement reflects the “*emergence of citizenship consciousness*”, revealing a “*new relationship between the population and the state that defines the concept of citizenship*” (*ibidem*).

f) Commemoration of revolutionary dates

The new regime took care to organise the public commemoration of the main dates of the establishment of liberalism, namely 24 August (the Porto insurrection) and 15 September (the Lisbon insurrection).

Following the example of the “revolutionary festivals” in France, the commemorations included festivities and nocturnal luminaries, as well as the launch or inauguration of evocative monuments, popular festivities and sessions in constitutionalist organisations⁶⁴. For example, in 1821, a “*Description of the national festival with which the*

⁶³ The exploitation of this enormous collection of unpublished documents in the field of economics is due to historians such as Albert SILBERT (1968), for the Agricultural Committee and M. Halpern PEREIRA (2020), for the Manufacturing and Arts (industry) and Trade Committees.

⁶⁴ On commemorative monuments see VARGUES, 1997, 318 et seq. and MOREIRA & DOMINGUES, 2020b, Ch. XIV.

Constitutional Society of the Sala do Risco celebrated the 1st anniversary of the ever-memorable 15 September” was published in Lisbon; and in 1822, a Constitutional Anonymous published a *Description of the pompous festival with which the patriotic society of the town of Extremoz celebrated the illustrious 24 August.*

g) Freemasonry and constitutionalist clubs and associations

As in France, the privileged vehicles of citizenship in action were, on the one hand, freemasonry and, on the other, constitutionalist clubs and associations.

The former dates back to before the Revolution, with clandestine “shops” in Lisbon, Porto, Coimbra and other cities, playing an important role in the intellectual preparation of liberalism, through the ideas of liberty, equality and fraternity. Several revolutionary leaders and constituent deputies were members of them (such as Fernandes Tomás, Ferreira Borges, Frei Francisco de S. Luís, Silva Carvalho and Borges Carneiro)⁶⁵.

Clubs and associations were born with the Revolution and the political liberty it brought and attracted many more people among the citizens mobilised by the Revolution. Although, as we have seen, liberty of assembly and association were not guaranteed by the Constitution⁶⁶, civic clubs were also essential in organising a liberal conscience in Portugal, due to the information, debate and mobilisation they provided⁶⁷. Thus, there are reports of various associations, such as the aforementioned Constitutional Society of the Sala do Risco, the Patriotic

⁶⁵ On the importance of freemasonry in the establishment of liberalism, see, for example, ALBUQUERQUE, 2020, pp. 290 et seq..

⁶⁶ It was only at an advanced phase of constitutional Chartism that these liberties found constitutional and/or legislative recognition, as Trindade COELHO (1908: 401 et seq.) reports.

⁶⁷ On patriotic clubs and patriotic societies in Portugal during the Liberal Revolution and afterwards, see especially ARRIAGA, 1888, volume III, chapter IV; RADICH, 1982; VARGUES, 1997: 171 et seq..

Constitution Society, the Patriotic Minerva Cabinet Society, etc.⁶⁸ Even if some of these were organised by members of the freemasonry, there is nothing to suggest that they were “extensions” of it.

Later, however, one of the myths of the “Miguelist” counter-revolution against *Vintismo* was that the Revolution and the Constitution had been a “Masonic conspiracy”, which led to the legal suppression of all “secret societies” as early as June 1823, under penalty of heavy punishments, making freemasonry the main target of anti-liberal repression, as António VENTURA (2020: 87 et seq.) shows.

h) The national guards

As in France and Spain, the liberal revolution in Portugal also gave rise to the idea of creating civilian militias, apart from the military forces, which, although organised at municipal level, adopted the name of national guards, to underline their purpose of defending the new political order at national level. In fact, their mission consisted of fulfilling one of the aforementioned obligations of citizens towards the community, namely the defence of public safety, as well as of the liberal order itself established in the Constitution.

As a researcher of this institution observes, the *citizen soldier* also became “a social archetype of liberalism” (PATA, 2004: 21). Although ignored in the early days of the Revolution, the idea of local civilian militias was proposed and debated in the Constituent Cortes right at the start of their work and, albeit with many reservations, was welcomed in the 1822 Constitution (Article 174). Under the terms of this provision, the national guards were to be “composed of all citizens not excepted by law” (which allowed them to be socially filtered, as in France), subject exclusively to the civil (municipal) authorities and their officers elected by the members of the corps themselves.

However, the national guards were only created by the Cortes in March 1823 and were only initially organised in Lisbon in April of the

⁶⁸ On the relationship between freemasonry and the Liberal Revolution see, finally, VENTURA, 2020: 74 et seq.; on patriotic societies see especially VARGUES, 1997, pp 171 et seq..

same year, having been unable to stop the counter-revolution started by the *Vilafrancada* in May. As the same researcher points out, many liberal observers did not fail to attribute the unstoppable collapse of constitutional *Vintismo* to the absence of the national guards⁶⁹.

5. The legacy of *Vintismo* citizenship

The brief experience of *Vintismo* citizenship, which lasted less than three years, nevertheless left a lasting historical legacy, which is always claimed at every moment of the revival or reform of constitutionalism in our country.

The main components of this legacy are the following: (i) the very notion of citizen, as a quality common to all members of the collectivity; (ii) the universality and equality of civil citizenship; (iii) the connection between citizenship and constitutionalism, the former being the basis of the latter; (iv) the constitutional recognition of individual liberties (bill of rights); (v) the collective sovereignty of the nation, as a community of citizens; (vi) the rejection of economic requirements for the exercise of electoral rights; (vii) political citizenship as the basis of the representative political system; (viii) the establishment of citizens' rights vis-à-vis the state, but also of obligations vis-à-vis the state (defence, payment of taxes, etc.); (ix) the link between citizens' rights and the state (defence, payment of taxes, etc.); (x) the link between political citizenship and patriotism (civic duty to defend one's homeland); (xi) the connection between political citizenship and education, including *citizenship education* as an instrument for fostering “civic virtues”.

The legacy of the *Vintismo* conception of citizenship is especially pronounced in the constitutional periods that claim its heritage, namely *Setembrismo* (1836-1842), Republicanism (1911-1926) and the current democratic Republic, resulting from the Revolution of 25 April 1974, which was the basis of the 1976 Constitution. However, despite the clearly conservative slant of the Constitutional Charter of 1826 (extensive royal

⁶⁹ See PATA, 2004: 44.

powers, chamber of peers, indirect election of the lower chamber, census suffrage), it also incorporated the essential core of that constitutional heritage (individual rights, separation of powers, representative government, etc.).

And even the 1933 Constitution, despite its tribute to autocracy, authoritarianism and corporatist representation (by definition anti-individualist), did not dare to discard, unlike other autocratic and authoritarian experiences of the time (Italy, Germany, Spain, Austria), certain institutions stemming from liberal-representative constitutionalism (such as the constitutional recognition of individual rights, the election of a representative assembly, a certain separation of powers and even the judicial review of the constitutionality of laws), although these institutions have proved from the outset to be purely “semantic”, with no legal-constitutional effectiveness in the operation of the political system called “Estado Novo”.

In short, the *Vintismo* conception of citizenship was not only the cradle of liberal constitutionalism, which ushered in the modern constitutional era in Portugal, but also forged a solid constitutional heritage that was revived at times of later constitutional reconfiguration and which even the anti-liberal and anti-democratic constitutionalism of the “Estado Novo” could not entirely discard. Two centuries after its brief experience, the *Vintismo* legacy is very much present in the constitutional mix of the 1976 Constitution of the Portuguese Republic, harmoniously integrated with the heritage of republicanism and the three most innovative dimensions of the 1974 Revolution, namely political democracy, the regulated market economy, and the welfare state.

But it all began in 1820 and the transformation of the subjects of the *Ancien Régime* into citizens of a political community, whose government derives from their collective will, as expressed in elections, and whose limits include the respect for their individual rights.

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