

# From the Polis to the City. Perspectives on Global Justice

Edited by  
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The Border Crossing Seminar



BCS 2

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## *Preface*

**F**rom the Polis to the City: Perspectives on Global Justice represents the second landmark publication of The Border Crossing Seminar (BCS)—a visionary transatlantic initiative jointly founded by the University of Milano-Bicocca and the University of Notre Dame. Since its inception in 2012, under the leadership of Marina Calloni and Eileen M. Hunt, BCS has sought to transcend conventional academic, political, and cultural boundaries by fostering a space of critical dialogue and collaborative inquiry. Its mission is rooted in the conviction that rethinking justice, democracy, and citizenship in an age of global interdependence demands not only interdisciplinary engagement but also a willingness to challenge inherited frameworks.

The first BCS volume, *Borders, Sovereignty, Rights* (2013), addressed foundational issues in political theory, interrogating the intersections of sovereignty, human rights, and transnational governance. *From the Polis to the City* extends and deepens this agenda by exploring the shifting landscapes of justice and political agency through the evolving figure of the city. It invites readers to trace a philosophical and historical arc—from the ancient Greek polis, through the medieval commune, to the contemporary global city—and to ask how these spaces have shaped, and been shaped by, the quest for civic belonging and collective justice.

The genesis of this volume lies in a pivotal seminar and summer school held in Milan from June 10 to 15, 2013, which convened a diverse community of scholars, students, and practitioners. Together, they examined how the city functions not merely as a physical space, but as a site of political imagination and normative contestation. The urban landscape, as this volume demonstrates, is where notions of citizenship, rights, and identity are negotiated and redefined—particularly in the face of migration, cultural pluralism, and socio-economic inequality.

At the heart of the volume lies a profound and timely question: Do modern cities strengthen or fragment the pursuit of justice in an increasingly interconnected world? On one hand, the city emerges as a potential crucible for democratic

renewal, civic participation, and cultural coexistence. On the other, it risks becoming a fragmented space marked by dispossession, exclusion, and alienation. Milan, in this regard, is not simply a backdrop but a dynamic case study: a European metropolis shaped by flows of people, capital, and ideas, and emblematic of the broader tensions and possibilities of urban life under globalization.

In grappling with these tensions, the contributors to this volume interrogate the ethical and political dimensions of migration, not as a crisis to be managed, but as a catalyst for rethinking justice, membership, and governance. The movement of people across borders disrupts static conceptions of identity and territory, calling for new frameworks that recognize the relational and performative nature of citizenship. In this sense, migration reveals the limits of sovereignty and the need for cosmopolitan ethics grounded in shared vulnerability, responsibility, and interdependence.

The work of BCS is animated by a commitment to transcultural dialogue and critical solidarity. Its seminars do not merely reflect on borders; they cross them—intellectually, geographically, and methodologically. In doing so, BCS challenges the entrenched binaries that divide theory from practice, the global from the local, and the citizen from the stranger. From the Polis to the City exemplifies this ethos, offering a space where philosophy, politics, and lived experience converge to illuminate the challenges—and possibilities—of building more just urban and global futures.

The publication of this volume owes much to the collaborative energy, intellectual generosity, and moral imagination of the scholars and students involved in the second iteration of the Border Crossing Seminar. Deep thanks are due to the institutional partners whose steadfast support made this project possible. In the United States, the Nanovic Institute for European Studies and the Department of Political Science at the University of Notre Dame provided invaluable resources and vision. In Italy, the Faculty of Sociology and the Department of Sociology and Social Research at the University of Milano-Bicocca were essential to the seminar's success. This transatlantic partnership stands as a model of what engaged scholarship can achieve when rooted in mutual respect and shared purpose.

Looking ahead, The Border Crossing Seminar remains a vibrant and growing initiative—one that not only responds to the intellectual challenges of our time but also aspires to shape them. In an era marked by rising inequalities, resurgent nationalisms, and deepening cultural divides, BCS insists that democracy and justice are not static ideals, but living practices forged in the crucible of collective reflection, ethical engagement, and cross-border collaboration. It reminds us that the path to a more humane world begins with the courage to listen, to question, and to act—together.

*Marina Calloni and Eileen M. Hunt*

Milan and Notre Dame, January 2014



**I.**  
**Justice and Cities**



## Chapter 1.

Eileen M. Hunt (*University of Notre Dame*)

### Theorizing Justice from the City of Ladies

Women face injustice, or unfair discrimination, on the basis of both their biological sex and their socially-constructed gender roles. This is a fact discoverable in the present historical moment but it is also a fact that appears to be common to a variety of cultures and historical epochs. For example, in 2012, the United Nations reported “ten million more girls than boys” remain out of primary school and “nearly two thirds of the world’s 780 million people who cannot read are women.”<sup>1</sup> Global injustices such as widespread female illiteracy often seem intractable due to their systematic and long-standing forms. But we, as political philosophers, should not forget Hume’s counsel not to confuse the “ought” and the “is.” Taking women as they are, amidst such contingent yet entrenched injustice, we should not assume that women ought to be illiterate. To do so would be merely to accept injustice rather than to critically assess it. To critically assess injustice is to question the assumptions that drive it, and thereby resist the view that injustice is permanent or deserved. To this end, we should follow the example of the first feminist political philosopher, Christine de Pizan, who responded to the fact of injustice against women with such resistance.

Born in 1365 in Venice to an aristocratic family, Christine grew up and lived her adult life in France. As a young widow supporting three children, she wrote more than 20 works, many of which aimed to defend women against unfair gender and sex discrimination. The *Book of the City of Ladies*, published in 1405, is her classic work of feminist political philosophy. In it, she refutes the view that women are, as her society would have it, incapable of reason and rectitude, and therefore unworthy of justice. She resisted the fact of injustice toward women through her philosophical ideas. The implications of her ideas were political, for

<sup>1</sup> UN Women (2012). *The Unfinished Agenda: Balance Sheet of Progress and Backlogs on Gender Equality*. Accessed August 17, 2012. [http://www.unifem.org/gender\\_issues/millennium\\_development\\_goals](http://www.unifem.org/gender_issues/millennium_development_goals).

her feminist philosophy had the potential to change individual women's perspectives on their experiences of injustice.

Christine enacts her philosophical resistance to the fact of injustice toward women by building a hypothetical city in which women experience justice. As with Plato's Republic, she sets up this hypothetical or counterfactual city as a normative model of human life which runs counter to the way humans experience life in reality. Like Plato, she builds into her hypothetical city a concern with the question of the equality of the sexes. Unlike Plato, she gives us a clearer answer to the question of whether (or to what extent) this hypothetical city could be implemented in practice. For Christine, the City of Ladies is explicitly and by design impractical on the larger, political scale but it may be implemented on the smaller, moral scale of the individual female human being.

As with Saint Augustine's City of God, Christine's hypothetical city functions partly as a normative model by which history and politics may be critiqued. Like Augustine, her hypothetical city is explicitly Christian. The City of Ladies is grounded in fundamental Christian theological concepts such as adoration of the Blessed Mother. The City of Ladies is also grounded in Christian moral concepts such as the virtues of courage, hope, and justice. Unlike Augustine, Christine is explicitly concerned with using her ideal city to address the problem of injustice toward women. Also unlike Augustine, her political philosophy is more Greco-Roman than Platonic and Christian. She builds her hypothetical city on historical examples of women of virtue or excellence who are as often pagan as not. The pagan military virtues of the Amazons are celebrated alongside the Christian virtues of the virgin martyrs.

The City of Ladies is a thought experiment that enables women to think through the injustice they face as women and develop alternatives to the status quo. It is not a practical model or blueprint for restructuring politics wholesale, but rather a mental model by which women can gain situational awareness of injustice toward them. Hence, the structure of the City of Ladies is explicitly impractical, especially in Christine's historical moment but to some degree even in ours. The City of Ladies is not sustainable in practice because it consists only of women, and Christine offers no alternative to conventional sexual reproduction

for sustaining the population of the city. She rejects the Amazonian alternative, which was for women to periodically leave their all-female city to have sex with men, return home to have babies, send back any boys to their biological fathers, and keep the girls to sustain their single-sex community. Even if Christine endorsed the Amazonian model, it would have been impractical to realize (although Christine writes as if the Amazons were real, there is no historical evidence that they actually sustained their all-female community for 700 years in this way). It almost goes without saying that practical alternatives to conventional sexual reproduction were not obvious in the late Medieval era. Because Christine lived long before the age of *in vitro* fertilization and sperm banks, there was no option for artificial reproductive technology to sustain an all-female community. Therefore, the City of Ladies does not ask, let alone require, women to give up sex, marriage, childrearing, or living in community with men. As a purely mental model of justice for women, the City of Ladies only requires its female members to strive to practice the virtues embodied by the female saints and other great women of the past. Women may continue—indeed, ought to continue—as dutiful wives, mothers, and sisters to men, but they also ought to govern their lives by the moral standards represented in the City of Ladies. In some sense, Christine imagines women living with one foot in the real world—which is largely unjust toward women—and one foot in the City of Ladies—which is the paradigm of justice for women. By bridging these two domains, moral and political, mental and actual, women might learn to follow reason, practice rectitude, and hence contribute to justice for humanity. By developing the moral virtues in themselves and others, women can facilitate practical resistance to some of the effects and causes of injustice toward their sex.

To offer a genuine model of justice for women, the City of Ladies is structured such that men are eliminated from its walls. In this way, Christine paid heed to the Amazons, who went so far as to return their sons to the men who donated sperm to produce them. Christine's elimination of men is even stricter than the Amazonian model, however. The elimination of men from the City of Ladies is like the elimination of friction from a scientific model. While the Amazons eliminated men except for the necessary reproductive use of their gametes, the

City of Ladies eliminates them entirely. By sealing off the city from men, Christine creates a mental space within which women might imagine themselves, together, as capable of reason, rectitude, and justice—independent of men and the injustices historically faced by women.

While the City of Ladies is hypothetical, it is built on historical examples. Christine builds her city on past examples of virtuous women because she wants to remind her readers that women have in fact achieved excellence in law, politics, and other domains of justice, despite the injustices they faced. This history allows women to use the City of Ladies as a mental model to inspire them to also achieve excellence in reason, rectitude, and justice in the present and future. Many of Christine's examples of women's virtue are drawn from Greco-Roman myths and literature. She often treats these examples "as if" they were historical fact. The Amazons are a case in point. She speaks of the Amazons' supposed 700-year reign in Scythia as though it was a real rival to the endurance of her home city of Venice, or the ancient republic of Rome. For Christine, myth and literature furnish examples of female virtue that function as cognates to historical examples of female virtue. On one level such literary examples are historical, for myth and literature provide past cultures' imaginings of women's capabilities if they were given the same opportunities as men. The Amazons again provide the best illustration. While they did not exist in fact, because they exist in the world's literature, the Amazons serve as a kind of record or artifact of what people have imagined women could do if released from the limits set by patriarchal society. The City of Ladies reflects the potential of women to achieve virtue despite injustice, which is refracted through both history and literature.

Christine presents the Amazonian model of female empowerment as a philosophical alternative to her own City of Ladies, in order to rule out the possibility that another all-female city could serve women better than hers. She proceeds to expose the flaws in the Amazonian model to cement the virtues of her mental model of female virtue. Christine admires the Amazons for their strength, courage, leadership, strategy, and sense of female solidarity, but, as we have seen, rejects their way of life as unsustainable due to their unusual method of sexual reproduction. Independent of its impracticality, the Amazonian model is also

undesirable if women want to experience respectful relations with men in an inclusive human community. Although Christine admires the military virtues of the Amazons, it is clear by the end of *The Book of the City of Ladies* that their primary virtue was a kind of courage born of a rational transcendence of fear. On the other hand, the Amazons were excessively, if not despicably, violent. Christine does not directly criticize this violence, but rather lets the myths of the Amazons speak for themselves. She relates how the Amazons sealed a strategic victory over Cyrus, the King of Persia, by executing his barons in front of him. Themiris, Queen of the Amazons, said, "Cyrus, because of your cruelty, you were never sated with men's blood. Now you can drink all you want."<sup>2</sup> She then cut off his head and threw it into a bucket of his barons' blood. Clearly this is not Aristotelian moderation or Christian humility in action, but rather pagan military virtue taken to an extreme. While not endorsing such extreme measures in eliminating men from her City of Ladies, Christine allows her readers to draw their own conclusions about whether such an extreme, Amazonian route to female empowerment could be necessary or just.

Beyond the Amazons, there is a second, alternative model of female empowerment that is not discussed in *The Book of the City of Ladies* but in Christine's later work. Born in 1412, the young Joan of Arc felt called by God to lead the French army to several victories during the Hundred Year's War before she was executed for heresy, at age 19, in 1431. Joan was a striking historical example of a single female leader who exemplified both military virtue and Christian virtue. Although she was a contemporary of Christine, the historical Joan functions as a hypothetical model of female leadership because she became a myth in her own time. Christine herself wrote a poem about Joan, in which she said, "all the heroes who have lived/ In history can't measure up/In bravery against the Maid,/ Who strives to rout our enemies."

Joan's model of leadership is impractical despite its strengths. Like the Amazonian model, Joan's model of strong female leadership involves women's demonstration of military virtue. But Joan goes solo in performing such military virtue

<sup>2</sup> Christine de Pizan (1998). *The Book of the City of Ladies*, Revised Edition, tr. Earl Jeffrey Richards, Perseus Books, New York, p. 43.

within the male-dominated domain of war. In so doing, she demonstrates women's capability to lead men, not merely conquer them or hold them at bay like the Amazons. Joan's model of women's leadership is impractical on the broader political scale, however, because it does not build in a sustainable response to the problem of patriarchy itself. Her extraordinary example may empower some women to become exemplary individual leaders, and such a trend might have beneficial spillover effects for society at large. But following Joan's example does not address the deeper problem of systematic injustice toward women. Joan's fate itself suggests the fatal flaw in this model of exemplary individual female leadership. Although her moral virtue was tested and proved by her martyrdom, she did not offer a political solution to the larger problems that faced her society or women as a whole.

Christine builds the City of Ladies as a philosophical response to the failures of the two alternative models of female empowerment illustrated by the Amazons and Joan of Arc. Rather than go the singular route of Joan, Christine seeks to create a plural female community that is mental not actual. This mental model aims for the moral fortification of individual women by way of their meditating on the City of Ladies in their daily, ordinary, embodied human lives. As a result, her building of the City of Ladies is the first and most important step toward addressing the deeper problem of the systematic injustice toward women in the real world. By comparing their lives with the City of Ladies, real women might learn to distinguish between what society has prescribed for them and what reason, rectitude, and justice require of them. While Joan's model illustrates individual women's capability for leadership among and over men, the City of Ladies models women as a whole as capable of resisting gender and sex discrimination that prevents such political leadership in the first place.

Yet Christine's mental model is not without its flaws. The City of Ladies fails in its aspiration to be both a philosophical and small-scale practical model for women's empowerment because, like the Amazons, it relies on the removal of men from the social equation. While this elimination of men from the model focuses women's intellectual attention on their capabilities for virtue, it also distracts women from the practical question of how to realize virtue in a world

with men, and most urgently, man-made injustice. The City of Ladies also fails in its practical aspirations for the same reason Joan's model fails: it triages the symptoms of injustice toward women, without addressing the deeper cause. Practically, there is not a guarantee or even a high probability that women will follow the moral lessons of the City of Ladies. Even if they all complied to its lessons, such moral compliance would not address the deeper problem of patriarchy and women's place within it. Women would simply become exemplary moral leaders in society without society necessarily becoming just toward women. Nevertheless, the City of Ladies represents an improvement over the Joanian and Amazonian models in the sense that it opens the door to individual women, armed with literacy and access to Christine's book, to rethink their position in society and imagine a new social and political order governed by the idea of the moral and intellectual equality of the sexes.

The final limitation of the City of Ladies is intrinsic to the mental model itself, not relative to the alternative models of female empowerment provided by Joan of Arc and the Amazons. Although the City of Ladies is hypothetical, it carries the residual traits of the historical moment in which it was formulated. The mental model is thus circumscribed by the late Medieval concept of Christian virtue to which Christine subscribed. This highly dutiful and relational conception of virtue led her to recommend women to remain in bad marriages because "sometimes it is not the best thing for a creature to be independent."<sup>3</sup> For this reason, Christine's feminist philosophy has been seen as conservative by many, and limited in its relevance for reform-oriented attempts to address injustices toward women.

Given the cracks in the fortress of the City of Ladies, does it still stand up as a valuable normative model for feminist justice today? By populating her counterfactual city with exemplary women of the past, the Blessed Mother, and the female saints of heaven, Christine gave feminist political philosophy one of its most powerful modes of argument. From the Renaissance onward, we find feminist philosophers—in the salons and convents of Italy, France, England, and Latin America—following Christine in chronicling the "Female Worthies"

<sup>3</sup> De Pizan, *The Book of the City of Ladies*, p. 255.

of the past who model ways of moral and political virtue for women in the present and future. Such lists of exemplary women remained a dominant approach of feminist philosophy through the nineteenth century. In the eighteenth and nineteenth centuries, philosophers such as Mary Wollstonecraft and John Stuart Mill began to use factual rather than counterfactual reasoning, making predictive rather than speculative claims about women's capabilities. Perhaps as a result of their predictive and future-oriented approach to theorizing women's capabilities, Wollstonecraft and Mill did not make lists of "Female Worthies" or build counterfactual Cities of Ladies to support their claims on behalf of women's well-being. Instead, they tended to make conditional arguments about the facts of women's condition in the present and what these facts indicated for the betterment of women's future condition. For example, they both argued that if women received better education than at present, then they will be better capable of contributing to the well being of society and politics as a whole.

However, there is little practical difference between the counterfactual reasoning represented by Christine, and the predictive conditional reasoning used by Wollstonecraft and Mill. In both cases, skeptics of women's desert of justice must be persuaded that reforms ought to be undertaken to remove unfair and artificial impediments to the full realization of women's capability for virtue. Perhaps for this reason, the "Female Worthies" approach to defending women's capabilities for virtue is still used today. Rhetorically, this approach can be quite persuasive to people who are initially skeptical of whether women really have the potential to contribute to society and politics to the same degree as men. By listing the remarkable women political leaders of the past, from Cleopatra to Queen Elizabeth I to Eleanor Roosevelt to Indira Gandhi to Corazon Aquino to Margaret Thatcher, one confronts a skeptic with historical evidence of women's capability to contribute to their polities far beyond what the norms of femininity prescribe in any given culture or historical epoch.

In recent times, it has become more common to uphold singular, stand-alone examples of exemplary women, rather than lists, groups, or communities of exemplary women, to make a case for women's desert of justice. Here, contemporary feminism might learn a lesson from its founding text, *The Book of the City*

of *Ladies*, in opposition to the lessons posed by contemporary books on female empowerment such as Sheryl Sandberg's *Lean In: Women, Work, and the Will to Lead*. Published earlier this year with worldwide popularity, Sandberg's book could be summed up as "how to succeed in business without being a man." She primarily relies on her own example of strong female leadership as chief operating officer of the multinational corporate behemoth, Facebook. The problem with this first-person singular, personal approach to evidencing women's capabilities for leadership in a male-dominated world is that it assumes that all women can overcome gender and sex discrimination in the same ways or with the same efficacy as Sandberg, a Harvard educated woman with an MBA and an address book of impressive connections, including her powerful mentor Larry Summers. Christine rejected the Joan of Arc model of exemplary female leadership for similar reasons. Joan's singular example, though virtuous in both the Christian and the military senses of the term, was not sufficient to address broader, systematic injustice, in politics in general or toward women in particular.

Instead of upholding a singular example of virtuous womanhood, Christine chose to build and populate her City of Ladies with a surprisingly colorful array of exemplary women for us to contemplate, analyze, and selectively emulate. By thinking in plural terms about her model of female virtue, Christine gives us a model of how feminist political philosophy can encourage women not merely to "Lean In" but moreover to "Lean Out." Leaning into current male-dominated forms of injustice, and striving to work within the system to change it for the better, is an insufficient step toward justice for women because it runs the risk of reinforcing the root causes of man-made injustice. Leaning out of the system, but not leaving it altogether, is an alternative way forward, modeled best by Christine's City of Ladies. The City of Ladies asks only of its members that they keep one foot in the counterfactual world of the just city and the other firmly planted in the real world. The real world is the world of man-made injustice, yet also the world of human life and all its embodied mortal joys and sorrows. It is a male-dominated world, and yet is also a world in which women have the power to give birth, thereby bringing new generations, and new hope for justice for those future generations, into the real world. By leaning out of this real world

and into the City of Ladies, women gain critical insight into the discrimination they face as women in the real world. By leaning back into the real world, women can apply the insights drawn from the City of Ladies in making choices that model virtue for each other, men, and future generations of girls and boys. By leaning out and then back in again, like a sailor balancing a boat against the wind, we might learn to theorize justice from the City of Ladies. For Christine, such theorizing began with resistance to the fact of injustice toward women. She built her city as a kind of counterfactual barricade against the prejudicial tendency of people to theorize the “ought” from the “is.” Yet she also built her city so that it could inspire a critical dialogue between what women “ought” to be and where women “are” presently. By eliminating men from her ideal City, she carved a mental space for theorizing justice from an explicitly feminist—or female-empowering—perspective. However, the objective of eliminating men from the City of Ladies was not for women to become like the bloodletting Amazons. The objective was to theorize women’s desert of the same opportunities for moral and intellectual improvement as men, so that women could realize their potential for virtue, and thereby fully contribute to the flourishing of their human communities, social and political. The City of Ladies thus remains a powerful tool for theorizing justice from a feminist perspective: for it offers a speculative window into a possible world in which women, like Joan of Arc, have virtuously overcome sex and gender discrimination, or, like the Amazons, have organized their lives such that it is inconsequential, or, best yet, like the Blessed Mother, have transcended it altogether.

## Chapter 2.

Giovanna Borradori (*Wassar College*)

### **Cities of Refuge, Rebel Cities and the City To-Come. The Right to the City between Neoliberalism and Austerity**

*The acceleration and intensification of the processes of globalization transform not only the “global city”, theorized by Saskia Sassen, but all the cities in nodes of accumulation of financial and symbolic capital. By controlling the access to urban resources and determining the organization of life, the global circulation of capitals at the same time creates and undermines any sense of collective identity. The lifestyles connected to the metropolitan experience are now market niches: on the one hand, they drive real estate development toward the construction of fenced communities; on other, they are at the core of the tourism industry, which packages historical centers and skylines, from Cordoba to Dubai, in the same way that it sells favela tours in Rio. If it is true that the city has never been more vulnerable to the systemic imperatives of the market as it is today, it is surprising that it continues to be the place where the deepest social and political transformations come to the surface. From Tahrir Square to Zuccotti Park, the crucial question is thus the following: what preserves the city as a space of dissent? Judith Butler states that what we see, feel, and learn mobilizes us only if it takes us elsewhere, to a reality in which we are not at the center. The thesis of this paper is that, in this age of neo-liberal policies of austerity, it is a certain experience of dispossession, and not of recognition or identity, which makes the city the core of resistance, refuge and rebellion.*

“Evil can arise anywhere, as long as the situation is right.”  
(Lars von Trier)

#### 1. *Introduction*

In a 1974 short story by Ursula Le Guin, entitled *The Ones Who Walk Away from Omelas*, a town is celebrating the Festival of Summer. The sun is out: boats rig in the harbor and parades stream down the streets, while music, dances, and wreaths of flowers entertain young families and elderly couples alike.

All that happiness and wellbeing, however, depend on what Le Guin calls the “terrible justice of reality:” and this is an abandoned and abused small child,

permanently locked up in a windowless broom closet.

Le Guin locates the closet beneath one of the city's feature buildings: whether it is a public establishment or an elegant private home she doesn't say, but the filthy little closet is definitely in one of those basements, out of view and acutely present to the consciousness of all discerning citizens.

The closet is a narrow and moldy space, barely three paces long and two wide. The door is locked at all times. Although probably ten, the naked and malnourished child looks no more than six years. Whoever comes to see him may not talk to him: this is the iron rule. "Its buttocks and thighs are a mass of festered sores, as it sits in its own excrement continually." Instead of cleaning him, his caregivers yell at him and kick him when they want him to move. Most sadly, there was a time when even this child had hopes to be released. He used to cry and promise that he would be good. Now he moans at the very most.

They all know it is there, all the people of Omelas. Some of them have come to see it, others are content merely to know it is there. They all know that it has to be there. Some of them understand why, and some do not, but they all understand that their happiness, the beauty of their city, the tenderness of their friendships, the health of their children, the wisdom of their scholars, the skill of their makers, even the abundance of their harvest and the kindly weathers of their skies, depend wholly on this child's abominable misery.

The people who get to see him are devastated. Most leave in tears, some in a tearless rage. They empathize with the horror: how can any decent human being accept the monstrous suffering of a child? Yet, in the face of their own powerlessness people try to rationalize: is it worth sacrificing "the happiness of thousands for the chance of the happiness of one?" And acceptance slowly sinks in.

But then there are those who simply cannot accept it and once on a while an adolescent who went to see the child does not go back home.

They go west or north, towards the mountains... they walk ahead into the darkness, and they do not come back. The place they go towards is a place even less imaginable to most of us than the city of happiness. I cannot describe it at all. It is possible that it does not exist. But they seem to know where they are going, the ones who walk away from Omelas.

Deflecting a suggestion that her story might be a footnote to the Brothers Karamazov, strongly centered on the theme of the scapegoat, Le Guin said that Omelas is the palindrome for Salem, O(regon), a street sign that she read backwards in the rear-view mirror of her car, while driving up the West Coast one bright summer morning.

If it is not a quotation from Dostoyevsky, Salem is certainly not just “anywhere.” For it was in Salem, Massachusetts, that of the American Inquisition incarcerated, prosecuted, and executed people accused of witchcraft.

In what follows, I wish to offer a little meditation on the streets of Omelas. I’ll take you up the streets that take the visitor into town, where people are held hostage to the spectacle of the Festival of Summer, and down the streets that take “those who cannot take it” out of town. As we walk back and forth, I shall venture to conceptualize some of the new formations of power in the age of neoliberalism.

I will underline how one of the crucial mechanisms of neoliberalism’s functioning is a millennial rhetoric of sacrifice and sacrificial love, supported by the translation of both social solidarity and social conflict into the polarizing logic of debt and credit. This convergence of the religious and the economic is the background against which nations, as well as cities, are being refashioned as corporations and the termination of social programs is presented as collateral damage.

In order to examine the ethical implications of the contemporary neoliberal city, I will discuss the trope of the city of refuge, which is at the origin of the legislation concerning the right to asylum for refugees. According to the Old Testament, God ordered Moses to found six exceptional cities designated to provide sanctuary to the manslaughterer, the one who kills his neighbor unintentionally.

The city of refuge was the topic of one of Emmanuel Levinas’s Talmudic Lectures and, through Levinas, it became an important figure of Jacques Derrida’s reflection on cosmopolitanism, global governance, and the crisis of the nation-state. For both Derrida and Levinas, the city of refuge is an ambiguous figure, which, as all legislation on human rights, is suspended between idealism and hypocrisy. For Levinas, the city of refuge is the emblem of the hypocrisy of the liberal city in which we all commit unspeakable crimes unwittingly by participating in de-

mocracies founded on structures of injustice and oppression both nationally and geopolitically. For Levinas Omelas is thus represents a city of refuge. By contrast, for Derrida the city of refuge illustrates an “elsewhere” to the polis, a city beyond the city, or perhaps the possibility of an impossible city to-come. This elsewhere, I will suggest, is where the adolescents go when they leave their homes and head out of town, unable to carry the unintended moral burden of the abandoned child, who languishes in a broom closet.

How then can we imagine this elsewhere, this place that Le Guin says is “even less imaginable to most of us than the city of happiness?” A place that she admits she cannot describe at all but that the young people seem to sense in their bodies as they head out. While the trademark of the modern utopian tradition, from the island in the middle of the Atlantic theorized by Thomas Moore to the *derives* of the Situationists, this elsewhere is to be found in some rural or purely playful “other” space, I offer to locate it in the occupation, and consequent deconstruction, of the *oikos*, the core of the hierarchical metaphysics of the *polis*. This practice of deconstruction by occupation has been the trademark of recent movements of protest, in the Middle East, Europe, and the United States, which have brought about a new meaning of the crowd as amassing of bodies exposed, physically and mediatically, in their vulnerability and precarity.

Heading out of the neoliberal city and walking toward the city to-come, would thus mean, for this crowd, to give voice to its core of dispossession, which is to disrupt its marks of recognition. The occupying or demonstrating crowd as disfigured polis, dispossessed from any sign of belonging and of legitimate property. From Zuccotti Park, in the heart of Wall Street, to the Pearl Roundabout, a crossroad at the outskirts of the Business District, in Manama, Bahrain, occupation is all about owning up to the experience of dispossession in the name of the unseen and the unaccounted for. In my reading, the naked presence of the mass of bodies that have recently occupied the pavement of the streets and the squares of our rebel cities lay claim to public space by exposing their own fundamental injurability but also that of who exists outside the boundaries of the visible, the representable, and the immediately recognizable: this “alliance,” as Judith Butler defines it, includes foreigners, immigrants, the so called illegals, squatters, the

homeless, the unemployed, the only precariously employed, the handicapped, the uninsured, the refugees, the displaced, deported among many others yet.

## 2. *Neoliberalism as a Political Rationality*

The focus on neoliberalism as a specific form of political rationality clarifies a deep historical transformation in the relation between markets, states, and civil society. Since the Reagan and Thatcher years, neoliberals have argued for the privatization and deregulation of state assets, the territorial dispersion of production through subcontracting, and a shift in tax policy that favored the wealthy. What is important to underline in this context, however, is the idea, central to neoliberal thinking, that the market naturally pays people what they are worth.” Intervening in the market thus distorts fair distribution.

While late 20<sup>th</sup> century politics has certainly seen both corporate wealth either buying or becoming the political elite and intense process of corporatization of the media, a mark of the new millennium is what Wendy Brown has called the *merging of corporate and state power*. Not only are state functions outsourced, from prisons to the military, and corporate CEO appointed as cabinet secretaries, but state power is “unapologetically harnessed to the project of capital accumulation via tax, environmental, energy, labor, social, fiscal, and monetary policy as well as an endless stream of direct supports and bailouts for all sectors of capital.” In this perspective, neoliberalism is the form of political rationality that “renders every human being and institution, including the constitutional state, on the model of the firm and hence supplants democratic principles with entrepreneurial ones in the political sphere.” (47) Echoing the *raison d'état* of the old realists, this kind of “market democracy,” makes the contemporary state into an actor and facilitator of global financial health. “People are reduced to passive stockholders in governmentalized states operating as firms within as weak managers of a global order of capital without.” (48) Social interaction transforms politics into business metrics and solidarity into a strong credit rating.

As the demos is disintegrated into human capital, the citizen of all cities is encouraged to see itself as a radically vulnerable subject whose only salvation is in the life-long project of self-investment. In a sudden departure from the

classical empiricist definition of the human subject as the expression of needs, the neoliberal subject is “responsibilized,” or expected to respond responsibly to the well-being of the economy. This is of course made possible by the agony of the Fordist model of labor and the neoliberal reliance on disposable forms of employment, that is, a flexible workforce hired and fired at will. So, instead of objecting to injustice and fighting for their rights, people are groomed to say to themselves: “I’m a failure;” “I’m not working hard enough;” or, “I’m not as smart as the next person.”

The responsible citizen of cannot rely on Kantian dignity but rather on the macroeconomic imperative of growth and a good credit rating. As entire populations are subject to the prospect of appreciation and depreciation, they are groomed to face the possibility that none of their basic needs will be met and that their very survival won’t be attended to. In this perspective, solidarity and conflict, the distinctive experiences of *homo politicus*, are translated into the objective conditions of *homo economicus*, credit and debit.

Held hostage by the incantations of the summer festivities, the people of Omelas made peace with their indebtedness, which is structurally indistinguishable from injurability and sacrifice. As in all good neoliberal cities, in Omelas too the convergence between the religious and the economic transforms what were once political bonds into the management of collateral moral damage: shameful indifference to human suffering, and systematic social negligence and abandonment.

### 3. *The Cities of Refuge*

Since they all unintentionally complicit in the abuse of a vulnerable child, the people of Omelas are half innocent and half guilty.

The ambiguity of this position is the object of reflection of the Biblical figure of the city of refuge, which Moses finds to provide sanctuary to the one “who kills his neighbor unintentionally.” Each one of them has to be guarded from the avenger of blood who would otherwise take a life for a life. The morally ambiguous status of the manslaughterer is perpetuated in their residence in the city of refuge, which offers them safe haven while holding them in exile from their home. The city of refuge thus exonerates those casual offenders on account of

their lack of intentionality in the killing, but punishes them as the result of their protection.

After taking up the Talmudic discussion, in “Cities of Refuge” Levinas redirects it to the contemporary condition, which he calls the liberal city. We are all manslaughterers, since we all participate in structures of oppression and benefit from injustice, a fact that makes us half guilty and half innocent. By replacing the normative foundation of Kantian dignity with the macroeconomic imperative of growth and a good credit rating our neoliberal global city renders this ambiguity even less legible.

In the same Talmudic lecture dedicated to the cities of refuge Levinas assigns to Jerusalem a special place: a heavenly polity in which perfect wakefulness reigns, Jerusalem is the trope for the absence of unintentional murder, and thus for the overcoming of the need for forgiveness. Derrida both admires and worries about this “beyond” of the political condition that Levinas associates with the promise of the heavenly Jerusalem. Is Levinas offering a path to salvation?

In the face of Levinas’s own ambiguity, Derrida is certain that the “transgressive character” of Levinas’s approach to politics has to be developed further than Levinas has done himself. While Levinas is right in claiming that politics has, and ought to have, reference to something outside of itself, this outside is not only an ethical demand but has to be implemented within, rather than without politics, by a deconstruction of the political frame of action: of the concepts and the institutions of politics. Whereas for Levinas the nature of the beyond is anchored in the human inability to remain indifferent to the suffering of the other, whose vulnerability causes a rupture in the self, Derrida poses the necessity of the creation of political institutions able to interpret this response. One of these institutions is the International Parliament of Writers (IPW), which in 1996 sponsored the creation of the International Cities of Refuge Network (<http://www.icorn.org/>).

The International Parliament of Writers (IPW) is a new transnational institution devoted to the protection of the rights of free speech and to the protection of writers against the many political entities willing to employ physical force in the pursuit of censorship. The Parliament, which was constituted in the after-

math of Ayatollah Khomeini's fatwa regarding Salman Rushdie and the publishers of the *Satanic Verses*, following the brutal murder of writer Tahar Djaout in 1993 sponsored the signing of a petition to form the European Charter of the Cities of Asylum. In 1996, after a number of cities had already been engaged to act as havens for persecuted or endangered writers, Derrida addressed the IPW detailing his own vision of the cities of refuge.

For Derrida the IPW literalizes cosmopolitan solidarity and extends beyond the tradition of the Enlightenment in imagining a global political order. The International Cities of Refuge Network represents for him a symptom of the crisis of the international and thus embodies a new form of geopolitical solidarity. The Network, understood as a new charter of hospitality, has to extend its welcome to a much broader swath of categories than the famous individual writers in the mold of Rushdie. In fact, for Derrida, it has to be hospitable and protective of "the foreigner in general, the immigrant, the exiled, the deported, the stateless, or the displaced person."<sup>4</sup> Derrida's cities "will exist in the name of the anonymous, the ones without law (nomos) and name (onoma). Identifying the one who is without a culture, without a name, and without a mode of being-home associates the Derridean city with foreigners in their foreignness as opposed to the foreigners an actual, or even potential, compatriot."<sup>5</sup>

Anonymity powerfully provides an answer to the key question concerning refuge: to whom is offered refuge? And is refuge ever truly available in a situation of structural disparity of opportunities? 1996 was a particularly dark year for France's reputation as a place of hospitality and refuge from oppression because of the imposition of the Debret laws on immigrants and sans papiers, which were protested by robust demonstrations in the streets of Paris. If hospitality is the normative value of the cities of refuge, they need to make themselves hospitable to the foreigner, for without it no hospitality can exist. No hospitality without the foreigner, and no foreigner without hospitality. All modes of hospitality are constructed around the space that the host, intentionally or not, opens to the

<sup>4</sup> Derrida, J. (2001). *On Cosmopolitanism and Forgiveness*, Routledge, London.

<sup>5</sup> Kelly, S.K. (2004). Derrida's Cities of Refuge: Toward a Non-Utopian Utopia, *Contemporary Justice Review*, 7, 4 December 2004, p. 427.

foreigner and are predicated on the host's construction of the foreigner as someone in need and/or worthy of protection and care. It is indeed the foreigner who delineates the boundaries and parameters of home. To appraise the limits of this aporia is to bring into visibility the concrete and historical modes in which hospitality has been conditionally offered. Only if we are able to identify those limits can we thematize their beyond: the principle of unconditional hospitality that Derrida encourages the cities of refuge to heed by.

Perfectly aware that unconditional hospitality cannot be institutionally implemented, Derrida nevertheless invites the young Network to produce laws and rights cognizant of how each one of them represents an inscription of the place of the foreigner in another's home: as such, these laws and rights are at once tokens of violent assimilation *and* contribute to the creation of a home that exists in this way rather than the way in which it existed before because of the foreigner.

In his address to the IPW, Derrida stressed that any gesture of hospitality is extended in the double mode of accountability and delimitation. The foreigner is the host's own other; as such, it allows the host to identify its own mode of being as proper. The price of hospitality is assimilation, which is the exclusion of the foreigner as foreign.

From this perspective, each and every act of hospitality effaces the guest, making the guest into the host of the host, a threshold that simultaneously constitutes the home and the exposes it to the public.

#### 4. *Rebel Cities and the City to Come*

Fifteen years after Derrida's address to the International Parliament, dedicated to the cities of refuge, which was delivered in a climate in which French cities insurrected on the issue of welcoming foreigners, I wish to suggest that the project of a city-to-come is spectrally coming back in the protests that are shaking our neoliberal cities.

Similarly to those few adolescents from Omelas who, upon seeing the locked up child, do not go back home and, without taking anything with them, voluntarily abandon their homes and the neoliberal city, the crowds that flooded the streets of London and Tunis represent a possible reconfiguration of the promise

of the city-to-come.

Occupying a square or a park, and thus dispossessing themselves of their home, they gave voice to the core of dispossession fundamental to every home, whose proper identity is always already in the hands of the other: the guest, the foreigner, the small child locked up in the closet. What happened and is still happening, though farther from the lights of the newscameras, with the massive demonstrations that have occupied the streets, the squares, the parks, the cross roads of many of our cities in the last two years is that the home and the nation-state have been exposed as the very core of dispossession and expropriation.

Although these demonstrations and occupation have taken place for very different political purposes, the startling effect of the crowds of bodies in the streets, often putting themselves at risk of violence by the police, the military or sectarian violence, has been their very exposure as vulnerable bodies. What we have seen in the past two years, in Cairo and New York, London and Manama, is what Elaine Scarry has called the body “as the original site of reality,”<sup>6</sup> the fact of pain’s inexpressibility, and the impossibility of destroying a sufferer’s language.

The amassing of bodies in the streets of our neoliberal cities have certainly made a claim in public space. But we would miss something crucial were we to give the publicity of that space for granted. For it is the very public character of the space that, by and through these acts of protest, has been made once again the object of dispute. As Judith Butler has noticed,

Though these movements have depended on the prior existence of pavement, street, and square, and have often enough gathered in squares, like Tahrir, whose political history is potent, it is equally true that the collective actions collect the space itself, gather the pavement, and animate and organize the architecture.

Assembly and speech, in other words, have shown that the materiality of public space is performatively produced by bodies exposing, and thus affirming, their nakedness and injurability.

The crowds that we have seen on the TV screens worldwide have also moved from the squares and the recognizable monuments to the back alleys, taking over

<sup>6</sup> Scarry, E. (1987). *The Body in Pain: The Making and Unmaking of the World*, Oxford University Press, Oxford.

different names and changing their aims as we have been watching. It happened for example to the movement of Occupy Wall Street, which, after being evicted from Zuccotti Park, in downtown Manhattan, relocated to the shores of Staten Island, and in the aftermath of Hurricane Sandy occupied the discursive practice of relief agencies as Occupy Sandy.

So when we think about what it means to assemble in a crowd, a growing crowd, and what it means to move through public space in a way that contests the distinction between public and private, we see some way that bodies in their plurality lay claim to the public, find and produce the public through seizing and reconfiguring the matter of material environments.

The question then becomes: How do bodies in their plurality lay claim to the public? By performatively producing it, not as the abstraction built around normative principle, which is what traditional political theories claim public space to be, but rather by producing the public as the material environment that supports our existence as fragile and dependent beings. As a consequence, when we think about bodies that act together,

No one body establishes the space of appearance, but this action, this performative exercise happens only “between” bodies, in a space that constitutes the gap between my own body and another’s. In this way, my body does not act alone, when it acts politically. Indeed, the action emerges from the “between.”

The space of appearance created by the amassing of bodies on the city pavement requires the mobilization of a collectivity, which Butler calls an alliance. These bodies performatively produce a new public space by physically exposing themselves to harm. In so doing, they own up to the experience of dispossession that being a body implies. The city to come, which is what I offer you to think about today, is the mass of bodies that have recently occupied the pavement of the streets and the squares of our rebel cities. Speaking in the name of their own injurability, these bodies have called attention to the unseen and the unaccounted for: those who exists outside the boundaries of the visible, the representable, and the immediately recognizable, all of those foreigners, paperless, homeless, deported who are not allow to mourn in public.



## Chapter 3.

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# Global Cities of Refuge: Climate Migration and Fundamental Rights

### *1. Introduction*

There is by now a broad consensus that the carrying capacity of large segments of the natural world, that is, the ability of different ecosystems to provide food, water and shelter for human populations, is being seriously compromised by climate change. The harsh realities of rising sea levels, soil erosion, drought, and intense flooding guarantee the fluidification of growing segments of the world's populations, permanently dispossessed with no possibility of returning home as an ultimate horizon of expectation (see Cancún Adaptation Framework, 2010. According to Myers (2005), upwards of 200 million people will be displaced by climate change by the year 2050, that is, one in every forty-five people on the planet. The ongoing multiplication of natural disaster scenarios (from approximately 200 to over 400 a year in the last two decades) adds to the scale and complexity of forced human displacement and encourages such displacement increasingly to spill over sovereign state borders (see José Riera Senior Adviser to the Director of International Protection UNHCR Headquarters, 2013:4).

The city in this context becomes the favored destination of new generations of wanderers, those dispossessed, both territorially and civically, by climate change effects (see *The World Disasters Report 2012*; United Nations High Commissioner for Refugees, *Roundtable on Climate Change and Displacement*, 2011). According to *The World Health Organization* (2013), over 50% of the world's current populations live in urban settings, a figure expected to increase to 70% (6.4 billion) by 2050, with immigration (both legal and illegal) accounting for more than two thirds of this population surge. Such rapid urban growth is one of several mega-trends currently being accelerated by climate change, especially the realities of greater food and water insecurity.

In spite of the gravity and scale of these developments, international responses to the migratory effects of climate change to date range from the purely defensive to the minimally proactive. The former is particularly evident in recent EU position papers, for instance (see Council of the European Union, 2013; European Commission, 2008) where climate migration is repeatedly interpreted as a serious threat to “the political stability of countries and regions” (p.6). In preparation for the likely “millions of environmental migrants”, the European Commission encourages Europe to enact a “security architecture” (ibid, p.8) that “further build(s) up EU and Member State planning and capabilities including civil protection and the use of crisis management and disaster response instruments (civil and military)” to contribute to a more effective response to the major risks posed by climate change (European Commission, *Climate Change and International Security*, 2008: 14). At both state sovereign and European policy levels, we see a tightening of territorially based strategies of defense against the universal rights of those fleeing ecological persecution, war and poverty. Implicit in the reasoning of the EU here is the assumption that if Europe’s liberal democratic regimes were to open their borders, the sheer volume of consequent levels of immigration are likely to overwhelm the capacities of member states to cope, leading to a potential breakdown of public order (European Commission, “Report on the Implementation of the European Security Strategy – Providing Security in a Changing World”, 2008).

Even If Europe’s economies were to survive such an onslaught, their capacity to fulfill putative special responsibilities to European citizens may be compromised. Each of these arguments put forward by the EU contains a clear empirical premise (i.e., that open borders will lead to some negative outcome for Europe) in addition to a normative premise according to which restrictions across Europe’s borders are clearly justified.

The assumption that opening Europe’s borders to those seeking refuge from climate persecution will destroy existing economies and welfare regimes could in principle be justified from a more global perspective if the long-term prospects for global justice depended upon the consolidation (not destruction) and gradual expansion of existing liberal democratic welfarist institutions (and without

appeals to any special responsibilities to European citizens per se).

Saying that the just provision of welfare to all humanity in the long run depends on the consolidation and expansion of Europe's domestic welfare regimes and the restriction of border access makes clear what this argument requires: the consolidation and global expansion of welfare regimes and their scope of beneficiaries. This is, at best, a conditional defense of closed borders: it is not only temporary, it is also conditional on it being accompanied by policies that compensate for practices of closure and human rights denial by contributing to the expansion of global justice and the welfare of all peoples in the present.

However, one has only to look at deficits in the global adaptation fund to realize that this is sadly not the case. In truth, Europe's economies, like those of other developed liberal democratic states, have the capacity to absorb, without collapse, a far greater number of immigrants than they currently allow (Chang, 1997). At the same time as the EU tightens its borders in defense of its economies and the need to protect the welfare of its citizens, the World Bank and International Monetary Fund introduce structural adjustment plans that give new rights to capital and goods to move across sovereign borders. The question that has to be posed in this instance is what kind of international liberal democratic regime protects the free flow of goods, services, and money yet denies climate-displaced peoples seeking refuge similar rights?

As it is currently applied, the right of the climate refugee to resettle is an imperfect one, a right granted by a state as "an act of humanity" or "kindness". Obligations to assist or rescue ecologically displaced persons are triggered on humanitarian grounds. In other words, a state may admit persons displaced from their lands as an act of humanity even though such peoples do not enjoy a legally enforceable right to their assistance. It is only in exceptional circumstances that climate displaced persons will be granted protection from refoulement (where the individual can be returned to their home state). In most instances, however, a third state's protection is unlikely to be activated where the individual's human rights have not been violated by their home state in a traditional sense. The non-refoulement principle, included in various human rights legislation such as the European Convention on Human Rights and Fundamental Freedoms (Ar-

ticle 3) and the International Covenant on Civil and Political Rights (Article 7) may recognize a right not to be turned away (Office of UNHCR 2009), but it does not provide for the right to enter or the right to permanently settle in another state. The Geneva Convention, created initially to deal with the aftermath of the Second World War, has in many respects become somewhat outmoded in its non-recognition of the effects of climate change as a more contemporary form of “persecution”. To more “traditional” political, religious and conflict-based sources of persecution, have been added in more recent decades threats to peoples’ way of life destroyed by a lost, ruined or degraded environment. In October 2008, the UN High Commissioner for Refugees acknowledged the limitations of existing legislation and called for a new legal framework to be considered, one that recognizes and responds adequately to new patterns and forms of movement today. Granting climate refugees legal recognition would provide them with internationally assured protection, independent of, and separate from, the actions of their own governments who may not have the resources or the will to help the displaced.

The unfortunate reality at present is a legal non-recognition of the human rights status of the climate refugee. A disposition that is also traceable in international discourse on possible “solutions” to climate displacement. In a 2009 report entitled, “Disaster Risk Reduction, Climate Change Adaptation and Environmental Migration” (p.4-5), The International Organization for Migration (IOM)) outlines a number of strategic measures that could be implemented to “manage” the increased migratory pressures being created by climate change, including a “sustainable reintegration at place of origin” (p.5). What are not addressed are the likely humanitarian costs of implementing such a policy of “reintegration at place of origin” if that effectively means forcing people to return to regions devastated by flooding, tropical cyclones, desertification and other geophysical events created by changing climatic conditions.

Underlining the recommendations of organizations like the IMO or the reasoning of larger, more powerful states as well as the EU are what Miller (2005) describes as “sufficitarian” arguments. That is, the notion that mobility within national or EU borders gives peoples a sufficient range of options to maintain

their well-being such that mobility beyond the state or even the borders of the EU is rarely a necessity for the majority. The right to mobility (for instance, mobility from rural to urban settings) is thought to give individuals adequate freedom of movement to protect their interests as free and equal members of a particular political community, but not sufficient freedom to protect these same interests across states or outside of EU borders.

Like many of the arguments of state communitarians, Miller's thesis on sufficientarianism, arguably, does not hold ground under conditions of growing climate adversity. Through sheer necessity, the mobility of increasing numbers out of states like China (where 19.1% (1.3billion) of the total world population reside), India (where 18% of the world population reside), Bangladesh (where 2.15% of world population reside), or Mexico (where 1.58% of the world's population reside) can be shown to be driven by factors which include climate change. According to studies conducted by the global risk management group Maplecroft (*Climate Change Risk Atlas 2010*), states with high emigration rates tend also to be those most likely to be affected by extreme weather events. Rising sea levels, for example, have placed the densely populated Bangladesh's Gangetic Plain and the Nile Delta in Egypt, essential breadbaskets for the poor, under the "one metre" above sea level zone.

Both areas are currently home to some of the world's most climate vulnerable populations (see *The Stern Report, 2006:56*; Xinhgshu, 2007). Any further rises in sea level will induce a greater incidence and intensity of flooding, subsuming up to 30% of Bangladesh's coastal land by 2080 (McAdam & Saul, 2010:3) and forcing millions to migrate. Indeed, the human costs of rising sea levels are likely to be devastating for Bangladesh where there are more than one thousand inhabitants per square kilometer (McAdam & Saul, 2008: 8).

International constraints on migration, within this context of deteriorating ecological conditions worldwide, function to restrict the movement of those most vulnerable to disaster. In effect, border control prevents such people from achieving their full humanity (Kukathas, 2005) by confining them to life-threatening conditions of resource deprivation. To tell people they are denied permission to cross a border in order to protect their livelihoods or the lives of their children, is

to say to them that it is justified that they are denied the opportunity to survive ecological devastation. We may question whether the justificatory arguments being drawn upon here (e.g., “sufficientarian” arguments or even a thesis of limited spheres of moral political responsibility) are still reasonable given deteriorating global ecological and social living conditions? If the conditions that contribute to the destitution of millions are sustained by the international community as a whole (admittedly, by some more readily than others), then what is called for is what Apel (1993) refers to as “co-responsibility” for the humanitarian effects of climate harms and with co-responsibility comes duties to address issues like climate migration in a more equitable manner.

### *2. A tale of two cities and two discourses of “opportunity”*

It may be true that one in every five of the world’s migrants settles in just one of twenty cities around the globe (London, Paris, New York, Moscow, Melbourne, etc.) (see Price and Benton-Short, 2007) but it is also a proven fact that most urban density is taking place in cities like Khartoum, Sudan, Karachi in Pakistan or Dhaka in Bangladesh and is on such a scale that these developments are driving a major humanitarian crisis (see, for example, WHO 2011).

The dominance of the city today as the main habitat of humanity has tremendous implications for the future dynamics of human flourishing. With more than one billion people currently living in urban slums, the fundamental rights of growing segments of the world’s population to health, education, and safe dwelling are being denied (see Sclar, Elliott D., Pietro Garau and Gabriella Carolini, 2005). 90% of new urban settlements in sub-Saharan Africa, for instance, are taking the form of slums where there is limited access to safe drinking water, housing, sanitation, health or education services, according to a 2010 report by the International Federation of Surveyors. Mega Cities like Bangkok, Manila, or Shanghai are amongst the favored destinations of the ecologically dispossessed, according to The U.K. Foresight Programme (2011), yet these could hardly be considered “cities of refuge”, extending cosmopolitan forms of solidarity and duties of hospitality to the stateless. In the Hong Kong SAR (China), for instance, there are no national laws extending protection to refugees. Urban refugees and asylum seekers in Bangkok face similar challenges with a lack of formal access

to employment, public education or health care, as well as deepening problems with homelessness and insecure housing (White, 2010).

Neo-liberal commentators (e.g., Rosen, 2002) speak of the capacities of the global market to absorb the transformations created by climate change, changes in real estate price evaluations now forced to accommodate ‘non-market attributes’ like storm frequency, flooding or proximity to the coast. These commentators speak optimistically of the opportunities greater urban density creates for a more efficient use of scarce resources and better infrastructure design. Yet this discourse completely misses the more fundamental issues delimiting the capacities of communities to avail of new “opportunities”. Neither does it adequately address the key issues of inclusion, group representation and democratic deliberation on what kind of city publics want to see develop into the future. Most of the world’s populations are completely locked out of this dominant discourse of “opportunity” on the compact city of the future. What neo-liberal optimism takes for granted is the unhampered capacities of a resource-challenged humanity to migrate and thrive in new lands of opportunity. But what if that capacity to thrive was denied, as it currently is to a large portion of the world’s population threatened with extreme weather conditions, intense drought, poor crop yields and rising sea levels? It is a well-know fact that humanity has withstood adversities in the past and continued to thrive when, and only when its capacities to migrate and integrate into new environments of plenty were not denied. Membership of the communities constituted by “Back to Our Common Future” (2012) or “The Future We Want” (Rio+20, Rio de Janeiro, 2012) might in principle “strive for a world that is just, equitable and inclusive” (The Future We Want, p. 2) but in practice the rhetoric of inclusion too often ignores the subterranean realities of debilitating poverty and radical inequality.

The most socially consequential rhetoric at present is not that of global equity but rather, limited responsibility and resource competition. What remains constant and largely unchallenged is the notion that membership of one community be defined in opposition to that of another on the grounds that we must compete with each to secure our access to depleting resources.

If we, as communities living in areas less harshly affected by climate change at

present, contribute disproportionately to global problems through our carbon consumption, we are not only complicit in the dislocation of millions, but we are also knowingly responsible for the perpetuation of radical global inequalities and human suffering by denying the dislocated safe haven. The only correct moral ethical response to this situation is to address these inequalities and protect the capabilities of these people to meet basic resource needs - a task that may require a greater recognition on our part of a universal right to refuge. It is only through a greater reciprocity between rights privileges and obligations that a stronger “moral symmetry” (Ypi, 2008) can be established between all parties concerned.

Moral symmetry calls for the activation of principles of justice that are agreeable to the largest number. But what might a greater degree of moral symmetry look like in relation to the issue of climate-induced migration? Does it mean greater freedom of movement on the basis of need and basic survival or alternatively, might greater moral symmetry in this instance mean we take equal account of justice in emigration (restrict free movement) as immigration, especially if we continue to deny growing numbers of destitute peoples rights to hospitality and with that, their rights to survive climate adversities? In other words, if we continue to endorse a policy of restricted immigration rights in full knowledge that our climate destructive practices contribute to the dislocation of millions, then should we not also consider the possibility of restricting emigration rights? Where democratic justifications for immigration rights curtailment are lacking, mobility privileges may well come under greater legal scrutiny in the future. Restricting the right to emigrate might even be considered the lesser of two evils if that means preventing a relaxing of state borders and a mass in-flow of ecological migrants. Current strategies of denial or inadequate policy responses to the scale and depth of the humanitarian crisis created by climate displacement and related urban growth may well turn “closed border dystopias” into real possibilities. And lets not forget the right to emigrate is still not absolute. During periods of emergency, freedom of movement can be legally restricted (see Article 4 of the International Covenant on Civil and Political Rights) and if we take into consideration the type of future scenarios being constructed at present through both EU and US policy discourse on Climate Change and International Securi-

ty, extreme measures are not beyond the realm of possibility. We see a situation emerging today where the possibility of militarized responses to the “geopolitical implications” of climate change are being considered but not in a manner open to critical public debate. As many of world’s most powerful states lay competing claims to potentially resource-rich regions like the Arctic, the notion of national self-interest is actively deployed as a central justificatory device for intensifying military action against resource rival states, not that of “our common future”.

In light of these developments, it is crucial we begin to demand greater clarification as to the content of universal rights, especially when they begin from the particular perspectives provided by our national relationships to practices of exclusion, rights denial, or acts of military aggression. According to communitarians, such exclusion is a necessary part of the protection of “the life of the nation” and the unique cultural identity of its communities. What this argument, however, fails to acknowledge is the fact that what threatens these people today will eventually threaten all of humanity, at which point “the life of the nation” may well cease to be of any practical relevance anymore. Given the common ecological fate of all communities, should impartiality be more the hallmark of our moral reasoning about the humanitarian necessities of universal climate migration? From the perspective of Alasdair MacIntyre (1988), abstracting from all the particularities of the circumstances of what are at present resource-sufficient states in the interests of the resource deprived global other may be regarded as highly objectionable. Moral arguments for global justice acquire, MacIntyre argues, a phantom quality when they become overly detached from the loyalty claims of communities ultimately needed to sustain them. When attempting to nurture “our common future” can we as moral agents really act in a manner completely independent of our attachments to place in the interests of initiating an inclusive sphere of equal moral standing for all people everywhere? What is more, can we continue to prioritize global interests into the future as resource supplies dwindle and survival becomes the dominant motif? For MacIntyre, ethical cosmopolitan commitments to the “citizen of the world” under these conditions are not practical. In “aspiring to create belonging everywhere”, MacIntyre (1988:388) writes, we create “citizens of nowhere”, vulnerable to dislocation without the

reassurances provided by more traditional procedures for securing belonging. For MacIntyre, therefore, deterritorialized forms of citizenship or notions of the universal subject who belongs everywhere have no real basis in reality. Instead, what is more likely to prevail, according to MacIntyre, is a delimited sphere of equal moral standing where relativism continues to be asserted, for instance, through the notion that general duties of care for the basic resource welfare of all human beings is best discharged by assigning special responsibilities of care to fellow citizens and polity. But what if such “fellow citizens” are equally impoverished (through no fault of their own) and what is more, deprived of the capacity to overcome adversities by factors chiefly beyond their control (e.g., global CO<sub>2</sub> emissions)? Globally sustained climate changes cut across all territorial borders and force us to reconsider the validity of restricting “special responsibilities” to co-habitants of a specific territory on distributive grounds. Traditionally, membership of community is controlled through the regulation of borders, a regulation that ultimately equates to an exercise of state coercion over outsiders. The use of state coercion against outsiders in order to fulfill special responsibilities to insiders, however, must be justified on grounds that could not be reasonably rejected by outsiders qua free and equal persons (under International law). If non-members of putatively duty-generating groups can present compelling arguments indicating how members of duty generating groups have contributed to the destruction of their lands and livelihoods (e.g., through climate destructive practices), should special responsibilities not be extended to such peoples also, especially if a non-fulfillment of such duties potentially threatens their survival?

What MacIntyre seems to take for granted in his reasoning on moral duties is the ongoing coupling of territory and community loyalties. Requiring greater clarification and perhaps justification, however, is the notion that the cumulative territories of sovereign states and, indeed, cities “belong” to their peoples as an intergenerational and somehow unchanging reality. Underlining such claims is the notion that citizens, as mainly descendants of early settlers, can legitimately deny others’ rights of residency or temporary sojourn on the basis of their claims to “first labor” or cultivation of lands beyond a “state of nature” (when a portion of land accumulates cultural, political and historical value for its inhabitants).

However, can historical claims to territorial belonging continue to be used in the future as universally legitimate grounds for the exclusion of growing numbers of ecologically displaced persons, especially as famine, drought, flooding and storm conditions deteriorate further? Populist closed border utopias encourage blatant asymmetries between universal rights to free movement and sovereign territorial restrictions on the granting of safe haven. Indeed, the latter have come to be justified and applied on the basis of principles that in truth are outmoded and non-reflective of the realities of the world in which we live today. The predominant element referenced here is territory, or more appropriately a fixed territory, but when we consider current scenarios where growing portions of the world's territories and their resource pools are disappearing due to rising sea levels, desertification and other effects of climate change, the relevance of claims to a fixed territory as a legitimate foundation for the allocation of sovereign rights privileges, including the right to exclude, has to be radically reconsidered. The legitimacy of the relationship established between a fixed territory and rights privileges ultimately is justified on the basis of the notion that "enough and as good" will be left over for others and the notion that rights will be limited by what a community can take advantage of before a territory is "spoiled" (i.e., the Lockean Provisos).<sup>7</sup> But what if a community's abstraction of resources bears little relationship to the ultimate state of resource reserves left for it to sustain a basic existence (e.g., small island states of the South Pacific) and preserve the life of its people, not to mention that of new generations of occupiers, but is rather determined by the actions of others located beyond its shores? How is the relationship between human flourishing, principles of fairness, and resource conservation determined in this instance? The simple equation of resource cultivation, territorial rights and the allocation of justice is no longer straightforward. This is why our responses to climate change effects, like that of climate-induced migration, have to begin to address the widening gap between rights privileges

<sup>7</sup> In *Second Treatise of Civil Government*, John Locke ([1690] 2010) introduces two constraints on a community's territorial rights. The first, requiring the holders of property to leave "as good, left in common for others" (Section 27) and the second, requiring occupants to avoid spoiling a property and its resources: "whatever is beyond this, is more than his share, and belongs to others" (Section 31).

and current states of justice. What O'Neill (1986: xiii) refers critically to as "the coziness of shared traditions and the rhetoric" of citizen versus non-citizen cannot adequately address such deepening crises that ultimately threaten us all. If notions of loyalty, belonging, and inclusion have to be grounded or embedded in distinct communities of belonging, they ought to be grounded in transnational communities of civic solidarity where the rights of each individual to a future free of hunger, disease and devastation is equally recognized.

The burden of current global consumption levels of resources like fresh water, oil, gas, or arable land now exceeds the abilities of these resources to renew themselves. The value of the territories within which these life-sustaining resources reside thereby increases dramatically, creating situations of intense competition for ownership rights and massive dispossession of indigenous communities from their lands. As a consequence, growing numbers are unable to sustain an existence and are forced to migrate. In scenarios where people are forced onto arid lands where there are inadequate supplies of water, the only legitimate course of action for inhabitants, according to the reasoning of the Lockean Proviso, would be abstinence since in the case of water deficient states like Ethiopia, for instance, only a situation of no appropriation would leave "enough and as good in common for others" (Waldron, 1979). The logical thing to do in this situation then would be to migrate, it seems. The collectively determined nature of such people's dislocation ought to be met with an equally collective approach to their accommodation in new lands of safe haven. If the language used to interpret new migration flows is that of burdens weighed against possible benefits to host states, it ought to be in terms of the burdens imposed upon many in our collective contribution to their dispossession, their loss of home, as well as their loss of access to essential resources. The reality at present, however, is quite different.

The benefits of an over-appropriation of resources like water, oil, gas, and precious minerals especially on the part of the industrialized world clearly have been internalized, but not necessarily its global ecological costs. Instead, moral asymmetries allow a blind reasoning to prevail with the two very different urban realities of food and water shortages in the cities of Sahara/Sahel, the Middle East or Central Asia regions, for instance, versus the highly industrialized "green cities

of the future” (see the Future of Cities Forum) in regions subject to less severe climate conditions. Unlike the situation emerging in the developing world, population growth in the megacities of the west is predicted to stabilize in the short term and decline in the longer term as many of its graduates avail of employment opportunities elsewhere and its practices of border control grow more stringent (see UNFPA, 2013). The openness and cosmopolitanism of Europe’s cities is clearly premised upon a high degree of closure at both the national and the European supranational levels.

### *3. Democracy-building through transnational procedures for global peace enhancement and greater resource sharing*

A more morally symmetrical world is not unattainable, but its realization does require a commitment to act on the basis of obligations that are not universally applied at present. What becomes abundantly clear is that prospects for greater global justice in this context of growing natural resource scarcity, inter-state rivalry or intra-regional resource conflict can no longer be pursued by states or a confederation of states like the EU acting primarily on the basis of its own interests, especially given current asymmetries of power relations between resource sufficient and resource deficient regions. Efforts to bracket off the question of our “co-responsibility” for deteriorating climate conditions from that of the welfare of victims of intensifying ecological persecution have to be challenged on the basis of a greater recognition of our common membership of overlapping communities of rights and ecological fate. What is more, the city, as the site of ever-greater concentrations of the world’s populations, needs to be at the centre of the campaign for greater climate justice. The city remains pivotal to the realization of the UN’s Millennium goals (eliminate extreme poverty and hunger, achieve universal primary education, ensure environmental sustainability, etc). There are a number of high profile initiatives at present on the implementation of a more efficient programmes for energy sustainability, including EU-Cities Adapt - a EU initiative to train and exchange knowledge among stakeholders at city level, or the European Commission supported Covenant of Mayors (a voluntary commitment to improving urban citizens quality of life by exploring sustainable energy initiatives); as well as The United Nations Human Settlements

Programme exploring the benefits of the ‘compact city’ to sustainable urban development (see ‘sustainable cities and human settlements in the post-2015 UN Development AGENDA’, 2013) and while these initiatives are extremely important to long-term resource rationalization, they do not deal with other equally crucial dimensions of this crisis. For instance, there are no new initiatives at present addressing the rapidly changing civic functions and socio-political identity of expanding cities. With the city now the primary site of human flourishing, the city also becomes the primary site for the ongoing realization of the democratic project of modernity, especially the activation of a human rights agenda. The latter debate is particularly pertinent when we consider the fact most climate induced urban growth is taking place in cities entirely ill equipped to deal with huge increases in migrant numbers. Cities like Islamabad and Karachi in Pakistan are coping with the care of millions of refugees (including three million Afghan refugees fleeing war and prolonged drought) from their own limited resource pool with virtually no assistance from the international community.

For Beck and Sznaider (2006:12), the urgencies to “cooperate or die” will trigger greater global partnership amongst polities in the future but there is at present insufficient evidence to support this claim. In the absence of a necessary degree of cooperation or care for the global other amongst sovereign state communities, problems created by the effects of climate change ought to shift to a transnational level of deliberation where a globally inclusive, liberal democratic order can deliberate on a fair assignment of international migrant resettlement quotas, taking into consideration states’ abilities to accommodate migrants, the total land mass of each sovereign state, its resource capacities, population density, etc.

All states would have to grant this body the legal and political authority to realize its aim, that is, to establish a truly equitable and global order of migration justice. As a society-wide governance regime, the transnational perspective emerging from these deliberations should not be reducible to any one singular perspective, especially if it genuinely captures the concerns of global communities, and is inclusive of a broad spectrum of concerned citizens alliances, NGOs, international legal and political actors, as much as sovereign states, municipalities, regional authorities, etc. Multileveled democratic procedures ought to pro-

vide the basis for a more ongoing agreement on a fair international settlement on climate migration quotas and the provision of sufficient financial as well as technological assistance to those in urgent need of assistance. The long-term goal would be the formation of relatively stable and globally relevant “peace constituencies” (Bohman, 2012), constituencies genuinely capable of addressing globally relevant problems like food, energy or land security and exploring the democratic potential for cosmopolitan “cities of refuge” to become concrete and practical realities for the future.

If such visions of a transnational democracy to come are to ever find a real basis in decision-making procedures, the sphere of moral ethical responsibility has to be extended. We cannot assume that the latter will arise automatically but rather understand that a sphere of global responsibility has to be consciously built and demonstrated within “live” social settings. With this in mind, the duty to assist those most severely affected by worsening climate conditions cannot be left to the good will of states alone, but rather, must be deliberated upon collectively and continuously in forums that emerge from the reconfiguration of the governance capacities of global institutions like that of the United Nations and builds upon more recent positive initiatives like the Nansen Initiative.<sup>8</sup> The UN is perhaps best positioned at present to oversee the establishment of a global tribunal with the involvement of many types of actor for deliberating on climate migrant quotas and ensuring the issue of responsibility is addressed more effectively. Arguably, this type of transnational deliberative mechanism is necessary if we are to adjust effectively to long-term global trends like climate-induced mobility and grave resource scarcity. Just as “post-conflict peace regimes” can be shown to be built successfully around a multi-level process of dialogue bearing formal, deliberative and popular public legitimation (Bohman, 2012), so too can

<sup>8</sup> The Nansen Initiative, set up at The Ministerial Communique, Ministerial Level Meeting of UN Member States in Geneva (December 2011) facilitated by the High Commissioner on the occasion of the 60th anniversary of the Refugee Convention, is a commitment made by Switzerland, Germany, Mexico, and Costa Rica to work with all relevant stakeholders to fill the “international normative gap” in the protection of peoples displaced across borders by the effects of global climate change. The Nansen Initiative will consider how the international community might work more closely together with affected communities in future to consider possible land-based solutions.

such deliberative procedures be constructed around climate change issues. The purpose and aims of these procedures would be the maintenance and enhancement of peaceful relations amongst the international community by addressing pressing concerns, including the resettlement of growing numbers of dislocated peoples. Arguably, such procedures are pivotal to the generation of climate justice as a deliberative process (beyond being a mere utopian ideal) and could help transform the circumstances of those currently unable to flee conditions like drought, famine, or flooding, threatened as they are with starvation, disease, and homelessness.

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## **II.**

### **Beyond the Borders of the political Domain**



## Chapter 4.

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### Citizenship: The Paradox of Belonging in a Fragmented World

#### 1. *Introduction: The Paradox of Citizenship*

Citizenship has long occupied a central place in political philosophy, positioned as a linchpin of democratic legitimacy and a marker of political agency. Yet at its core lies an enduring paradox: citizenship simultaneously functions as a mechanism of inclusion and a technology of exclusion. It constructs the subject of rights—the citizen—while simultaneously producing the figure of the non-citizen, the outsider, the excluded. This duality is not incidental but structural: the very coherence of citizenship depends upon its capacity to draw boundaries, to differentiate between those who belong and those who do not.

This ambivalence exposes what Étienne Balibar has called the “double scene” of citizenship: it promises equality and universality while being historically and materially entangled with regimes of stratification, colonialism, and state violence. It is a site where the normative ideal of democratic inclusion collides with the administrative logic of bordering, categorization, and exclusion. As such, citizenship is never merely legal; it is political, ethical, and epistemological—it determines who is seen, who is heard, and who is rendered politically intelligible.

In an era defined by transnational migration, supranational governance, and intensifying cultural pluralism, the conventional model of citizenship—territorial, bounded, and juridically codified—proves increasingly inadequate. The global entanglement of populations and polities challenges the fiction of sovereign homogeneity upon which the modern state was built. In this context, the urgency of rethinking citizenship becomes not just a political task, but a philosophical imperative.

This paper explores the evolving meaning of citizenship across three intersecting axes: *supranationality*, *multiculturalism*, and *cosmopolitanism*. By engaging classical thinkers like Aristotle and modern theorists such as Arendt, Habermas,

Benhabib, and Wieviorka, it seeks to develop a conceptual framework through which citizenship might be reimagined—not as a static identity or inherited privilege, but as a performative, participatory, and ethically responsive practice. In doing so, it calls for a shift from “political” citizenship as status to social and cultural citizenship as praxis, rooted in human plurality and political co-responsibility.

## *2. Genealogy of Citizenship: From the Polis to the Nation-State*

The genealogy of citizenship unfolds as a history of paradox and exclusion.

In the classical model articulated by Aristotle, citizenship was conceived not as a passive entitlement but as the very enactment of political life—a mode of deliberative participation in the life of the polis. The citizen was defined by their capacity to engage in reasoned debate, to rule and be ruled in turn, to partake in the shaping of collective destiny. However, this exalted ideal was built upon a vast infrastructure of systematic exclusion: women, slaves, metics, and non-Greeks were categorically denied access to the political sphere. Their exclusion was not an accident of context but a constitutive condition of the citizen’s freedom.

With the rise of the modern state and the Enlightenment’s focus on individual autonomy, citizenship underwent a profound transformation. Thinkers like John Locke and Jean-Jacques Rousseau reimagined political belonging through the lens of the social contract, linking freedom to consent, and political legitimacy to the rule of law. Citizenship came to be formalized as a juridical status within sovereign territorial boundaries, promising equality under the law and participation in governance. But even this ostensibly universalist framework remained haunted by the exclusions of property, gender, race, and coloniality. As scholars of postcolonial theory have shown, the liberal subject of rights was constructed in implicit contrast to the colonized subject, the racialized other, the woman relegated to the private sphere.

In this light, Hannah Arendt’s reflections on statelessness are pivotal. Writing in the aftermath of World War II and the collapse of European liberalism, Arendt (1951) diagnosed the condition of those who, having lost their citizenship, became rightless—not because they lacked humanity, but because no political

community recognized their claims. Her assertion that citizenship is the “right to have rights” reveals the ontological fragility of rights discourse itself: human rights, ostensibly universal, are in practice dependent on the prior inclusion within a political framework.

Thus, the history of citizenship is not a linear progression toward greater inclusion, but a dialectical unfolding of inclusion through exclusion, participation through marginalization. To belong politically has always required that others be excluded from the demos.

This genealogy compels us to approach citizenship not as a given, but as a contested field of power, a normative battleground over the meaning of community, personhood, and justice.

### *3. Modern Tensions: Inclusion, Exclusion, and the Violence of Legalism*

In modern liberal democracies, citizenship is often idealized as a universal framework for legal equality and political inclusion. Yet this universality is frequently more aspirational than real. As Jürgen Habermas contends in *Between Facts and Norms* (1996), citizenship must be understood not as a static legal condition but as a project of discursive democracy, grounded in communicative action and public reason. However, this procedural ideal often masks structural asymmetries rooted in class, race, gender, religion, and migration status.

The dominant legal paradigms of citizenship—*ius sanguinis* (right of blood) and *ius soli* (right of soil)—are themselves expressions of competing biopolitical logics. While *ius sanguinis* affirms ethnonational lineage, privileging ancestry and cultural “purity,” *ius soli* ostensibly universalizes belonging through birth on national territory. Yet both models function as mechanisms of border enforcement: they delineate who is counted and who is excluded, often rendering invisible those who exist in liminal spaces—migrants, refugees, asylum seekers, and stateless persons.

Indeed, the contemporary figure of the refugee embodies the ethical failure of citizenship regimes. Despite formal commitments to human rights, millions remain outside the purview of legal protection, condemned to what Giorgio Agamben (1998) calls “bare life”—a condition in which one is biologically alive

but politically nullified. Arendt's insight remains uncannily prescient: without political membership, individuals are not simply without documents—they are deprived of the ontological status of being a subject of rights.

Thus, the legitimacy of modern citizenship cannot rest solely on formal legalism or liberal nationalism. It must instead be re-grounded in a normative commitment to justice, participation, and mutual recognition. This requires not only the extension of rights, but a transformative politics of inclusion, attentive to the ways in which structural violence and epistemic injustice are reproduced through the very mechanisms that purport to protect and include.

#### *4. Supranationalism and the Crisis of Territorial Belonging*

Globalization has profoundly destabilized the spatial logic of the nation-state, fracturing the assumptions that once tethered citizenship to territorial sovereignty, cultural homogeneity, and singular political allegiance. The movement of people, capital, labor, and information across borders renders obsolete the model of a territorially bounded *demos*. In this context, supranational institutions like the European Union offer novel configurations of political belonging that challenge the hegemony of the nation-state.

The European Union, particularly through the Maastricht Treaty (1992), sought to institutionalize a post-national form of citizenship: one based not on shared ethnicity or historical myth, but on legal equality, mobility rights, and democratic values. Philosophers such as Habermas have championed the EU as a laboratory for constitutional patriotism—a model of allegiance rooted in principles rather than blood or soil. Yet this vision remains precarious. The rise of right-wing populism, and the EU's contested migration policies reveal deep tensions between cosmopolitan aspiration and nationalist retrenchment.

Amartya Sen (1999) has cautioned that without robust democratic institutions and redistributive justice, supranational citizenship risks becoming a technocratic ideal accessible only to economic and cultural elites. Meanwhile, intra-European inequalities, especially between core and periphery states, exacerbate perceptions of exclusion and resentment. The failure to construct a shared *demos*, a common narrative of belonging, undermines the legitimacy of transnational citizenship.

Moreover, the EU's inconsistent treatment of non-EU migrants and asylum seekers exposes the racialized and stratified character of its borders. The rhetoric of human rights often coexists with practices of detention, deportation, and dehumanization. These contradictions underscore the philosophical challenge: how can solidarity be imagined in the absence of shared identity? What would it mean to found political community not on sameness, but on reciprocity, difference, and ethical cohabitation?

To move beyond these impasses, citizenship must be reconceived as a practice of democratic pluralism, rooted not in static cultural norms but in the ethical labor of negotiating difference. This demands new conceptual tools—*ius domicili*, relational belonging, and emancipatory universalism—capable of sustaining political life amid the irreducible plurality of human existence.

### 5. *Multiculturalism and the Challenge of Cultural Rights*

Traditional idea of citizenship is challenged by multiculturalism, which presents one of the most profound philosophical challenges to modern liberal democracies: how can political communities maintain a commitment to universal principles such as equality, autonomy, and justice, while also respecting the irreducible plurality of cultural identities and ways of life? As societies are increasingly shaped by migration, postcolonial dynamics, and global interdependence, the assumption of cultural homogeneity as the basis for political unity becomes not only untenable but ethically problematic.

The tension between universalism and particularism lies at the heart of this challenge. Liberalism traditionally grounds itself in a notion of abstract individual rights, presuming a neutral, rational subject. However, as Seyla Benhabib (2004) argues, such abstraction often obscures the particularity of lived experience and the asymmetries of power that structure cultural representation. Her notion of *democratic iterations*—ongoing reinterpretations of universal norms through intercultural dialogue—reconceives citizenship as a reflexive, dialogical practice, rather than a static entitlement. Citizenship, in this view, is a contested space of translation between universal principles and situated identities.

Similarly, Iris Marion Young (1990) challenges the liberal model of impar-

tial equality by proposing a vision of differentiated citizenship, which recognizes group-specific rights as essential to rectifying historical exclusions and enabling genuine democratic participation. For Young, justice requires not uniform treatment, but the institutional accommodation of difference—a move from assimilation to pluralistic recognition.

Yet multiculturalism is not without internal tensions. As Susan Moller Okin (1999) notes, certain cultural practices may reinforce patriarchal or authoritarian norms that conflict with liberal commitments to gender equality and individual autonomy. This raises the difficult question: should cultural rights be protected even when they seem to contravene other fundamental rights? In this dilemma, the liberal impulse to universalize can clash with the multicultural imperative to respect pluralism.

Michel Wieviorka (1995) offers a way forward with his concept of emancipatory universalism—a framework that avoids both abstract universalism and cultural essentialism. Rather than imposing fixed norms or romanticizing difference, this approach treats universality as emergent from lived struggles, collective memory, and social movements. Cultural rights, when situated within such an emancipatory horizon, become not divisive privileges but expressions of democratic deepening, contributing to the moral and epistemic fabric of society.

This reconceptualization shifts the terms of debate. Cultural rights are not marginal exceptions to a liberal norm; they are constitutive of a just political order. A truly democratic polity does not merely tolerate diversity as a fact—it affirms it as a principle. It actively creates the conditions under which all cultural subjects, particularly those historically marginalized, can participate meaningfully in shaping the norms, institutions, and narratives of collective life.

## 6. *Cosmopolitan Ethics and Statelessness*

Besides multiculturalism, the traditional idea of citizenship is also challenged by cosmopolitanism, which—rooted in Kantian moral philosophy—affirms the principle that every human being possesses inherent moral worth, irrespective of national, ethnic, or legal affiliation.

Kant's notion of *Weltbürgerrecht* (2006)—the right to hospitality and le-

gal standing across territorial boundaries—anticipates a global political ethos grounded not in identity, but in shared dignity. It gestures toward a normative horizon in which humanity precedes and supersedes citizenship.

This vision has been extended by contemporary philosophers such as Martha Nussbaum (2006) and Kwame Anthony Appiah (1999, 2006). Nussbaum's capabilities approach grounds cosmopolitanism in the moral obligation to secure the basic conditions for human flourishing, while Appiah emphasizes the importance of dialogical ethics and cross-cultural understanding in a global context. Both call for a form of citizenship not bound by state borders, but oriented toward a moral community of mutual responsibility.

Yet cosmopolitanism faces formidable theoretical and institutional challenges. As Hannah Arendt forcefully argued, the stateless person is not merely without a passport, but without the political conditions for personhood itself. The loss of citizenship is the loss of the "right to have rights"—a phrase that exposes the dependence of human rights on national recognition and institutional enforcement. Without a political framework that acknowledges and protects them, rights become abstractions, untethered from political agency.

This critique reveals the moral limitations of cosmopolitanism when not anchored in institutional praxis. As Appiah warns, a top-down "cosmopolitanism from above" risks reproducing forms of imperial paternalism or normative hegemony. A viable cosmopolitanism must therefore be both ethically universalist and culturally dialogical grounded in the lived realities of those it seeks to include and attentive to the asymmetries of power that mediate moral claims.

In this context, cosmopolitan ethics becomes less a doctrine than a regulative ideal—a critical standpoint from which to interrogate exclusionary practices and to imagine political futures beyond the nation-state. It compels us to ask: what would institutions look like if they were organized not around sovereignty and identity, but around care, justice, and shared vulnerability?

Cosmopolitanism thus functions as both critique and aspiration. It reveals the moral failure of the existing global order—its incapacity to address displacement, statelessness, ecological crisis, and structural inequality—and invites us to construct new forms of solidarity that transcend the limits of territorial imagination.

### 7. *Reimagining Citizenship: Ius Domicilii and Lived Belonging*

he contemporary inadequacy of *ius soli* and *ius sanguinis* to address the complex realities of migration, transnational residence, and hybrid identities has led to growing advocacy for *ius domicilii*—the principle that political belonging should be determined by stable residence and civic participation, rather than by ancestry or place of birth. This reconceptualization entails more than a legal shift: it reflects a deeper philosophical transformation in the very understanding of citizenship, moving from a static and exclusionary notion of inherited identity to a dynamic, inclusive, and practice-based model of democratic membership.

While the Maastricht Treaty (1992) did not formally enshrine *ius domicilii*, it marked a pivotal turning point in the evolution of citizenship. By introducing European Union citizenship—granted to nationals of member states and conferring rights such as freedom of movement, residency, and local political participation within the Union—it partially decoupled civic rights from national ancestry. Although still derivative of national citizenship, this new status laid crucial groundwork for rethinking citizenship in post-national terms. It pointed toward a more inclusive model rooted in residence, participation, and territorial connection, thus indirectly advancing the normative trajectory of *ius domicilii*.

At its philosophical core, *ius domicilii* affirms that rights and political membership ought to arise from presence and participation, rather than descent or origin. It recognizes that the legitimacy of citizenship lies in *relational embeddedness*—the extent to which individuals are bound to the communities in which they live through contribution, interdependence, and shared vulnerability. This principle resonates strongly with democratic theories of legitimacy, particularly the “all-affected interests” principle, which holds that those subject to a polity’s laws and institutions should also have a voice in shaping them.

Furthermore, *ius domicilii* aligns with relational and performative theories of identity and political recognition. It challenges the notion of citizenship as a pre-political or static attribute, proposing instead a dialogical and evolving practice grounded in engagement, mutual recognition, and shared responsibility. In this light, borders are not fixed barriers of exclusion, but dynamic spaces of ethical negotiation—sites where belonging must be continuously rearticulated in

response to lived realities. Thus, *ius domicilii* invites us to rethink political community not as a closed inheritance, but as a democratic project open to those who dwell within and contribute to it.

From a democratic standpoint, the exclusion of long-term residents, undocumented workers, or second-generation immigrants from full political membership constitutes a crisis of legitimacy. A democracy that denies voice and visibility to those who participate in its social and economic life undermines its own foundational claims to equality and self-rule. *Ius domicilii* thus serves not only as a more inclusive legal model but as a corrective to the democratic deficits of contemporary liberal states.

In this framework, citizenship is no longer a gatekeeping function of the state but a responsive mechanism of democratic inclusion, one attuned to the fluidity of human mobility, the multiplicity of identities, and the complexity of modern life. It reorients our understanding of political community from one of exclusionary sovereignty to one of relational cohabitation.

#### 8. *Toward Emancipatory Universalism*

The increasing complexity of global plurality—across lines of race, religion, gender, migration, and cultural tradition—demands a rethinking of universality that does not erase difference but arises from within it. Emancipatory universalism offers a compelling philosophical paradigm for this task.

This concept seeks to overcome the impasse between rigid universalism, which imposes abstract norms disconnected from concrete lives, and cultural relativism, which risks enshrining oppression in the name of tradition. Emancipatory universalism conceives universality as relational and emergent—not given in advance, but produced through dialogue, conflict, and collective struggle.

Rather than treating cultural rights as concessions or anomalies, this framework situates them at the core of democratic life. Cultural disputes—over language, dress, memory, and identity—are not distractions from political justice but expressions of the contest over what counts as human, visible, and legitimate. To engage these struggles is to participate in the ongoing construction of democratic norms themselves.

Norberto Bobbio's theory (1996) of the evolving generations of rights supports this trajectory. Cultural rights represent not a fragmentation of universality but its historical deepening, expanding the moral imagination of modernity. When seen through an intersectional lens, the exclusions of liberal citizenship—based on gender, race, class, or legal status—are not additive but co-constitutive, requiring complex, layered responses.

Emancipatory universalism thus proposes a model of citizenship as a normative horizon, not a fixed status. It is a space of negotiation, recognition, and contestation—a site where the ethics of plurality meets the politics of justice. It offers a philosophical alternative to both procedural liberalism and essentialist identity politics, grounding citizenship in shared vulnerability, democratic imagination, and collective transformation.

### *9. Conclusion: Citizenship as a Transformative Ethical Project*

Citizenship today stands at a philosophical and political crossroads. What once functioned primarily as a legal status tied to nation-state sovereignty has become a contested, dynamic, and deeply ethical category. In an era marked by unprecedented human mobility, cultural plurality, global inequality, and ecological precarity, citizenship can no longer be conceived simply as a birthright or a passport. Rather, it must be reimagined as a transformative ethical project, oriented toward inclusion, recognition, and democratic renewal.

Throughout this paper, we have seen that citizenship is fundamentally paradoxical—both a means of belonging and a mechanism of exclusion. From the ancient polis to modern liberal democracies, its history has been marked by the drawing of boundaries: between citizen and foreigner, male and female, enfranchised and disenfranchised. But it is precisely in this historical fragility that citizenship reveals its philosophical potential. For citizenship, properly understood, is not a finished product or inherited privilege; it is a relational, participatory, and contested practice—a space in which normative ideals are negotiated and institutionalized.

This reconceptualization demands a radical shift: from identity-based logics of membership (*ius sanguinis*, ethnonationalism, cultural essentialism) toward

participatory, lived, and affective forms of belonging (*ius domicilii*, civic engagement, co-responsibility). It requires moving beyond procedural equality toward substantive justice—justice that listens to marginalized voices, redresses historical harms, and recognizes the full complexity of human subjectivity.

Moreover, a transformative approach to citizenship must be intersectional and cosmopolitan. It must address how race, class, gender, migration status, and cultural difference intersect to produce layered forms of exclusion—even within formal democracies. At the same time, it must look beyond the state as the sole guarantor of rights, embracing global ethics and transnational solidarities rooted in shared vulnerability and mutual care.

Models such as *ius domicilii* and frameworks like emancipatory universalism offer not only conceptual clarity but ethical orientation. They invite us to view citizenship not as the conferral of rights by a sovereign authority, but as a moral claim grounded in presence, participation, and contribution. They allow us to see difference not as a threat to unity, but as the very condition of democratic life.

This vision is not naïvely utopian—it is normatively aspirational and practically urgent. It recognizes that in the face of statelessness, exclusionary nationalism, and xenophobic populism, the stakes of citizenship are nothing less than the conditions of human dignity and democratic legitimacy.

In this light, citizenship must be reclaimed as a practice of justice, continually responsive to the evolving realities of our interconnected world. It must be capable of accounting for the displaced, the disenfranchised, and the dislocated—those for whom the current political order offers neither recognition nor protection.

To do so, we must cultivate a critical ethos of citizenship: one that is self-reflective, pluralistic, and committed to the unfinished project of democracy. This means resisting the closure of political boundaries, challenging the inertia of inherited privileges, and imagining new forms of community rooted in solidarity, care, and shared responsibility.

Ultimately, to reimagine citizenship is to reimagine the political itself—not as the management of sameness, but as the ongoing negotiation of difference within a horizon of justice. It is to affirm that every human being has the right

not only to have rights, but to participate in shaping the world in which those rights take form.

This is the ethical and political promise of citizenship as a transformative practice.

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## Chapter 5.

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### **Conservatism, Radicalism, and Counterfactually Imagining Democracy<sup>9</sup>**

#### 1. *Introduction*

While liberal democracy has been making gains for some time across the globe with increase in the numbers of democratically organized societies, it is experiencing a continuing crisis in relatively long-established democracies. Crisis in democracies is a not uncommon state of affairs. The modern periods of crisis – the 1930s, 1960s, 2000s, – have taken different forms. The present crisis has its roots in the preceding one of the 1960s, which saw gathering dissatisfaction with post-war conservatism and technocracy emerging to full view. But conservatism and technocracy did not go away, even as the radical currents of the 1960s became embedded in democratic societies. In response, Alain Touraine describes the dominant cultural model of contemporary societies as formed from the conflict between technocracy and new social movements, though the previous dominant cultural model he identifies, that shaped by the conflict of capital and labour, remains significant and is, if anything, growing in significance once again (Ballantyne, 2007; Touraine, 1981).

Two different diagnoses of the present crisis draw off the respective currents of radicalism and technocracy cum conservatism (techno-conservatism)<sup>10</sup>. The techno-conservative diagnosis broadly claims that governance forms must follow

<sup>9</sup> This essay is dedicated to my dog, Leo, who died while I was writing it. Leo was a wonderful, sincere being whose ethics and tact reveal the poverty of anthropocentrism.

<sup>10</sup> The unusual term 'techno-conservative' is employed partly because characterizing either of the two political cultures is very difficult given the multiplicity of implicated elements. Techno-conservative thus refers to an amalgam of, on the one hand, neo-conservative ideas that involves commitment to the further 'liberation' of the private sphere over the public and neo-liberal ideas that involve, in extreme shorthand, the elevation of the steering media of money and power to greater importance. The term technocracy here is understood to refer to technical steering via the media of money and power as modes of governance, whether in the private or public sectors (Habermas, 1987; Wenzel, 2005).

the evolution of social systems, for example, the economy or geo-politics, and above all respect the autonomy of private society. Moreover, this private society should be so organized that it confers subjects with appropriate competences and dispositions to meet the demands of systems. These subjects should, for example, carry an appropriate work ethic to match available positions in labour markets. The present crisis, in this view, derives from social forces, driven on by excessive optimism about the possibilities of directing social change, leading to democratic forms over-reaching their proper powers and, instead, generating dysfunctions and disappointed expectations (Lange and Schimank, 2004).

An assumption that often underlies this techno-conservative perspective is that cultural differences between groups of many different kinds should not be exaggerated and brought to the core of social coordination and political life. By contrast, the alternative radical-pluralist perspective claims to the contrary that such differences must be recognized and made salient. Social positions that embody such a perspective, in part latently and in part manifestly, derive from the counter-cultural milieus of new social movements but also, today, a growing number of mainstream citizens who belong in a very loose sense to the liberal left. They also include a wide range of collective actors who call for respect for those kinds of cultural identity that deviate from the mainstream, including recognition both of their right to be different and the historical disadvantages they have suffered. The diagnosis of this perspective, though far from uniform, is based upon a critique of the socio-cultural orientation of western societies, making claims of its insufficient recognition of difference and kamikaze-like disrespect for natural tolerances.

Overall, then, these respective perspectives express a continuing dissatisfaction with democratic governance. The techno-conservative critique has become muted over time, as it has acquired great institutional influence in the last twenty years. Yet, the present crisis appears to require either for it to take responsibility for its own excesses or a further radicalization of its programme. The indications so far are that further radicalization is perceived as the best option. Governments combine further assaults on the residual welfare state with the attempt to align national and international economic forces with a minimal regulatory regime.

Nonetheless, the sense of deep-lying problems with this perspective is palpable, as its radicalization programme, notably in Europe, appears to bring fateful choices between the continued resilience of techno-conservatism and the future of democracy as a meaningful expression of public will. The imposition of technocratic governments on Greece and Italy, along with the general diminution of the democratic autonomy of the smaller European nation-states, attests to the challenge involved in combining political realism with popular sovereignty. It has led to a continued neo-Darwinian critique of allegedly dissolute and feckless social groups, even nations, which fail to meet the asserted standards of forms of social organization based on self-interest and competition.

The radical critique, which has had an institutionally less visible but still highly significant impact on social and political change over the last four decades, remains still more fundamentally dissatisfied with existing democratic forms. The problem of adequate inclusion, of the right to voice and to be heard, is at the core of the critique. It variously encompasses the new social movements who advanced a civilizational critique of western social and political institutions in the 1960s for its militarism, patriarchalism, democratic and social injustice, conservatism, and ecological blindness. However, as institutional designs and programmes moved in a progressively more media-centred direction under techno-conservative influence, principally but not only the combined assertion of the steering media of money and power, a growing sense of apathy and powerlessness has emerged amongst more radical and liberal milieus. The current conjuncture, especially since the advent of economic crisis in 2008, has also led to the revitalization of various popular movements of both a local and transnational nature that continue the legacy of the 1960s, though these movements have yet reached the standpoint of what Touraine calls a transformative social movement, that is to say, a movement able to decisively influence the direction of social change in the manner that the older bourgeois-democratic and labour movements once did (Touraine, 1981).

These rival perspectives not alone reflect rival social projects that spring from different milieus, but they also reflect deep-lying differences about the very nature of democracy. The techno-conservative perspective exhibits a philosophy of

realist minimalism that corresponds with one enduring view of democracy within the liberal tradition. The radical perspective is reflected in different ways in many strands of contemporary political philosophy, ranging from radical democratic, to republican, to Rawlsian liberal, to deliberative traditions. This essay will, pivotally, draw from this second perspective on contemporary democracy-society relations to explore some dimensions of multi-level democracy. Multi-level democracy characterizes all democratic societies of any scale. In many part of the worlds, it is a concept of growing significance as more homogenous and integrated national democracies are subject, as frequently asserted, to challenges from below in the form of micro-regional democratic and governance forms and from above by macro-regional democratic and other governance forms.<sup>11</sup> The normative intention lying behind the paper is that if the classical ideal of democracy as a mechanism for the realization of the fully inclusive voice of civil society is to regain traction, then radically extending its communicative foundations is essential. The essay stops short of a detailed outlined of how such an extension may be achieved, but it does address how it might be initially conceptualized.

## 2. *Democratic Theory and Multi-Level Governance*

Most dominant lines in contemporary democratic theory exhibit a communicative turn. Given the epistemological challenges for existing liberal assumptions about the centrality of the subject entailed by the idea of a communicative turn, it is somewhat surprising that Dryzek, Honig and Phillips, all radical theorists, describe modern theory as characterized by the dominance of liberal theory in their introduction to the *Oxford Handbook of Political Theory* (Dryzek, Honig, and Phillips, 2008). Certainly, some evidence may be marshaled for such a po-

<sup>11</sup> Democracy is here spatially principally conceptualized for the purpose of the essay as an arrangement to establish justice within territories. This spatial reference does not exhaust the concept of democracy as it can take many other forms in various spheres of social life. The distinction between democracy and governance is based on the idea that not all governance forms are democratic in the sense of determined by publics. Moreover, a major issue in the contemporary period is the degree to which various forms of governance are answerable to public democracy. Examples include national and media self-regulation. The proliferation of new modes of governance – witness the current governance of the Eurozone – may in fact diminish democracy in favour of decision modes that bypass requirements of meaningful accountability to publics.

sition, if attention is confined to the state of democratic theorizing itself. Here, one may instance a wide range of theories including new forms of political realism, social liberalism, the penetration of liberal motifs into republican theory, many strands of deliberative theory, and even certain versions of radical theory (O'Mahony, 2013). But as soon as the focus is changed from the presuppositions of some lines of contemporary political theory to that of what democratic theory is centrally trying to achieve, the idea of a turn to liberalism appears incomplete. For when the goals of democratic theory are closely considered with respect to contemporary social conditions, the old debate between liberalism and sociology about the power of the autonomous subject reemerges in a way that, from the sociology side at least, leads to questioning of the epistemological importance that liberalism attaches to the autonomous, pre-social subject. In contemporary social theory, the renaissance of the paradigm of communication challenges the derivation of individual autonomy from the ideal type of a pre-social subject conceived in natural law terms. Even if the influence of liberalism on contemporary political theory does not necessarily entail such a restricted idea of the derivation of the subject in all cases, the predominant epistemological individualism of liberal theory appears inadequate on its own to direct democratic theory into the future.

Commonly the case, today, is that many traditions of democratic theory do develop versions of the communicative formation of political will, but it is often uneasily combined with a liberal theory of the autonomous political subject and of institutions, and hence is only weakly grounded in a communicative, intersubjectivist as opposed to monological epistemological apriori. In Apel's sense, the communicative transformation of philosophy is ongoing but incomplete (Apel, 1980; Böhler, 2003). Evidence for the uneasiness of this combination of individualist and communicative positions may be found in Rawls later political philosophy. Here, he develops a theory of public reason that, in principle at least, adds a core concept of communication to shape his principles of justice, but it is not clear how the actual *communicative process* of democracy may, on this basis, be conceptualized (O'Mahony, 2013; Rawls, 1993). And, as Habermas observes, his account of the original position is not intersubjectivist but egological (Habermas, 1995).

The communicative turn of democratic theory is nonetheless extremely valuable for theorizing normative issues. Even if this process is mostly treated in a latent fashion, norms are nonetheless conceptualized as outcomes of a process of deliberative communication. And as the view of democracy as a deliberative activity becomes an ever more important component of other democratic theories, it may lead to a greater concern within normative theories for the actual dynamics of public communication. Some would claim that the procedural turn in democratic theory already evinces such a transition. But to the extent that procedural theories are concerned with ideal conditions of co-present democratic deliberation and ignore its complex societal environment, and above all the communicative role of the public as both speakers and hearers within the democratic process, it falls short of such a goal. Nonetheless, the communicative turn in democratic theory valuably revisits the essence of democracy as popular sovereignty and provides an emergent communicative account of this sovereignty, even if its assumptions about the range and nature of communicative processes are currently excessively limited, a situation that itself is changing (Parkinson and Mansbridge, eds., 2012).

One way of viewing this combined insight and limitation is to exercise the option of viewing various strands of democratic theory not only as engaged in normative competition with one another with the assumption that there can only be one winner, but also as complementary activities of intellectual inquiry that explore the cognitive foundations of matters held in common, all of which are intrinsic to modern life. This cognitive view allows the actual constitution of democratic cultures to be made apparent. Looking at matters in this way, democratic theories may be seen to have – mostly – hidden societal theoretic assumptions. They address what is normatively right or substantively good from assumptions about a possible virtuous relationship between democratic process and society generally. Hence, to present some examples that illustrate this point, some realist liberal theories are grounded in an economic theory of social action that gives priority to purposive rationality; Rawlsian theory gives substance to an institutional theory of moral action; communitarian republican theories articulate the substantive, cultural premises of just social coordination; and radical

theories draw attention to the creative capacities that make political and social change both thinkable and possible. The point is all of these theories articulate important component of the modern form of life and the real question of 'realistic' normative prognosis is in what combinations should they work together, not whether one of them should ultimately prevail. This implies that if the history of the theory of society is to be taken seriously, or at least that which existed before Luhmann and that currently exists beyond him, then the current articulation of normative concerns within democratic theory has to be rethought within a pluralist notion of normative goods that are *all* required by society, as Axel Honneth has been developing in his theory of justice (Honneth, 2011).

### 3. *Normative Democratic Theory and Cognitive Sociology*

The combined task for normative democratic theory and sociological theory within the overall framework of the theory of society involves an appropriate blending of the analysis of immanent instituted practices and the quasi-transcendent identification of normative standards that society should ideally follow. If the limitations of sociology on the latter plane are left to one side, and the critical focus on normative theories retained, then it may be claimed that normative democratic theory over-emphasizes the ideal reconstructive position and, as a consequence, predominantly tends to specify what is good for society from an objectivist, third-person standpoint. Such a standpoint neglects both the immanent capacities of publics to develop reconstructive standards that have reality altering consequences and their historically formed competence to sustain democratic cultures. Such an estimation of the agential capacities of publics entails that the constructivist standpoint focused on the 'directed' bringing about of social change as a conscious project of publics must not be subordinated to the reconstructivist standpoint of ideal normative theorizing. Still more, it means that theorists have to understand the capacities of publics to engage in reconstructivist activities of their own of which academic democratic and social theories are a complement and hence are far from the only mobilizing force for reconstructive projects. Nor does the procedural turn, above all expressed in deliberative theories, solve this problem, for here the public is democratically

idealized and its embedding in distinctive social positions and experiences inadequately conceptualized.

If the public is regarded as capable of generating constructive/reconstructive activities of social and democratic innovation, then a critical task for the social and cultural sciences is to demonstrate the mechanisms whereby this happens. While the 'classical' third-party and prescriptive analysis of normative culture of democratic theory still has a very large role to play since, as already observed, this theory tradition addresses the *outcomes* of agential, constructivist processes, it is not adequate by itself. For, on the one hand, it lacks a theory of mechanisms that could explain why such outcomes were produced and, on the other hand, its analysis is too dependent on how the theorist acting in a third-party fashion chooses to arrange the elements of normative culture.

One approach that acts as a corrective to the limitations of normative reconstructive analysis, which involves attaching really important to the constructive activities of publics, is the specification of social imaginaries in the tradition of Castoriadis, and Taylor (Castoriadis, 1998; Taylor, 2004). This imaginary tradition, applied to democratic theory by Taylor, involves recognizing the historical importance of the categories of public will and legitimate consensus. In this tradition, it is not just instituted cultural structures that matter but also the subjective relation to these structures. Public culture, in the literal sense of the culture held by publics, is hence regarded as intrinsic to democracy. Furthermore, at some distance to the manner in which the rational subject is conceptualized as expressing individual autonomy in the liberal tradition, hence placing emphasis on explicit competences, the imaginaries tradition emphasizes much more the collective level and regards it as co-evolving with the subjective level. The generation of competences is therefore not dependent on explicitly understood commitments by individuals at all critical times – this places the bar too high and publics are bound to fail it and be reasonably displaced by delegated elites. By contrast, in line with its phenomenological foundations, the analysis of imaginaries emphasizes implicit competences that depend more on the intersubjective process of generating normative commitments. This move by no means denies the necessity of making normative commitments explicit, but the manner

in which such explication is achieved is regarded as a more collective, culturally variable, and communication dependent process than in the liberal tradition.

The focus on cultural imaginaries already mirrors many elements of the socio-cognitive tradition developed here and elsewhere (O'Mahony, 2013; Strydom, 2006, 2007, 2012). Both approaches, in contrast to 'traditional' democratic theory, involve development and blending of the dimensions of normative culture, intersubjective communication, and subjective interpretation and judgment. They also both envisage exploring how the transcendent level, embracing both presuppositions of existing practices and reaching beyond them, shapes and responds to the immanent level of instituted practices and collective learning processes. Yet, there are critical differences. The socio-cognitive approach has a stronger sense of the importance of mechanisms operating at various levels. The focus on mechanisms is distinct from the symbolic foundations of the imaginaries tradition, which assumes an orienting and norm-shaping semantics, in order to also emphasize an independent cognitive level. Counterfactual reasoning is formed from more than semantic resources. It is foundationally based upon cognitive cultural rule systems that represent 'pragmatic' collective competences to generate relevance within common universes of meaning. These universes of meaning and associated pragmatic competences to make them socially available, outlined at length elsewhere, constitute the macro-cognitive order.

The macro-cognitive order is composed of presuppositional, reflexive cognitive rules, which underpin the validity of instituted norms and, triggered by discourse and learning processes, enable societies to reach beyond them. In much contemporary philosophy and sociology, though methodologically conceptualized very differently – and even including to a great extent the imaginaries tradition –, normative rules of different kinds are assumed to shape social expectations. These normative rules are action-guiding rules and they are made the centerpiece of analysis. But cognitive rules – rules that make possible the generation of common understandings where the agreement is at first only to these common understandings – are needed to produce normative rules. Cognitive rule competence, from the standpoint of norm setting, involves the collective competence to justify the validity of existing norms or to generate new rules.

Cognitive rules evolve so as to support different kinds of normativity, for example, justification rules in political discourses, so that normative expectations appear to always already exist in social worlds. In this, the ‘normal’ case, the underlying cognitive rules frequently become implicit and therefore hidden, i.e., agents just do things habitually and don’t ask why they do them or whether they should do them. This occurs even in situations of pacified conflict where the range of differences have been anticipated so as to generate ‘negotiated’ expectations and the historical cognitive-communicative learning process that gave rise to these expectations in the first place drops from view.

A meta-cognitive level, a situation transcending, collectively shared sense of what is relevant and the collective capability to explore its implications, remains possible beyond these instituted normative rules. The meta-cognitive level becomes active when situation-transcending potentialities, which nonetheless discursively come into play in a situation and generate potential collective learning processes.

On the above basis, then, distinctions may be made between

- Instituted normative practices that depend on stable cognitive capacities to enact them; these instituted practices may or may not be justified or justifiable (immanent level) from a situation-transcending standpoint.
- Meta-cognitive conceptions of reason, situation transcending capabilities for reasoning that potentially have immanent implications; things like them, eg, principles of justice, solidarity, and legality, have already constituted the relevant world, but now new latently available possibilities are being revealed through social practices, eg, instituting minority rights as part of democracy, ie, the cognitive conception of plurality, or extending a notion of responsibility to nature, ie, the cognitive conception of responsibility.
- Reflexively justified norms arising from communicative recourse to meta-cognitive principles of reason; these norms depend on the diffusion of common cognitively shaped rule systems and schemata that specify how the norms are justified and where and how they should apply.<sup>12</sup>

<sup>12</sup> There is potential overlap between the first and third levels above. For present purposes, the distinction is drawn between, at the first level, those norms, whether justified or unjustified,

As already outlined, the *relative* separation of cognitive and normative rule systems lies at the core of a sociological cognitive theory that focuses not on normative stabilization but on normative innovation. This distinction between the cognitive and normative allows for wide scope between what is already instituted and what is possible. The more abstract cognitive level, the space of *possible* agreement on reason, makes apparent the full range of situation transcending options that can be combined differently on the normative plane. So, for example, all democratic societies have collectively shared conceptions of legality, legitimacy, equality, plurality, sovereignty, and freedom, all elements of the cognitive order, but these elements are comprehended, defended, and normatively instituted in different ways across societies and across groups in society. Thought need only be given to the different – and in practice often opposing – ways in which freedom is understood across political traditions in order to illustrate this point.

The logics involved in the selection and combination of these elements is fundamental. Addressing the latter first, at the very beginning of this essay, reference was made to Touraine's idea of cultural model. O'Mahony and Strydom have developed Touraine's idea of a cultural model in the cognitive sociological tradition (O'Mahony, 2013; Strydom, 2012). The essence of the idea is that cultural models make possible the mediation of differences about the relative importance of valued 'goods' – elements of the cognitive order – though, importantly, the differences, and associated pacified conflicts, remain important. As against Parsons, and also 'classical' assumptions within the theory of deliberative democracy, norm building does not require consensus. Cultural models *do* operate in part through consensus, but they also operate through logics of rational dissensus and hegemony that respectively allow conflicts to be constructively mediated or to be suppressed.

Cultural models in determinate ways combine the range of possibilities springing from the overarching, situation transcending cognitive order. Hence, these

which have social force and, at the second, the explicit process of generating justified norms. This is a critical distinction to clarify the relationship between legitimate normative powers and normative powers operating through force, coercion, or ignorance. This framework in part draws of the architecture of Forst (Forst, 2007).

cultural models engage in selection processes. The forces that drive this selection process are complex. They include the political ideologies deeply rooted within a society, discursive argumentation, the nature of possible collective learning, available institutionally feasible pathways, the balance of power and, above all in cases of transformation, available resources of collective subjectivity and critical publics that exist or emerge through discursive learning processes. Allusion to discourse and to subject and public formation draw attention to the extent to which the constructivism emphasized by this cognitive sociological standpoint is a *dynamic* and potentially transformative one.

Societal communication processes and their organizing cultural structures continuously shape the normative order. The cognitive approach, briefly detailed above, attempts to illustrate the mechanisms whereby this happens. In some contrast to other approaches, objectivist or phenomenological, this approach views macro-cultural orders of meaning as not univocal but polyvocal and pluralist contexts of relevance that are continuously recomposed from 'below'. Actors have a dynamic role, operating through societal argumentation and learning, in changing macro-cultural orders and, by so doing, also changing the context of normative institutionalization. Normative institutionalization may refer either to the substantive concerns of democratic polities or to the very procedural rules and broader *modus operandi*, including public discourse, that is responsible for normative outcomes. Furthermore, these two dimensions of institutionalization may not be radically distinct, but closely interlinked at certain times and places where radical social and political change is at issue. In the short application developed below, the two dimensions of institutionalization are shown to be at work, but their structural forms and dynamics cannot be properly understood on normative grounds alone; these dynamics must also be conceptualized and empirically analysed on socio-cognitive grounds.

#### *4. Conclusion: A Reconstructive Approach to Multi-Level Democracy*

Democracy in those times and places where it has properly taken root has principally been located at the national level. Other levels of democracy – principally local and in some cases federal democracy – have acquired different degrees

of influence. In the US, for example, there is a multitude of levels of democracy and different forms on some of the levels, principally at national level with presidential and parliamentary institutions and also with different forms of local democracy. The contemporary European Union could be understood as similar to the US model with a set of overarching transnational institutions, then nation-states, and then local levels of democracy. The difference is that European democracy, if indeed that is what it is, is intrinsically a transnational form of democracy since, on another level, national democratic forms strongly persist and these cannot easily be overridden, notwithstanding recent developments. The existence of national democratic forms entails much greater institutional and cultural resistance to overarching transnational democracy than does the governance of states in the broader context of US national democratic institutions.

Iris Marion Young has proposed three distinct levels for analysing multi-level democracy (Young, 2000). These are:

- The nature of universalistic justice obligations, ie, what individuals and groups owe to other human individuals and groups within and beyond territorial borders and the rights claims that articulate these obligations;
- Differentiated solidarity as a question of to whom do we owe solidarity and what kinds of solidarity, especially across spatial and territorial levels;
- Relational autonomy as a way of conceptualizing how organizational coherence and plurality can be established between levels of democratic governance.

Young's framework can be applied to the contemporary European crisis. What appeared in the first instance as a functional crisis of economic reproduction quickly became transposed into other dimensions of crisis, raising questions about moral obligation and ethical solidarity. Of the two broad political orientations sketched at the outset of this essay, technocratic conservatism has been dominant in the system of institutions. Even though bearing some responsibility – partly even self-acknowledged – for the advent of the crisis, it has had the first opportunity to tackle it. Its efforts have once again been directed at restoring the efficacy of money and power as steering media, using national ethical solidarity as both a rallying point and exclusion rationale, and pointedly de-emphasizing

moral obligations to strangers.

A more sustained analysis of existing political cultures would differentiate carefully between techno-conservatism and social democracy. However, for present purposes, it can be asserted that much social democratic policy in the last decade or more has come to accept techno-conservative premises. The justice philosophy of the old labour movement has, temporarily or permanently, ran out of steam. Social democracy now forms part of a coalition more in reaction against certain legacies of the 1960s than embracing them. But only some legacies of the 1960s are completely contested, while others have made their way over time into agendas and policies. What is most resisted by a mainstream politics dominated by techno-conservatism is the critique of capitalism on a variety of grounds and the associated assertion of the need for a more participatory, less hierarchical, and less alienated society.

At present, radical pluralist political philosophy does not extend to a coherent utopian projection of an alternative path forward for society. One of the key reasons, beyond the fragmentation of its cultural beliefs and normative commitments, is the existence of complicated worlds with which it has to grapple to assert any kind of utopian future vision. The kinds of problem complexes to which its different branches are addressed, to take just a few examples, decentralization, justice, ecological responsibility, just and good intimate relations, good justification, inclusion, and minority rights, are both very different from one another and yet also exhibit family resemblances. But it is a differentiated vision whose differences amount also to a call for transformed institutional conditions of politics that would no longer be based on the dominance of an institutional formal core, but on decentralized participation.

A joint task for normative democratic theory and sociology, especially with regard to the cognitive sociology developed here, is to envisage new reconstructive standards for the future of multi-level democracy. The normative preference of this essay lies with developing the radical pluralist vision. Reconstructive standards that would productively develop this political culture orientation so it might properly shape cultural models cannot only be derived from detached standard setting or by evading the complexity that the theory of society presents

to view. It has to constitutively embrace the discourses of publics in the multiple arenas of public discourse. This is precisely where the cognitive approach outlined above enters into the equation. Such an approach aims to transpose the cultural models of normative theories into those actual contexts of life where they are societally elaborated and packaged in order to identify the reconstructive standards carried not just by academic observers but also by societal participants. The cognitive approach allows for conflict over meaning that prefigures potential agreement and reasoned disagreement over cultural models and normative orders. Only by means of such a reconstructive approach can possible forms of the relationship between substantive issue cultures and levels of democracy be properly anticipated.

What is clear is that the manner in which democracy is currently organized does not meet the requirements of strong normative standards of communicatively structured participation deriving from the radical pluralist challenge. But contributions to the clarification of any normatively appropriate relationship between the form of issues and forms and levels of democracy will not solely depend on idealizations of democratic innovation, but on the constructive/reconstructive identification of future potentials based both on empirical inquiry into relevant issue cultures and the democratic implications they pose, both considered from the vantage point of the counterfactual imagination.

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## Chapter 6.

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### ***Political Philosophy: Habermas and Rawls***

The two leading political philosophers of the 20<sup>th</sup> century are John Rawls and Jurgen Habermas. They were practically contemporaries - Rawls living from 1921 to 2002 and Habermas being born in 1929. Both spent practically their whole academic careers at one university; Rawls was at Harvard from 1962 on and Habermas was at Frankfurt from 1964 on. Both share a philosophical 'style'; they philosophized in conversation with the history of philosophy, and both trace their philosophical roots to Immanuel Kant. Moreover, there was in fact an actual philosophical exchange between them in the *Journal of Philosophy* in 1995 specifically on their approaches to political philosophy. Nevertheless, a constructive philosophical exchange between them did not occur in those articles or thereafter. Why?

One is tempted to look for the explanation of this failure in the sociological distinction between the 'analytic' and the 'continental' traditions in philosophy but I think that this would be too simplistic. In spite of the fact that the path from Kant to Rawls ran most importantly through Mill and the path from Kant to Habermas ran most importantly through Marx, the real explanation of the failure to connect was not sociological but authentically philosophical. In the first place neither Rawls nor Habermas is a typical representative of the analytic nor the continental traditions.

In fact, they are both outliers. Although nurtured at the heart of the analytic tradition (Princeton and Harvard) Rawls marched to his own drummer in ways that transcended the hallmarks of analytic philosophy, and Habermas in his own person and through his American bases (Northwestern and New York) was intimately familiar with the Anglo-American tradition in philosophy. Rather, 'the explanation' of the failure to connect of these two great political philosophers was fundamentally philosophical.

Habermas has developed a rich theory of Justice that is part of a comprehensive philosophical vision of man and his place in society. This overarching view contains theories of meaning, justification and ultimately truth that are specifically articulated and defended in a robust theory of 'communicative action' that is intended to have the conceptual resources sufficient to undergird universal and unconditional moral obligation. This theory of communicative action is a kind of rational pragmatism that provides an account of coordinated action that is both consensual and reasonable. It exhibits how understanding and group action are coordinated toward social interaction and solidarity; for him common understanding promotes cooperation which promotes solidarity. This social theory rests on the idea that social order ultimately depends on the capacity of people to recognize the intersubjective validity of the different claims on which social cooperation depends. This involves some quite strong assumptions about the capacity of diverse persons for constructive moral dialogue sufficient not only to undergird deliberative democracy but even to support a schema for a global political order continuous with a version of democracy typical of nation states.

This philosophical vision of Habermas is considerably more robust than the conceptual structure at the neo-Kantian core of Rawls' *A Theory of Justice*. However, this philosophical difference, while real and important, is not the one behind the failure of engagement between Rawls and Habermas in 1995. The real culprit behind this failure of philosophical engagement is Rawls' changing of philosophical projects from that of *A Theory of Justice* (1971) which was a genuine alternative to that of Habermas, to the project of *Political Liberalism* (1993) which was not. By the time of the public exchange in 1995 Rawls had already embarked on this different but closely related project, and although Habermas was familiar with the project of *Political Liberalism* he does not seem to appreciate the scope of the differences.

The basic project of *A Theory of Justice*, was that of articulating a comprehensive philosophical vision of man in relation to his fellow man via the institutions of the social order, a vision that would robustly embody and balance the ideals of freedom and equality basic to Rawls' version of constitutional democracy. This is Rawls' 'comprehensive liberalism' which he would see as a genuine alternative to

Habermas' version of a comprehensive liberalism (*The Theory of Communicative Action*) as sketched above. But Rawls is now embarked on a new iteration of his view, namely, 'political liberalism'. This being the case, Rawls dismisses much of Habermas' view as part of a comprehensive theory which he is not considering at the moment. His present project is that of recasting this ideal philosophical vision in purely political terms that could be acceptable even to those who do not share the philosophical commitments to a specific comprehensive liberal vision. To this end he distinguishes between a 'comprehensive theory' and a 'political theory' and sees Habermas as engaged in the former whereas at the moment he is engaged in the latter. Why the shift? Rawls had come to realize that the contentious features of his substantive liberalism together with the intractability of pluralism in any modern society would threaten to undermine the stability of his proposed theory for understanding the political order; in fact, he came to see that these factors would undermine the general support for any sufficiently robust substantive theory of justice. In the face of the intractability of pluralism, i.e., the lack of 'decisive' philosophical argument, we don't abandon the project but we do move it to a different level.

We do need some general understanding of society and our place in it if social life is to be possible. The more specific question now is - given our deep moral, philosophical and religious differences could there be a common understanding at a more general level of the basic structure of our political order that would not only enable us to live together peacefully but to which we might even acquire a deep allegiance? He is interested in a schema that would be acceptable and stable in an intractably pluralistic society. Rawls makes the case for such a 'political' view in two stages. First, there is the articulation of a 'free-standing' argument for the basic political principles of our social arrangements, where by 'free-standing' is meant a line of justification that is neither part of or derived from any of the different comprehensive views represented in the society, namely, Rawlsian liberalism, utilitarianism, libertarianism and perfectionism. Thus, the force of the new form of the argument could come to be appreciated from these different perspectives. Secondly, this free-standing argument would be supplemented by showing how it could attract support from within the various reasonable com-

prehensive views in the society. On this picture not only would the political view not necessarily clash with the various comprehensive visions but it would draw from them for additional support. Rawls' view is that only if these two pillars of support could be convincingly articulated would political liberalism have a chance of achieving the desired stability.

For Rawls, a reasonable hope of stability at the domestic level is crucial. Even though political liberalism would not compete for the same role in the lives of the citizens as would their various comprehensive views, there would always remain some tension between the values of political liberalism and the values grounded in the various comprehensive views vibrant in the society. The real possibility of the persistence and growth of political liberalism would be greatly enhanced if the free-standing argument for it would be supplemented by an 'overlapping consensus' on the basic political principles from within the differing comprehensive views we will always have with us.

This is the difference between Habermas and Rawls that really makes a difference. The project of articulating a philosophically comprehensive view of the elements of the social order is quite different from that of working out a workable political view of that order. Rawls sees Habermas as engaged in the former whereas he is presently engaged in the latter. This being the case Rawls' theory is both 'shallower' and 'narrower' than Habermas' theory. "Shallower" in the ways just indicated; it can't draw on the rich texture of the various comprehensive views (particularly his own!) for primary support but must ground its free-standing schema in thin principles that everyone, in spite of their significant differences, can adhere to. And "narrower" in that Rawls insists that his principles are designed for the nation state and can't be projected on to a wider arena. As long as each keeps to his own script there is little possibility that there will be a real philosophical exchange that is on point. One might want to articulate the difference between the two projects in terms of a distinction between the 'deep pragmatism' of Habermas' comprehensive view and the 'shallow pragmatism' of Rawls' political view but that would be a thorny issue for another occasion. My view is that they are both 'pragmatists' and that Habermas is best understood as in conversation with the deep pragmatism of Peirce whereas Rawls' is best un-

derstood as in conversation with the shallow pragmatism of Dewey – and in this specific case ‘shallow’ is good!

When we move beyond the nation state to the global world order Habermas’ theory is straightforwardly projectable; he is still concerned with the wellbeing of individual persons and the universalizability of basic human rights. Following the kind of reasoning familiar in the nation state case he just expands the domain and argues for individual human rights now for a cosmopolitan (quasi-cosmopolitan) society. He constructs an argument for a supranational democratic regime that builds on the virtues of the nation state, not its failures. The nation state has served us well in terms of legitimation and integration locally but the problems of the modern world are such that effectively dealing with them would require a higher level of political organization, namely, a supranational or cosmopolitan order. The moral universality and democracy invoked at the national level would have to be preserved and extended by institutionalizing them at the global level. Rawls, on the other hand, thinks of the transnational order in a very different manner. For him, the democratic and egalitarian principles of the domestic case are not extendable to the domain of international justice. He was obviously chastened by Kant’s own worries that any such world government (or even near-government) would either be too strong or too weak, leading either to global despotism or global fragility. Rawls does not go the cosmopolitanism route. First of all, for him the moral actors on the international stage are not individual human beings but rather representatives of national collectives, what Rawls call “peoples”, and the principles that should guide the interaction of peoples are quite different from the principles that should structure the lives of individuals in an appropriately liberal state. As for the Law of Peoples, one should not think of it as the dictates of a unified world order but as principles that should guide the foreign policy of a liberal people in a world of quite discrete collections of liberal or decent peoples. On the international level Rawls eschews utopian speculation and starts his reasoning from the international political world ‘as we find it’. Thinking now of the interaction of peoples, the principles he calls ‘the law of peoples’ are considerably weaker than the principles that would bind together individual members of a liberal nation state or would bind

together members of a cosmopolitan world order. Habermas and Rawls have much different conceptions of a global world order; here one is tempted to use the terms 'utopian vs realistic'. Instead of the full participation of all in a global cosmopolitan order Rawls proposes a much weaker relationship between quite different nation states with 'the duty of assistance' tying the better off peoples to those less well off.

This same difference of vision motivates their quite different views on immigration. Habermas thinks of immigration in the context of human rights including the freedom of movement which disposes him to open borders, whereas Rawls' contribution to the discussion is a very minimalistic footnote to the effect that "a people may have a qualified right to limit immigration" (LOP,39). Several factors explain Rawls' reticence. Recall that Rawls is primarily interested in a realistic theory of justice for a liberal state and that one of main worries is the stability of any such schema in an intractably pluralistic society. It is in response to this real concern that he supplements his free-standing argument for the political schema with the hope that there could develop over time an overlapping consensus from the various reasonable comprehensive views alive in the society. The kind and extent of immigration could destabilize a given liberal state and its political culture. Hence the cautious attitude. Secondly, if Rawls' global society of liberal peoples were to be achieved there would no longer be a compelling reason to immigrate. In a society of reasonable liberal states basic rights for all individuals and appropriate behavior for all peoples would be secured such that justified immigration would be unnecessary.

Instead of a real philosophical exchange we have a brief wave between two trains passing in the night. Nonetheless, although philosophical issues were not really joined by Habermas and Rawls (both are still standing) one could not get a better introduction to the viable political philosophies today than by seriously reflecting on the communalities and differences in the philosophical visions of these two contemporary giants.

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### **III.**

## **Expanding Rights**



## Chapter 7.

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### *Disability, Freedom, and the Question of Social Rights*<sup>13</sup>

In the U.S., a lot of disability scholars like to say that “We are all disabled.” By this they generally mean that disability is not limited to a small minority of persons, but is a significant social issue. In the United States alone, 54 million persons are disabled, approximately 20 percent of the population. In Italy, 3,000,000 people have disabilities, approximately five percent of the population; in Europe as a whole, it is ten percent.<sup>14</sup>

Why the disparities? The United States seems to have four times as many disabled persons as Italy and twice as many as Europe, why is that? It might be tempting to blame this on the American obsession with guns and our far greater reliance on automobiles than is the case in Europe, but the answer lies primarily in the field of measurement and definition: the United States tends to include a wider range of conditions; for instance, the Italian “Disability Today” categorizes disabilities by mobility, hearing, visual, learning and intellectual, with no mention of conditions that are classified as disabilities in the United States, such as diabetes, multiple sclerosis, or chronic fatigue syndrome. And of course, access is quite different from city to city, in both the U.S. and Italy; Milan, for instance, is better than others, and better than some US cities as well.<sup>15</sup> Though of course throughout Europe, lack of access is sometimes a function of history: uneven pavement, high curbs, narrow walkways, pose the question: would making an historical landmark accessible violate historical integrity? But according to Peter

<sup>13</sup> This paper was originally delivered at Prepared for delivery at The Border Crossing Seminar –Second Meeting, *From the Polis to the City: Perspectives on Global Justice*, University of Milan-Bicocca, 10-15 June 2013. Thanks to conference organizers Eileen M. Hunt and Marina Calloni, as well as conference participants, particularly Giovanna Borradori, for their comments.

<sup>14</sup> *Disability Today*, ASPHI. <http://www.asphi.it/english/DisabilitaOggi/DisabiliItalia.htm> (Sep 2013).

<sup>15</sup> Information about accessibility in Milan can be obtained online here: <http://www.milanoper-tutti.it/home.asp>

White, throughout history disabled persons may have been much better integrated into society than they are today.<sup>16</sup>

But none of these changes the basic point, which is that many people are affected by disability throughout the world, even if they don't have one themselves: approximately *14% of all families affected in Italy*, so we are talking about large numbers of people. Disability affects people of all races, ages, religion, ethnicity, nationality, class, and genders. And of course, we all get old, and age often brings hearing impairments, mobility impairments, and a variety of disabling health issues. So, disability and disability access are universal issues, and significant social issues.

For example, disability raises many economic issues. Most disabled people are poor, for instance, because they are unemployed. According to the U.S. Dept. of Labor in 2011, in a measure of people actively looking for work, the unemployment rate among persons with a disability was fifteen percent, a rate almost twice as high as the rate for those with no disability, at 8.7 percent. According to the United Nations, the overall rate of unemployment for persons with disabilities in developed countries is around fifty percent, and the number is closer to ninety percent in developing nations.<sup>17</sup> So the question of social rights for disabled persons has become important, not just in the US, but worldwide.

But the statistics I have already provided raise the issue of measurement and definition: What is a disability? According to the U.N. Convention on Rights for Persons with Disabilities, "disability results from the interaction between persons with impairments and attitudinal and environmental barriers that hinders their full and effective participation in society on an equal basis with others."<sup>18</sup> But this definition does not really tell us what it *is*, because disability is not just a

<sup>16</sup> <http://www.bbc.co.uk/programmes/b01sm70w>. White's program, *Disability: A New History*, focuses only on Britain in the eighteenth and nineteenth centuries, but provides an interesting perspective on disability in history and how we in the twenty first century may not be so progressive as we think

<sup>17</sup> U.S. Bureau of Labor Statistics, *Persons with Disability: Labor Force Characteristics* 2012., June 2013, <http://www.bls.gov/news.release/pdf/disabl.pdf> (Sep 2013); Disability and Employment, UN Enable. <http://www.un.org/disabilities/default.asp?id=255> (Sep 2013).

<sup>18</sup> United Nations, *Convention on the Rights of Persons with Disabilities*. <http://www.un.org/disabilities/convention/conventionfull.shtml> (Sep 2013), Preamble.

physical condition such as paralysis, or a missing limb, or blindness, or hearing impairment, or diabetes. Identifying and understanding disability also entails issues of how others see and respond to those physical conditions. Indeed, in disability studies there are two ways of defining disability.

The first is called the “medical model” of disability, and it has been the dominant model for the past 100 or so years. The medical model conceives disability as an individual defect of a particular body that must be fixed or cured if a person is to live a full life. That is, disability is seen as a medical problem, a medical condition. It is conceived of as both *intrinsic* to the body—a physical problem, a problem with your body, which is defective, abnormal--and *alien* to the body—a condition that thwarts the body’s desires and purposes, a bad thing that nobody “wants,” an undesirable condition that needs to be “cured” or “fixed.”

The “social model” was introduced by disability scholars in recent decades and offers a different way of defining disability. Operating out of a more general intellectual and theoretical notion of “social construction”—the idea that our reality is not given to us but constituted in and by languages and practices<sup>19</sup>--the social model of disability maintains that all bodies have various impairments; few of us have perfectly working bodies—we each have different abilities, we are “differently abled.” What turns particular bodily impairments into *disabilities* is the built environment and social attitudes that facilitate some bodies and restrict others. For instance, it is not that I cannot walk and use a wheelchair for mobility that prevents me from getting into the train station; it is the fact that there is no elevator or ramp for my mode of moving, which happens to be a wheelchair. It is not that I have very low vision that prevents an employer from hiring me; it is his unwillingness to buy me a large computer screen that restricts my ability to do my job.

On this model, impairment is seen as a natural part of biological life, rather than as something “abnormal.”<sup>20</sup> We all experience impairments at some point in our lives. Indeed, over the course of history and through technological ad-

<sup>19</sup> See N. J. Hirschmann (2007). *The Subject of Liberty: Toward a Feminist Theory of Freedom*, Princeton University Press, Princeton, esp. chap. 3.

<sup>20</sup> See M. Foucault (1999). *Abnormal: Lectures at the Collège de France, 1974-1975*, Picador, New York.

vances, certain impairments have become “normalized.” For instance, consider eyeglasses: 500 years ago, many of us who need eyeglasses would have been “disabled” by our inability to see adequately. Today, glasses are merely an inconvenience--or even a fashion statement. With few exceptions, people are not denied jobs because they wear glasses,<sup>21</sup> much less denied access to public buildings, prohibited from studying at university, and so forth.

Additionally, on the social model, disability is context-driven. Let us say, for instance, that I have nerve pain in my leg, which does not prevent me from walking down the hall to get a drink of water. But what if I lived in a very rural village and had to walk five miles every day to haul water back in a bucket? I might not be able to do that, my pain could very well constitute a disability.<sup>22</sup> So disability is contextual: different contexts work for different bodies, and the same bodily condition may be disabled in one context when it is not in another.

To clarify this difference between the medical and social models, consider an example of a person who uses a wheelchair because she cannot walk, who is unable to enter a building whose only entrance is at the top of a staircase. Followers of the medical model claim that the disability is caused by the person’s impaired walking ability—and in turn by its underlying medical cause, whether that is muscular weakness, spinal cord or nerve damage, amputation—and her resulting dependency on the wheelchair: she cannot climb the stairs, her body is defective, the only way to fix the problem is to fix her body. Even if there is an elevator installed, her body would still be considered disabled, disability is intrinsic to her body, even if her body’s disability is thwarting her desire to enter the building.

By contrast, advocates of the social model say that the disability is caused by the stairs; the problem isn’t with her body, it is with the built environment. Her legs or spinal cord may be impaired, but what causes the disability is an environment that is biased towards different kinds of bodies. The lack of a ramp or

<sup>21</sup> Although *Sutton et al. v. United Airlines Inc.*, 527 US 471, 119 S. Ct. 2139, 144 L. Ed. 2d 450, United States Supreme Court, 1999, involved two sisters who wore eyeglasses who were denied the right to be pilots on the basis of vision impairment.

<sup>22</sup> This example is offered by S. Wendell, (1996) *The Rejected Body*, Routledge, New York. Also see M. C. Nussbaum (2000). *Women and Human Development*, Cambridge University Press, New York.

elevator *causes* or *creates* a disability for this body and others like it. Thus, we fix the disability by fixing the architecture. Similarly, social attitudes that make erroneous assumptions about, for instance, the employability of persons with various impairments, is what disables those persons from working, not their bodies. Harmful and hateful prejudices against persons who are intellectually impaired, or have difficulty talking, is what disabled them from participating in social life, not the impairments themselves. We know this because we have seen that persons with impairments can be fully functioning members of society, holding jobs, taking vacations, going to museums and restaurants, maintaining relationships and families--as long as they are not blocked and discriminated against.

The social model of disability leads rather seamlessly to the idea of “disability rights:” if the problem is not my body, but the society around me, and that can be changed, I can argue that I have a right to such change. That is, if “society” disables me, “society” has an obligation to redress that, and I have a right to such redress, much as when the state otherwise harms me I have a right to redress. The United Nations Convention on the Rights of Persons with Disabilities holds precisely such a philosophy, and indeed names a large number of rights for persons with disabilities. Some of these are specific, like equality under the law; non-discrimination; equal access to the physical environment by which is meant full access to means of public transportation, like trains, buses and subways, to buildings, to public walkways and so forth); information and free expression, which would include the provision of Braille signage, sign language interpretation, and telecommunication devices for the deaf (TDD); employment; adequate standard of living. But others are quite general and open ended, like “to live independently” or “participation in political and social life” which include a wide range of possible situations, outcomes, and demands.

The philosophy behind this statement, at least indirectly, comes from Jacobus tenBroek, a Canadian who experienced serious vision impairment as a boy, which turned into full blindness. His family immigrated to California so that he could attend as school for the blind, and he founded the National Federation for the Blind, became an attorney, and in effect began the disability rights movement in the United States, if not the world. He wrote a well-known article,

called “The Right to Live in the World: The Law of Torts”<sup>23</sup> about the fact that disabled persons were basically shut away, told not to leave their houses, not hired for jobs, not educated, simply excluded from social and political life. The right to live is not simply a right to life: keeping alive is not the point, he says, but *living* a life, like any other normal human being, should be the focus of disability rights. For disabled persons are persons, just like nondisabled persons. We all have the same more status.

To understand the way that we think about rights, consider what Daniel Sulmasy has called “the standard Civil Rights Formula.”<sup>24</sup> In the civil rights view, disabled persons are treated unequally because their bodily characteristics are viewed as inferiority. But the disability perspective highlights that those characteristics just make people different, not intrinsically unequal; underlying these superficial differences, people are essentially the same. Therefore, a just society should treat disabled persons the same as everyone else. On this view, then, difference should be seen as irrelevant to rights, less important than the sameness that underlies it. The notion of rights depends on being the same, identical, to all others.

This notion of rights based on sameness goes all the way back to the original liberal formulation of rights discourse in the Enlightenment: theorists like John Locke of England, and Jean Jacques Rousseau of France, and Cesare Beccaria of Italy all in different ways argued that we are all equal to each other, no man is naturally better than any others.<sup>25</sup> This is precisely the idea behind universal human rights that we find in the social model: my body may have a particular difference

<sup>23</sup> J. tenBroek (1966). *The Right to Live in the World: The Disabled in the Law of Torts*, *California Law Review*, 54(2), pp. 841-919. J. tenBroek also wrote with Floyd W. Matson (1966) a companion article entitled *The Disabled and the Law of Welfare*, *California Law Review*, 54 (2), May p. 809. But *The Law of Torts* is generally credited with providing the fundamental argument for disability rights.

<sup>24</sup> I adopt this from Daniel P. Sulmasy (2010). *Dignity, Disability, Difference, and Rights*, *Philosophical Reflections on Disability* edited by D. C. Ralston, Ho J. 2010. However, my argument and position diverge from Sulmasy’s.

<sup>25</sup> J. Locke, *Two Treatises of Government*, ed. Peter Laslett, Cambridge University Press, Cambridge; J. J. Rousseau, *The Social Contract and Other Discourses*, ed. G.D.H. Cole, Everyman Press, London; Cesare Bonesana, Marchese Beccaria, *Of Crimes and Punishment*, Hackett Publishers, Indianapolis.

from yours, but everybody is different from every other body; what is important is the fundamental humanity that underlies our difference. We are the same.

But the same as what? Or whom? Throughout history since the Enlightenment, the concept of “rights,” and their practical implication, have had an ambiguous relationship to the struggles of oppressed and minority groups. As feminists and other critics have argued, rights were constructed specifically for propertied white men and are sustainable only through the subservience of white women, landless workers, and people of color.<sup>26</sup> Certainly women and people of color were not accorded rights during the Enlightenment, despite the vociferous and well-argued protests of leading writers like Mary Wollstonecraft, Olympe de Gouges, and Frederick Douglass.<sup>27</sup> But persons with disabilities were never even mentioned. Rights have historically been used to erase difference, so that when we declare “universal rights,” in fact only *some* interests, views, bodies, and life plans are seen as worthy by the state and hence protected by rights.

Feminist in the United States have particularly made this argument in powerful ways because of the ways in which the bodily difference posed by pregnancy has affected women’s treatment under employment law. In some cases, for instance, women have been denied competitive sales jobs because their reproductive capacities were seen to make them less competitive, more nurturing, and thus unsuited to such jobs; at the same time their bodily differences have been denied for purposes of denying them maternity leave, on the basis that men do not get pregnant and thus granting such leaves to women would be discriminatory.<sup>28</sup>

Just as the United States Supreme Court interpreted gender equality and difference to work systematically *against* women’s rights, so has its interpretation of the Americans with Disabilities Act (ADA). In a variety of cases, it has produced a circular reasoning in which, if people were disabled enough to ask for accommodation,

<sup>26</sup> A. Jaggar (1983). *Feminist Politics and Human Nature*, Roman and Allenheld, Totowa, NJ; C. Pateman, *The Sexual Contract* (1988). Stanford University Press, Palo Alto.

<sup>27</sup> M. Wollstonecraft (1996). *A Vindication of the Rights of Women*, Dover Publications, London; O. de Gouges, *The Declaration of the Rights of Woman*, Sept 1791. <http://chnm.gmu.edu/revolution/d/4771/> (Sept 2013); F. Douglass (1845). *Narrative of the Life of Frederick Douglass, an American Slave*, The Anti-Slavery Office, Boston.

<sup>28</sup> The first case is illustrated in the U.S. Supreme Court Case *E.E.O.C. v. Sears*, the second in U.S. Supreme Court Case *California Fidelity v. Guerra*. See Z. Eisenstien (1988). *The Female Body and the Law*, (University of California Press, Oakland.

they were too disabled to hold the job, because “disabled” meant “unable to work.” If they were not unable to work, then they did not need accommodation.<sup>29</sup>

Let me illustrate with a specific example that may simplify the issue, drawing on actual court cases in the U.S. states of Georgia and California: let us say that an employee with arthritis in her knees needs to sit on a stool while she works a cash register. The employer wants all the cashiers to stand. What the Supreme Court says, following its interpretation of the Americans with Disabilities Act in some of its major cases,<sup>30</sup> is that either she can stand, and be in pain—in which case she does not need the stool—or else she can’t stand *because* she’s in pain, and needs to sit—in which case she is viewed as unable to do her job. But the whole point of the ADA was to enable people to say: I *can* do the job, if you’ll just let me sit on a stool! The whole point was to say that disabled people *can* work if we just make some changes. And really, what is the problem about letting a cashier sit?<sup>31</sup>

But the Supreme Court, as well as other U.S. Federal courts, do not seem able to see that. I suggest that this is because the biases that operate within the concept of “rights” are deep-seated; they depend *conceptually* on sameness, and the Court’s inability to understand how “rights” can apply differently to different people is a sign of this philosophical problem.

Specifically, it is my contention that this conceptual problem originates in the fact that rights are approached through the concept of justice. The theme of the Border Crossing seminar for which this paper was written is global justice, and the position of disability rights advocates is clearly that such rights are necessary

<sup>29</sup> R. O’Brien (2004). *Voices from the Edge: Edge: Narratives about the Americans with Disabilities Act*, Oxford University Press, New York; M. Friedland (1999). Not Disabled Enough: The ADA’s ‘Major Life Activity’ Definition of Disability, *Stanford Law Review*, 52 (1), pp. 171-203.

<sup>30</sup> See for instance *Toyota Motor Mfg., Ky., Inc. v. Williams*, 534 U.S. 184, 122 S. Ct. 681, 151 L. Ed. 2d 615 (2002); *Sutton v. United Air Lines*, 527 U.S. 471, 119 S. Ct. 2139, 144 L. Ed. 2d 450 (1999).

<sup>31</sup> *Kilby v. CVS Pharmacy Inc.*, case number 3:09-cv-02051, in the U.S. District Court for the Southern District of California; A. Rubenstein, Cashiers Don’t Need Seats, CVS Tells Court, *Law 360*, New York, February 08, 2012; *Colette Delbridge, et al. v. Kmart Corporation*, No. 11-2575, N.D. Calif.; T. Arick, Kmart Settles Cashier Seating Class Suit For \$ 280,000, *Martindale.com Blog*. <http://blog.martindale.com/kmart-settles-cashier-seating-class-suit-for-280000>; C.R. Wright, Sitting Down on the Job—And Not Just in California, *Retail Industry Update*, 3, 2012, available online <http://www.laborlawyers.com/sitting-down-on-the-job-and-not-just-in-california>.

to the just treatment of persons with disabilities. But I want to suggest that when we talk about justice, we need to consider an even prior concept of freedom, and that disability makes this evident.

Philosophers and legal theorists approach disability rights through four justice themes: *allocation* of resources to disabled people (either directly through accommodation and health care, or indirectly through scientific and medical research and in some cases, though perhaps less often for accommodation); *distribution* of resources (which disabilities or illnesses should receive more funds, which less; how do we decide where to take resources from in order to pay for that? Which accommodations should we provide if accommodations conflict? How much of our budget should be spent on accommodation? If a donor provides the university with a gift of 5 million Euros, should we construct one new building that would provide new classrooms and other facilities to benefit the majority of students, or retrofit a number of older buildings to provide access to students with mobility impairments?); *entitlement* to resources (e.g. should a severely impaired infant be granted the expensive medical care she needs to keep her alive, or should those resources be allocated elsewhere? If only three students on campus have mobility impairments, should we really make all our buildings accessible or should we buy more journals and books for the library for “everyone” to use?); and *adequacy* of resources (if we grant disability payments for subsistence living, or we provide funding for assistive technology, how much is enough? Do we really need to install high quality accommodations, or can we “get by” with the bare minimum, especially if it is only for a few people?). Questions of responsibility sometimes arise in terms of determining just distribution and entitlement (is the person impaired because of “irresponsible” action, like driving a motorcycle without a helmet?), but justice is the primary theoretical concept that one encounters in this disciplinary framework.<sup>32</sup>

<sup>32</sup>I should point out that these questions are not ones I necessarily endorse; rather, they illustrate the typical questions that philosophers ask, even the philosophers with whom I have considerable sympathy, such as J. Wolff (2009). Disability, Status Enhancement, Personal Enhancement, and Resource Allocation, *Economics and Philosophy*, 25, pp. 49–68; and A. Silvers (1995). Reconciling Justice to Equality: Caring (f)or Justice for People with Disabilities, *Hypatia*, 10 (1), pp. 30–55. See also C. Stark (2007), How to Include the Severely Disabled in a Contractarian Theory of Justice, *The Journal of Political Philosophy*, 15 (2), pp. 127–145.

But what's wrong with that? Why do I think that is a problem? The problem, in my view, is that "justice" as a concept has been defined by moral philosophers, and particularly Anglo-American philosophers, in ways that are often hostile to the interests of persons with disabilities. Indeed, one might say that there is a "justice framework" in place, produced by Anglo-American moral philosophers, dominated by Rawls and utilitarianism, and largely ignorant of the nuances of power that affect persons with disabilities so profoundly.<sup>33</sup>

Not all, of course, but many Anglo-American philosophers of justice adopt a medical model of disability; they link disability to illness, something that needs to be cured, a tragedy that the individual would want to overcome at all cost. They turn "the disabled" into a tragic figure, dependent, sick, weak, and unable to make any but the barest contributions to the collective social welfare. And they view justice as a means by which injury is repaired; they accept as given the limitations of the built environment, the biases against certain mental orientations, and import certain assumptions into their evaluation of what justice requires that distorts the claims of the disabled. Utilitarianism is the other branch of philosophy that thinks about disability, arguing that we should aim for the greatest good for the greatest number. So, for instance, to return to my earlier example, if there were only three students who used wheelchairs at the university that received the 5 million Euro gift, but many students who would benefit from more classrooms, it would be a clear case from their perspective that we should spend the 5 million Euros to build one new building than to retrofit a number of older buildings.

Peter Singer is an extreme example of the utilitarian approach to justice, arguing that fetuses who are likely to be born with severe impairments should be aborted, and that children who are born with severe impairments should not be

<sup>33</sup> According to Mario Ricciardi, Rawls has had a significant impact on Italian philosophy as well, but Ricciardi does not mention disability in his paper, so I don't know whether Rawls has influenced thinking about disability in Italy, but he has influenced thinking in the US and UK very much. M. Ricciardi, *Political Philosophy in Italy: the Influence of Rawls*, available online at academia.edu, [http://www.academia.edu/1974076/Political\\_Philosophy\\_in\\_Italy\\_the\\_Influence\\_of\\_John\\_Rawls](http://www.academia.edu/1974076/Political_Philosophy_in_Italy_the_Influence_of_John_Rawls)

put in extremely expensive intensive care, but left to die, much as the ancient Greeks did. The money saved by not keeping such infants alive, he suggests, could be spent on starving children in other countries. While such reasoning might seem to many to have an intuitive appeal—why should we spend resources to keep one child alive when the same resources could keep 1000 children alive--this framework leads to some questions that really miss the point of a disability perspective.

For instance, philosophers of justice pay a lot of attention to the question “What do people deserve?” Deserving has been the focus of justice ever since Aristotle. There is an assumption that people get what they deserve, and such assumptions shape our conclusions about just entitlements. But if able-bodied people view disabled persons as “injured,” or lesser human beings, then the underlying assumption is that they do not deserve resources; they are inferior. This is not necessarily conscious; in fact, if asked most people would deny having such a belief. But it is the logical belief underlying this philosophical framework. There is also an implicit blaming of disabled persons that operates in justice thinking: what did you do to cause your disability? And underlying that blame is fear: Could what happened to you happen to me? Able bodied persons are afraid of becoming disabled or ill; they want to distance themselves, make the disabled “the other,” so as to repress their own fear of becoming disabled. One way of achieving this is to blame the disabled person, to say it’s their fault. One example of this that American philosophers seem to love talking about is motorcycle riders who do not wear helmets and become injured in accidents, as if becoming disabled is in your control.

Added to this is the notion of making contributions to the social collective. Rawls in particular talks about society as a “cooperative scheme” which enables him to limit his theory to rational actors who can make “normal” contributions to society; does it make sense to devote resources to you if you cannot contribute? What could your contribution be, and how would it be measured? If we assume that disabled persons cannot make valuable contributions, then wouldn’t it be better if they just stayed home and out of the way? This was the view that Jacobus tenBroek argued against; he argued that many disabled persons

can make the same kinds of contributions that nondisabled persons make if we just provide accommodation. But there are also other kinds of contributions that disabled persons can make that do not fit on the standard scale. The story of Temple Grandin, the autistic American woman who developed a much more human way of treating cattle before slaughter, is a story of a woman who made contributions that were not recognized as contributions by many people who wanted to hang onto the old ways of slaughtering cattle; and in many ways their resistance stemmed not from the change itself, but from the fact that she—a very “different,” “odd” sort of person—was proposing it. If she was “crazy,” the idea itself had to be “crazy” as well.<sup>34</sup>

These various problems with the justice approach to disability suggests that when we think about disability rights, we need to think about them in terms of a new model, one that attends equally to freedom and not simply justice. Indeed, I believe that freedom is the first question of justice, for claims of justice arise when people are prevented from doing things they wish to do. From the disability perspective, rights are really about recognizing that we are all different, and we need to arrange social institutions to accommodate difference. That is a matter of justice, but it’s also a matter of equality, and most of all of freedom.

Most disabled people ask for accommodation, not cure. They ask not that *they* be changed, but the built environment, and even more significantly, biased attitudes. These attitudes, architecture, laws, policies, and built environment pose obstacles to the freedom of disabled persons, and these obstacles should be removed. When disabled persons bring up questions of justice, they do so because someone is trying to prevent them from doing what they want, limiting them,

<sup>34</sup>T. Grandin (2008), *Thinking in Pictures: My Life with Autism*, Vintage Books, New York. which was made into a film, *Temple Grandin*. I here take no position on the question of whether killing animals can ever be an ethical act, but at the inaugural run of her new slaughter method, in which the cattle followed a path that had been designed by her to attend to the visual cues to which cows would respond positively, cowhands became impatient with—or threatened by—the unusual method and made key changes to the structure that resulted in horrible suffering for the cattle, worse than the suffering they experienced in the “old” method. In this, of course, gender and disability intertwined to cause these men not to recognize what Grandin had created as a “contribution,” resulting in their destroying it. Today, her process is used relatively widely in the United States. See also T. Grandin, C. Johnson (2010). *Animals Make Us Human: Making the Best Life for Animals*, Mariner Books, Boston.

denying them resources to enable them to earn a living, go to school, get into a building, use public transportation, to work, to play. What makes something unjust entails the inhibition of people's liberty in various ways, and theories of justice intend to compensate for, or even overcome, the unequal distribution of freedom that results from such inequalities of ability. Money, resources, and power may be *instruments* for freedom, but freedom is the *point* of justice.

What difference will thinking about freedom make, however? The main contribution is the way that it showcases the importance of difference. If rights and justice depend on sameness, freedom is necessary because of difference. It is the difference between us that makes freedom important. For instance, a curb is not a barrier to my freedom, because I can walk, but it is to a person who uses a wheelchair. It is the limitation of that person's freedom that justifies him in claiming a right to remove the barrier: a right to free access of public roads and sidewalks means that the state has an obligation to design roads and sidewalks to accommodate his physical features, just as the current design takes as its assumed starting point my particular features.

The danger with this, of course, is that when we say the word "difference" we deploy a norm—in the usual way of thinking, the wheelchair user is "different" but I am "normal." This is something that we have to change. We are all different from one another, and it is these differences that create tension and conflict, which is what brings rights into play.

For instance, it is sometimes objected that curbs help vision impaired people, they are a signal not to step into the street. Therefore, if you help the wheelchair user with a curb cut, you hurt the blind person, and so that's a reason to do nothing. But that is a false picture. The problem is that we don't think about "universal access"—we think about particular "problems." People think of the wheelchair user as one problem, and the vision impaired person as another problem. And because we address these as "problems," separately, we generally do not see the second problem until we had addressed the first. That seems to set up for an inevitable conflict, and justice must be used to arbitrate between them. But if we thought in terms of freedom of access for both the wheelchair user and the vision impaired person, we could start to think universally, that is in terms of

universal access rather than in terms of accommodation to specific impairments. For example, curb cuts can be, and indeed now are, designed so that the pavement displays a notable texture—called “tactile paving”—that vision impaired people can detect with canes or their feet.<sup>35</sup>

So I want to suggest that thinking about rights from the perspective of freedom allows us to think more deeply about the role of difference in designing, defining, and implementing rights. Rights are called into view when there is difference, because it’s saying “despite my difference, I am still a person.” In fact, we could say that difference is an *occasion* for rights; that is, it is when we can see difference that rights must be invoked or called into view.<sup>36</sup> Difference is a signal light for when rights should be called on; and rights are a way to recognize difference and protect it.

This requires a more concrete way of applying and adapting rights to particular individuals. For example, we may all have the right to work: but whereas that may require one set of conditions for me, it might require another set of conditions for you.

In order to be truly universal, rights have to respect our differences, and respond to them in an appropriate manner. We might need to think in terms of a “concrete universality,” which allows us to acknowledge the similarities among disabled persons across race, class, nationality and culture; viewing universality as “concrete” forestalls its foundation in abstract beliefs about “human nature”—which are always premised on the “normate” ideal of perfect health—and requires that we base it on the material conditions of people’s lives and needs.<sup>37</sup> It is derived from looking

<sup>35</sup> In the U.S. “truncated domes” are the style generally used; U.S. Department of Transportation, Federal Highway Administration, *ADAAG Detectable Warnings*. [http://www.fhwa.dot.gov/environment/bicycle\\_pedestrian/guidance/accessibility\\_guidance/dwm.cfm](http://www.fhwa.dot.gov/environment/bicycle_pedestrian/guidance/accessibility_guidance/dwm.cfm); other tactile surfaces are found in different countries, see Mobility Research Center of New Zealand, *Innovative Tactile Solutions*. <http://www.mobilityresearch.co.nz/>

<sup>36</sup> N. J. Hirschmann (1999). Difference as an occasion for rights: A feminist rethinking of rights, liberalism, and difference, *Critical Review of International Social and Political Philosophy*, 2(1), pp. 1–32.

<sup>37</sup> I borrow concrete universality from Ann Scales (1993). The Emergence of Feminist Jurisprudence: An Essay, *Feminist Jurisprudence*, ed. Patricia Smith, University Press Oxford, thought she develops the notion in terms of women, not disability. The concept of the “normate” comes from Rosemarie Garland Thomson (1996). *Extraordinary Bodies: Figuring Physical Disability in American Culture and Literature*, Columbia University Press, New York.

at people in various cultures and classes and physical conditions seeing what is, rather than extrapolating grand theories of human nature from narrow culture- and time-specific samples. To this end, the proliferation of ethnographic and historical studies and the production of analyses by disability scholars throughout the world have enabled disabled persons to lay claim to liberal principles in a way perhaps not possible before.

Difference is thus vitally important to my reading of concrete universality, for it is only by understanding specific, concrete differences that the commonalities of disability oppression can be identified and theorized accurately. As Ann Scales notes, “concrete universalism takes differences to be constitutive of the universal itself” in direct opposition to the dominant liberal rights vision of a universalism premised on sameness.<sup>38</sup> Understanding differences between groups—between disabled and nondisabled, as well as among different kinds of disabilities—enables us to understand each other; and it is by understanding differences within our own groups that we can approach a more complete descriptive picture of them. Such completeness is necessary to any plausible conception of universality; the history of modern liberalism illustrates the ease and power of *falsely* universal claims, but it is only by gaining more complete pictures that we can approach valid claims of universality. As Seyla Benhabib argues, “universality is not the ideal consensus of fictitiously defined selves”—whether in the state of nature or behind the veil of ignorance—but the concrete process in politics and morals of the struggle of concrete, embodied selves, striving for autonomy.<sup>39</sup> It is only by knowing as much as possible about the other—by knowing the other as concrete—that true reciprocity and reversibility—the hallmarks of liberal universalism—can be achieved.

Thus viewing difference as an *occasion* for rights—as a signal for when the protective power of the state may need to be called in—transforms the relationship between difference and rights, as well as difference and liberalism. For the responsibility of the state, through the invocation and enforcement of rights, serves not to erase difference, as has been the case in the past for disabled persons, as well

<sup>38</sup> Scales, *Toward a Feminist Jurisprudence*, 101.

<sup>39</sup> Seyla Benhabib, (1987). “The Generalized and the Concrete Other: The Kohlberg-Gilligan Controversy and Feminist Theory,” *Feminism as Critique*, ed. Seyla Benhabib and Drucilla Cornell, (The University of Minnesota Press, Minneapolis), p. 81.

as white women and men and women of color--who must either prove themselves “the same” as able-bodied white men, thus foregoing their specificity, or else hold onto their specificity and forego their rights--but to protect it. Viewing difference in this way allows liberal rhetoric to catch up with real social relations, in that claims of respect for “difference” would be plausible, rather than serving as a cover for the privileging of a particular group.

Thus by starting off our thinking about rights from a position of freedom, we become more attuned to the demands of particularity and difference and can conceive of rights broadly construed to respond to the concrete needs of specific disabilities. In such a reformulation of the notion of rights, I believe, greater hope lies for the inclusion of persons with disabilities within a rights framework. Whether we should seek to get beyond a rights framework altogether is the subject of another paper, but it is notable that feminists (including myself)<sup>40</sup> have been arguing for a rejection of rights for many years, yet rights remain the primary way in which discussions of citizenship and inclusion are framed. I suggest that thinking of rights from a perspective of freedom, which allows a more vibrant role for concrete difference, is an important tool for disability rights, and may help lead us to a better future for disabled persons throughout the world.

<sup>40</sup> See N. J. Hirschmann (1992). *Rethinking Obligation: A Feminist Method for Political Theory*, Cornell University Press, Ithaca.

## Chapter 8.

Cenise Monte Vicente (*Oficina de Ideias, São Paulo*)

### ***Individual and collective resilience: news on Human Rights from Brazil***

#### 1. *Introduction*

Resilience is a concept borrowed from physics and is widely used in the field of engineering. It refers to the capacity of a material to withstand tension, returning to its original state once the state of tension (risk) is removed. The term has been used in psychology to denote the human capacity of recovering from successive or accumulated trauma, without impairment in development.

Resilience can be understood as a capacity for adaptation and recovery (or bouncing back). Some authors emphasize the ability to do things well, in spite of adversities, thus adding the concept of positive construction to that of resilience. This form of adaptation to adversity is socially valued, or at least accepted. Resilience is considered a universal human capacity, which can be activated by a person's own experience.

Löesel (1994) lists some possible definitions of resilience:

- to reach positive results in high risk situations;
- to remain competent under duress;
- to recover from trauma.

In initial studies on the subject, some authors discussed the term “invulnerability” in relation to the capacity for resilience (Anthony & Cohler, 1987). However, further discussions clearly showed that it is impossible to speak of humans as invulnerable (in any situation). Actually, observations showed that tragic experiences could lead to unique enrichment in certain people, while similar experiences, for others, could lead to post-traumatic stress disorders, whose negative effects might emerge only years later (Krell, 1983; Farber & Egeland, 1987). Longitudinal studies and research on the sequels of the holocaust, many decades after the event, shed light on the long- term effects of violence. Though resilient

subjects went on to develop considerable behavioral competence, this did not necessarily include all aspects of their selves (Krell, 1993; Luthar & Zigler, 1991).

Throughout the 1980s and 90s there was ample debate on the concept of resilience (Rutter, 1987; Werner and Smith, 1982), For three decades, Werner and Smith carried out a longitudinal study in Kauai, observing differences between men and women and the role of at least one caretaker “from whom they received abundant positive attention”<sup>1</sup> (Zimmerman & Arunkumar, 1994).

Zimmerman e Arunkumar (1994) discuss three models in their initial definition of resilience: the compensatory model, the challenge model and the protective factor, or immunity versus vulnerability. They conclude that “the three models of resilience presented are not mutually exclusive”.

Though resilience is often treated as an individual phenomenon, it is built up throughout life and in interaction with others, so it happens through sociability. Families, collectives and communities can be considered resilient when they face and overcome extreme adversity in crucial moments of their histories.

Initial theoretical analysis on resilience concentrated on defining the factors of risk and those of protection. Further studies showed that some factors could be of risk to some and protection to others. This apparent “contradiction” pointed to the need of furthering knowledge on the mechanisms or dynamics of resilience, and, most importantly, the understanding of resilience as something that is developed, and can therefore be promoted. For this reason, existing knowledge on resilience can be useful in public policies, especially in the fields of education, health and social work.

In this text, our objective is to reflect on the problems posed by crack users living out in the streets. The compulsive use, the precarious health conditions and the violence associated with the chemical dependence of these individuals, added to their difficulties in sticking to a prescribed treatment, create a challenging situation for the issue of human rights in Brazil, notably in the mental health sector. In my opinion, the concept of resilience can contribute significantly to the debate on urban suffering and the need of dealing directly with the challenges facing us.

We'll start with the idea of resilience.

To understand this concept, we will explore the elements present in its universe and explore the dynamics which accompany it. I first studied the life stories of resilient individuals, then went on to address the collective dimension of this capacity for facing adversity, that is, to grow and learn from life, even when the latter is repeatedly marked by violence and potentially traumatic situations.

For this research, I looked into the biographies of adults who went through a variety of traumatic or violent situations during their childhood or adolescence, yet went on to reach surprising levels of attainment. These adults did not lose their capacity for loving, working, relating to their surroundings and contributing to their Community

To evince that they were not negatively affected by their experience of suffering, I chose two different concepts of health. The first, from the World Health Organization, considers biological, psychological and social dimensions. The second concept is Freudian, defining health as the capacity to work and to love.

I identified the following parameters as a conceptual framework for what I understand as resilience.

They are:

- a. The predominance of the present of the future, in terms of time as defined by Saint Augustine.
- b. Refraining from moralistic, absolute or immediatist judgements and preconceptions.
- c. The role of imagination and the presence of art in recollections of the past.
- d. The consideration shown by the presence of a significant person which involves reciprocity and pertinence.

## *2. The present of the future*

In his Confessions, Saint Augustine formulates a concept of time, according to which only the present exists. It is a present in three-time scales, the present of the past, the present of the present and the present of the future.

The present of the past is the field of memories. This time is active and constantly being accessed. The way in which the past occupies the present can take two forms: one is the typically neurotic form, in which the past continuously

repeats itself in language or acts, including recurring symptoms and storylines. In the other, the past is a source for dealing with the present and inspire the present of the future. In this case, the present of the past helps define the line that conducts the trajectory of whoever has access to it. The image that comes to mind to illustrate it is the line of movement of a stone in a sling. One pulls the rubber backwards and chooses where to aim the object, imagining and defining the necessary trajectory to reach a distant goal.

The present of the present is the here and now, this moment in which you are reading this or listening to ME.

The actions, choices and day-to-day decisions of resilient people are associated with the third of Saint Augustine's times, the present of the future, which includes a vision of what will be. This is the mental time which determines their present of the present.

The present of the future shows up as a vision of something which will happen in the future. This look into the future will often have images, direction and significance. The resilient formulates and sees a certain future, relying on imagination and on a series of attributes to express the desire around that picture of the future.

This present in the future influences actions in the present of the present and links these actions to those "images" and ideas (of the future). The action happens now, but the direction is defined by the not-yet, by what will become. The no-longer, the present of the past, has become a source instead of an imposition.

It's as if the space for repetitions of the past was occupied by the dream, the utopia. This space opens itself to a new way of acting, which is consciously designed by the subject. The resilient are protagonists, actively defining their path.

The concept of time as defined by Saint Augustine allows for a new concept of vulnerability.

When subjects can't see themselves in the future, when time is reduced to the here and now, when there is no place for their story or their plans, they are at risk. Whenever the present in the present reigns supreme, thinking is restricted and the presence of the other is belittled or not taken into account. This is the time of the here and now, of immediate pleasure, of consumerism. As Hannah

Arendt writes in *The Life of the Mind*, present – a time between the “no longer” and the “not yet”.

The narrowing down of time, its reduction to the present of the present, offers another dimension of risk. It leads to the annihilation of awareness, the absence of hearing the different aspects of a situation. Different stories or versions of events are denied. In this dimension of time, the finer and more detailed aspects of a situation, the diverse viewpoints of different protagonists, simply disappear. Worse still, there is no space for the right to contradiction, so necessary for justice and truth.

Overcoming the difficulties cited above (when the present of the present dominates) is only possible through amplifying time to include the past and the future, the memory and the dream. Widening the picture or amplifying time is a protective measure, especially if it includes the value.

of hearing. Listening demands time and consideration for the other. It is necessary to move oneself to the place and universe of the other. Immediatism blocks this kind of exchange, this sharing and debate.

Recognizing the other means overcoming the tendency to narcissism or egocentrism, a force that turns all focus and energy towards oneself. Narcissism is associated to a sense of urgency and loneliness, so that an exacerbated narcissism also contributes to vulnerability.

### *3. Refraining from moralism*

The second parameter for resilience is that of refraining from moralism in the understanding of difficulties. Its opposite is harsh, immediatist and absolute judgements, often based on a series of preconceptions, which simplifies the universe into good versus bad, right versus wrong. As evil is thus projected outwards, this kind of polarization defines the suffering individual as a victim of circumstances.

Seligman (apud Luthar, 1991) termed this the “paradigm of hopelessness.”

He writes:

“When people believe they are impotent to control what happens to them, they become passive and restricted in their ability to face situations. On the other

hand, when individuals believe events and results are controllable, the feeling of hopelessness is avoided and, instead, there are active moves to overcome adverse situations.”

The resilient usually have what could be called an amoral view. They avoid quick judgments and turn instead to questioning research and to the quest for knowledge. In this quest, they develop the ability for in-depth understanding of situations. A barrier, then, will include the possibility of tunnels, as the field is not shut off by absolute values.

For the resilient, the world is not perceived as something loaded against them, but as something workable, with its multiple incoherencies and contradiction, which include the possibility of making choices, of taking different paths and coming up with other solutions. Despair is substituted by a state of civil potential, the possibility of being a protagonist of one’s own story. From that point onwards, choices are made and actions are taken based on what is possible to do to reach a desired future. The resilient perceive themselves as subjects in this agon, in their own struggles. Small changes are made, but successive changes alter the field of their action. Their acts change their environment, even if on a tiny scale, and each successive change opens up new opportunities to strengthen their resilience. In this struggle, the individual becomes more aware of the context, acquires new skills to understand, share and act in ways that overcome obstacles.

Freud pointed out the role of memory in our lives and suggested a therapeutic method which enabled focusing on repetitive patterns, and especially, on acting out<sup>1</sup>. Every time there is a dramatic re-enactment of the past, the suffering is reactivated – there may be a change of cast, but the storyline remains the same.

S. Freud, *Remembering, repeating and working-through* (1914).

Psychoanalysis proposes free association as a means of overcoming the continual re-enactment of past stories, which invades the present bringing choices and acts imposed by past experiences and suffering.

In psychoanalysis, this is done by means of language. When Freud noticed that people expressed their past through language and unconscious dramatizing, the previous use of hypnosis (to access the past) was no longer justified. The concept of transference comes from this understanding, which is at the root of psychoanalysis.

#### *4. The role of art in recollections of the past*

The use of art as a means of working on the past is strong amongst the resilient. The richness and diversity of artistic means of expression furthers the internal mental effort for dealing with suffering.

The interaction with art can happen as author, actor, consumer or audience. All these roles offer possibilities of processing hidden memories which are about to emerge in a compulsive manner. Art offers texts, images and actions which inspire the imagination and allow for a different rendition of the past. The latter then is no longer invasive and compulsive, as the distance between the artistic endeavor and the story of the individual (with the possibility of choice) enables a creative form of understanding or sublimation. The subject takes control and moves away from continual suffering. When the past no longer occupies us in an invasive way, we can open up to the specifics of the present and dialogue with our dreams and hopes, our present and our future.

As I see it, art is a fundamental right because of this freeing dimension, this collective dealing with suffering. Art is therefore particularly important in education and sociability.

It is not surprising that mass movements against collective suffering usually have some kind of artistic expression, such as Picasso's *Guernica* or the songs of resistance in Brazil or Italy. We know that art offers a way of understanding the past and the present, as well as being a way of sharing dreams.

#### *5. Social Interaction*

The fourth parameter has to do with social interaction. It is the consideration evinced by the presence of a significant person, involving commitment and reciprocity (Fonagy et al., 1992).

In the stories of the resilient, the presence of an other person in their most difficult moments is a constant. This recurring phenomenon in the stories of the resilient is surprising; often what was required during stormy moments was nothing very complex: small gestures, almost nothing, but an "almost nothing" which showed consideration, showed a shared universe. This "almost nothing", these little acts of consideration, touch the subject in the form of what I call "small joys". If the "almost nothing" is accessible to anybody in the simple acts

of “keeping company” or “crying together” etc., “small joys” are a bit more complex. They require an openness to what the other has to offer, an opening to the realization that one is not alone, which is a counterpoint to narcissism.

Small joys are restorative experiences. They are often associated with food, from the preparations of a meal to the meetings and relaxation that follows. This collective experience is an important part of many rituals of care and acceptance.

This social side of what I call small joys is not possible when the one who suffers is not open to what is being offered. Small joys are shared, so they require reciprocity and pertinence. Solidarity and fraternity are dependent on these elements.

Individual and collective vulnerability thrive on the lack of solidarity which appears as invisibility of those who are different and social apartheid, which transform the other into an object, somebody who is worthless.

Resilience is dynamic.

The complexity of being alive and the complexity of being human means these elements are not fixed; they oscillate inside and outside ourselves, in the groups and collectives we are part of. These concepts can also be understood from the perspective of the polarization between presence, absence and intensity.

The platonic virtues can inspire us in the understanding of resilience. The different levels of soul, sensual, affective and rational, and their corresponding virtues, *sophrosyne* (temperance, moderation), *andria* (force, strength), *phronesis* (prudence, wisdom) seem to be intensified in the resilient. And it is up to *diakayosyne* (justice) to ensure a good relationship between all these virtues. Thus resilience is a dynamic state and reveals a harmonious interaction between its different elements and component virtues.

I will now deal with the challenges posed by chemical dependence, especially the use of crack, focusing on street-dwellers in Brazil, notably in the city of São Paulo.

Chemical dependence is a theme that demands from the state a policy on drugs. For this, the state has two main attributions: a sanctioned regularization by appropriate legislation and control according to predetermined penal measures.

Brazilian legislation follows the United Nations International Convention of

1971 and the principles of the International Narcotics Control Board.

One frequent criticism is that this practice does not consider Latin American cultural specificities. Thus, in Brazil, indigenous and afro-Brazilian traditions, with their ritualistic use of drugs, are not taken into account. Because of this, the Brazilian Ministry of Culture has tried to emphasize the cultural use of psycho-active drugs and affirmed the right of Brazilians “to take part in shamanistic rituals, whether Indigenous or African Brazilian, which include the use of psycho-active drugs” (Gil & Ferreira, 2008).

However, studies on the use of drugs are usually considered legitimate only when part of research pertaining to medicine or health, while social sciences address issues such as poverty, crime, trafficking and urban violence.

This tendency to reduce the actual complexity of the subject of drug use impoverishes both research and existing public policies. It is a well-known and publicized phenomenon that the numbers of the Brazilian economy are positive. Poverty has been reduced and the number of the socially included is rising. However, the number of street-dwellers and crack users has not diminished.

According to Fundação Casa, an institution responsible for applying socio-educational measures to law-breaking teenagers in the city of São Paulo, the number of adolescents deprived of their freedom is constantly growing. Judges tend to deprive teenage drug-users of their freedom, even when they are arrested for reasons that have no basis in legal provisions. The Brazilian constitution and psychiatric reform are based on democracy and a concept of civil rights.

Human rights are enunciated in our constitution and in complementary laws. However, the system that guarantees these rights and their implementation are insufficient or precarious. This is due to:

- The absence or insufficiency of public apparatus directed to insuring people have access to their rights.
- The insufficiency of human resources and proper training.
- Problems of communication between institutions, and inside institutions, involved in guaranteeing these rights.
- Lack of integrated planning.
- Clear definition and check-up of public finances.

As for who has access to knowledge of civil rights, for most of the population this knowledge is minimal, with continual distortions by mass media on national and international laws on human rights. This distortion leads to an authoritarian and excluding perspective, with continuous efforts to diminish rights and uphold social inequality. For example, there are almost daily proposals in the Congress to reduce the legal age limit for criminals.

Brazilian psychiatric reform was directly influenced by the Italian model and experience. Therapeutic procedures and national mental health policies are based on an individual's right of choice, thereby excluding imposed loss of freedom. The resistance to legislation based on fundamental rights hinges on the prevalence of an ontological definition of transgression, by an organicist view in psychiatry and by a mass media which stimulates and defends a model of sequestering social conflicts, to reinforce totalitarian institutions.

The threat to the consolidation of human rights in mental health has the full support of television and radio programs that cover crime and conflicts. These continuously present opinions against human rights, treating them as contrary to public security and humanitarian initiatives.

What can be asserted regarding the street dwellers is that they rummage rubbish bins, sleep in the streets, carry out small thefts to supply their daily dosage of drugs and break away from their families (who cannot handle the drug dependency). They also break away from school, from the world of work and from former friends in groups they once belonged to. They hang around in abandoned streets forming crowds or stay together at night in the city center. This grouping together aims at buying crack and having some kind of protection at night from the point of view of those living in flats in the city center, the shop owners and visitors, crack users are a source of fear and horror. They provoke feelings of pity and anger. The available policies on mental health are unknown and insufficient to avoid the growth in the number of drug users and the deterioration shown in their bodies. Police violence has been ignored or even encouraged by common people. Only the Public Prosecutor Office and a few human rights groups have reacted against the indiscriminate internment proposed by some local governments.

6 - The same happens with the very young. Many teenagers are deprived of their freedom, not for any wrong doing, but because they are drug users and some judges believe prison is a safer place for them than out in the open. Internment in these cases is so high that constant amplification of units is unable to meet the demand. Overcrowding is constant in the units of Casa Foundation. Intolerance towards teenagers who break the Law has led to a social demand for increasing the years of imprisonment and the reduction of legal age for criminals.

There is a contradiction here. The most reactionary forces, which defended and continue to defend the loss of freedom, of sociability and citizen rights, with their institutions that sequester social conflicts, have taken up the banner of humanitarianism. This alleged humanitarian posture has led drug users to two different types of totalitarian institutions, religious ones and former madhouses.

What collective resilience is possible for Brazilian cities?

The present of the future is the guarantee of human rights, by means of public policies that guarantee the norms that promote full citizenship, with an emphasis on equity (as there is strong evidence of exclusion based on ethnic, economic and gender biases). It is just a question of putting into practice what already exists in the federal constitution.

The present in the future, in our case, is to imagine Brazil as a democratic country for everyone. The image of a just country is one that overcomes the mechanisms of inequality, that guarantees access to university or some other kind of training to all its young people (instead of positive discrimination for Indigenous and African Brazilians).

This dream can replace the nightmare of impotence, individual as well as collective.

What is the terror produced by crack? It is our impotence when faced with a notification of imminent death. A process that lays bare the impossibility of a hopeful future for so many of Brazil's young. The future of these young people cannot be just prison or death.

This lack of perspective is also fueled by media criticism of human rights, the democratic process, politics and politicians. Everyone is treated as equal and worthless. However, the real attack is on democracy itself and to the utopia it

promises, that of full human rights.

Human rights bother people because they require a capacity to listen, as well as appropriate legal or therapeutic backing, to imagine a different and better future for all, built by democratic participation.

However, whether individually or collectively, those who are in the driver's seat hesitate. Fortunately, it is possible to act so that political, economic and legal adversities don't make us renounce liberty, equality and fraternity, and, least of all, accept totalitarianism in new disguise.

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## Chapter 9.

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### *Surveying the Animal-Human Frontier: Between Concealment and Exposure*

“There is no general doctrine which is not capable of eating out our morality if unchecked by the deep-seated habit of direct fellow-feeling with individual fellow men”.

(G. Eliot, *Middlemarch*, chap. 61)

1. In *Zoopolis*, Sue Donaldson and Will Kymlicka (2011) offer a political understanding of the issue of animal rights. Their aim is to avoid the pitfalls that render it practically insoluble and which, as they remark at the book's outset, has led “the animal advocacy movement ... [to] an impasse” (ibid., p. 1). The political solution they suggest hinges on a broad interpretation of citizenship which, at least in the case of domestic animals, goes so far as to defend the idea of a “mixed community” (ibid., pp. 94, 102, 299) of humans and animals, participating in the cooperative project of shared citizenship (ibid., chap. 5). In this essay, I wish to focus on the deep reasons that make this proposal at first sight so outlandish and sketch a theoretical alternative strategy to avoid the risks associated with a thoughtless anthropocentrism, without denying the inherently dilemmatic character of the coexistence between humans and other animals.

2. I start with what may be called the “hard” problem in animal ethics. By this I mean the fact that our relation to nature or, more precisely, to animal life (within and without us, so to speak) raises some distinctive quandaries which we are all more or less dimly aware of, but that are difficult to pin down (Midgley 1984, p. 9).<sup>41</sup> The qualms become conspicuous when we reflect on the unevenness between the intuitions about the moral status of animals that are shared by a vast majority of morally decent or good enough people in Western societies

<sup>41</sup> By “our” I mean here something deliberately vague: i.e. the way we treat nature and animals in the social practices that are customary in modern Western societies.

on the one hand, and the stringent arguments employed in both major strands of animal ethics today (utilitarian and rights-based) on the other. These are supposed to be stringent, *inter alia*, because they rely on bulwarks of modern moral discourse such as rights, justice, equality, avoidance of suffering, benevolence, etc. There is a powerful logic at work in the idea that anti-speciesism (or animal liberation) is the last frontier of the modern struggle for universal justice, one, moreover, supported by the indisputable post-Darwinian view of organic nature as an evolutionary continuum of living forms. And yet few people, today, are driven to action by moral revulsion at what has been forcefully described as the animals' "eternal Treblinka" (Isaac Singer). So, assuming that this description of the predicament is correct, how can we make sense of the fact, to use Coetzee's chilly words, that the decent people around us are not aware that they are all "participants in a crime of stupefying proportions ... one enterprise of degradation, cruelty and killing which rivals anything that the Third Reich was capable of, indeed dwarfs it, in that ours is an enterprise without end" (Coetzee 2003, pp. 114 and 65)?

One may, of course, appeal to contingent reasons (denial caused by egotism; failure of nerve or weakness of the will; ignorance; educational breakdown; etc.). My hunch, however, is that what we face, here, is something more fundamental and that, for the most part, our answers to the questions at issue cannot be fully articulated as purposeful individual responses, but are intertwined with deeply embedded social practices which are, in turn, endowed with multi-layered ambiguous meanings that no one is able to oversee. In a word, they are "thick", rather than thin problems.

3. Thus, the first problem in this field is to demarcate the object and to reduce its complexity without losing it along the way. We do not want to throw out the baby with the bathwater, to use a corny metaphor. Most of all, we need an adequate (non-misleading) perception of the context within which the moral issues arise in order to understand their true *meaning*.

To this end, something along the lines of Clifford Geertz's "thick descriptions" is required. I'd rather call them thick and charitable descriptions, because, ideally, they have to do justice to all the reasons and concerns that make a claim on us. As

Martha Nussbaum (1990, p. 152) once put it, “moral knowledge ... is not simply intellectual grasp of propositions; it is not even simply intellectual grasp of particular facts; it is perception. It is seeing a complex, concrete reality in a highly lucid and richly responsive way; it is taking in what is there, with imagination and feeling”. In other words, it is a matter of *deep* recognition or “recognition of the concrete” (ibid., p. 160). To achieve the purpose, we have to slow down, mindful of “how vulnerable much of human experience is to abbreviation” (de Botton 1997, p. 42). Like Proust, we should constantly say to ourselves “n’allez pas trop vite” (ibid., p. 48), knowing, as Wittgenstein once remarked, that “in philosophy the winner of the race is the one who can run most slowly. Or: the one who gets to the winning post last” (Wittgenstein 1998, p. 40e (11.6.1938): *Im Rennen der Philosophie gewinnt, wer am langsamsten laufen kann. Oder: der, der das Ziel zuletzt erreicht*).

That is why we must be thankful to all the storytellers who gave us the thick descriptions necessary to understand what exactly is at stake here. Thanks are due, then, to John Coetzee who tried to explain to his readers the “meaning of being alive in the world” by crafting a “frail”, “old”, “tired”, “grey and confused writer” – named *Elizabeth Costello* (Coetzee 2003, pp. 78, 1, 62, 89) – who is engaged in a desperate attempt to come to terms with life’s naked brutality. But also to Jonathan Safran Foer, who defended vegetarianism whilst acknowledging that food “is not *food*. It is terror, dignity, gratitude, vengeance, joyfulness, humiliation, religion, history, and, of course, love” (Foer 2009, p. 5). And, finally, to David Foster Wallace who managed to amusingly describe the Maine Lobster Festival and at the same time instill the doubt that “it is possible that future generations will regard our present agribusiness and eating practices in much the same way we now view Nero’s entertainments or Mengele’s experiments” (Wallace 2007, p. 253).

Gifted storytellers, such as the ones just mentioned, are exceptional in producing the right mood in their readership: a mixture of bewilderment, tentativeness, suspension (but without indifference): an emotional upheaval which combines wonder with a paralyzing sense of difficulty or, to quote Mary Midgley (1984, p. 9), “an unnerving sense of double vision”.

4. What I want to do, now, is to give a philosophical (i.e. both articulated and stringent) shape to this kind of “right” mood.

And since, following Heidegger, I understand human moods as *Stimmungen*, i.e. as pre-verbal embodied ways of responding to the totality of things, to make them resonate with our receptivity (Costa 2011), I want to explore the hypothesis that we are not dealing here primarily with moral dilemmas, but rather with more fundamental metaphysical conundrums that a too hasty moralization of the issues at stake runs the risk of hiding from view. In this sense, we can all capitalize on B.A.G. Fuller’s insightful reminder of the “messes animals make in metaphysics”.

5. What do I intend by “moralism”? Roughly speaking, I mean superimposing moral categories to a domain of experience that is not morally congruent, thus producing a distorting effect (for example sentimentality or hypocrisy).

In what follows, I will investigate whether something like this happens when one assumes the existence of a perfect overlap between morality and animality (a similar case is represented by the interplay of public and private faces).

But, in order to pursue this line of thought, it behooves me to give at least a provisional definition of both animality and morality.

Now, since I doubt that there is such a thing as a Platonic essence of animal or moral life, what I will be offering is only a recognizable “physiognomy” of the phenomena under consideration or, in other words, the implicit rule of their manifestations, their “point” (as when Wittgenstein cryptically observes that “meaning is a physiognomy”, 1968, § 568).

Thus, under the label of “animal life”, I will understand something like *a style of living*, a certain way to relate to the environment, to distinguish self from non-self. The animal, in short, is a being for whom things *matter* in a stricter and stronger sense than they matter to plants or artifacts (Costa 2014, chap. 1).

By “morality”, on the other hand, I only mean a peculiar human institution that has to do with both judgment and regulation of action and behavior (what one should or should not do or how one should live). To this aim, a significant amount of focusing, articulating, distinguishing, judging, reason-giving and deliberating is required.

6. So far so good, but what is (or should be) the relationship between animality, on one side, and morality, on the other? What is the right, well-balanced link between the two?

I have a hunch that something useful may be got from the notion of “import”. But, to begin with, animality is for us above all a “thick” fact: it is our form of life, our style of living. It is our basic reality and its truth – if it has one – must have the form of what Hegel refers to in the *Phenomenology of Spirit* (Hegel 2005, p. 67) as “the life of the whole”: a truth which is always behind our back, possessed by no one and indifferent to the distinction between *Sein* and *Sollen*, is and ought. Our animality is what it is and is only open to a gesture or feeling of unconditional acceptance or refusal *en bloc*.

To evoke a beautiful song (*O que será*) by the Brazilian singer songwriter Chico Buarque de Holanda, we are dealing here with “what has no measure and never will / what has no remedy and never will / what has no formula (*receita*) ... what has no shame and never will / what has no government and never will / what has no sanity (*juízo*)”.

In this sense, morality presupposes animality as its background of meaning and, as Aristotle notably remarked, “no one deliberates about things that cannot vary, nor about things not within his power to do” (*Nicomachean Ethics*, VI, 1140a32). So a general assent to animal life, a rejection of Silenus’s gloom wisdom according to which “the best and most excellent thing for human beings is not to have been born, not to *be*, to be *nothing*” (Nietzsche 1999, pp. 22-23), can be seen as a pre-moral act that morality requires just in order to exist. Accepting our animality is a pre-condition of morality. So one must at least have both an inkling that being born is better than not to be born and the dim sense that everything may matter, before asking what *really* matters or what matters *more*.

A moral attitude can arise only against this background, even though this mood of acceptance does not yet amount to a moral position. (In this sense, there cannot be *living* moral saints.)

7. An important corollary of this view is that morality, being a proper part of animality, cannot exist without the dialectics of concealment and exposure which is so characteristic of animal life.

What I am suggesting is that morality cannot function without a “veil of reticence” (Nagel 2002, p. 18) that reduces the “tropical luxuriance” (ibid., p. 4) of animal life, making possible the web of distinctions that can be later subjected to moral judgment and deliberation. There is a clear (and willed) reminiscence here of Darwin’s famous image of nature as an “entangled bank”, whose overwhelming density arouses a sense of awe in the watcher (Darwin 1859, p. 489).

But where is this boundary between concealment and exposure to be found? It is hard to say. Certainly, it cannot be conceived as a fixed, absolute border. It is better to see it as an imaginary (but not arbitrary) frontier susceptible of an incessant exploration and that “turns up” rather than being individually designed. Indeed, it is drawn by and through social practices that nobody ever invents from scratch.

The peril of moralism lies exactly in the pretension to deny this intricacy and the ensuing inescapable discrepancy between morality and animal life. Following Martha Nussbaum, we can also understand this failure as an attempt to deny the fragility of goodness, its vulnerability to luck and “force”, in the sense given to the word by Simone Weil (1965): *pesanteur*, i.e. the power of brute necessity.

8. So what? Does all of this amount to saying that human beings are relieved from any moral burden toward the various expressions of animal life?

I do not think that this is the conclusion that has to be drawn from the previous line of reasoning. My only aim was to convey the message that we need an idea of morality consistent with the “animal” horizon of meaning.

Given that the animal realm significantly exceeds the moral realm and we have to find a way to deal with such excess, we face an interesting ambivalence. We are animals, after all, so it is reasonable to see morality as derivative with respect to animality. Yet, in consonance with Cora Diamond (1978) and against Peter Singer’s anti-speciesism, I wish to defend the idea that the human/animal distinction cannot be discarded, if we want to preserve the significance of the moral point of view.

To cut a long story short, my view is that the phenomenon of morality cannot be understood from “nowhere”. It starts off as a special human capability: a slow but constitutive process of mutual recognition which is built into our very defi-

nition of humanity. As Thomas Nagel observed in his review of Scanlon's *What We Owe to Each Other?*, "morality ... is not identified with promoting the good – human happiness, for example. Its motivating aim ... is a certain kind of relation with our fellow human beings, the relation of being able to justify our conduct to each other, as individuals ... That is how we show our appreciation of the distinctive value of persons – not by promoting a collective human good in which the interests of a minority may be outweighed by the greater aggregate interests of a majority" (Nagel 1999). Respect and (non-stereotypical) recognition must go hand in hand in this domain.

From an evolutionary standpoint, morality rests upon a special trait of animal life: the emergence of an intentional body, around which a field of meaningful differences and a number of circles of concern arise. This is the basic core, upon which our detailed moral codes are built. If this fails, no room is left for morality whatsoever. As human, we primarily recognize those beings as partners in an ethical relationship who not only have special attachments and evaluative preferences, but who articulate these significances in light of deep reasons (who are "strong evaluators", in Charles Taylor's apt words). It is in virtue of this depth, that the moral point of view emerges, gains all its complexity and can also be detached from any parochial stance.

As far as we know, this seems to be a unique trait in the animal realm. It is "natural", but it is rare. From here onwards, any extension of the circle of concern may follow. But it will never be as obvious as the starting point. That is why if one starts out of nowhere, and tries to justify where to stop, one is usually unable to say where one's own moral concern terminates, and almost inevitably ends up with some sort of moral skepticism that can easily morph into cynicism, if not outright nihilism. On the other hand, if the logic is reversed and one moves from a primary, constitutive fact of our life form – strong evaluations – and explores the space of moral possibilities disclosed by it, there is plenty of room for moral development. But the opening difference is still there and cannot be undone.

9. In conclusion, my claim is that the issue of animal rights appears as *the* "hard" moral problem precisely because it both stretches and short-circuits the boundary between animality and the moral intuitions we need in order to lead

our lives as decent human beings. So, it has been fittingly described as a *frontier of justice* (Nussbaum 2006), an ethical *terra incognita* that calls for an explorative attitude, rather than an assertive one.

As a result, I do not see the urgency to split people into factions pitted against one another (for or against animal rights). On the contrary, I think it is crucial to encourage the exploration of all sorts of middle position. Why this urgent need to map the territory? Because a change of our background understanding of the human-animal relationship can be brought about only through this kind of explorative attitude.

Those of us who one way or another recognize that there must be something wrong in the way we treat other animals (and ourselves, *in so far as* we are animals) cannot ignore that a solution of this special moral quandary cannot emerge without a parallel deep change in our life-form and, accordingly, in our self-understanding (Putnam 1983, p. 195). And this calls for a collective effort: it is political as much as moral.

What we need is a long-term transition. But a historical change of this magnitude involves a shift in deep-rooted social practices and, consequently, of the social, anthropological, cosmic imaginaries underlying them and making them possible.

Still, how can such a global change be produced or induced? Nobody knows for sure. Big historical changes are the result of a tangled web of causal factors. This is the main reason why great historical transitions are unpredictable and, although they certainly depend on individual choices and actions (raising, therefore, issues of personal responsibility), no-one fully controls or directs them.

This is the bad news for highly motivated animalists. The good news is that some of these changes are already underway. I have previously mentioned the post-Darwinian view of nature with its emphasis on inter-connectedness, humility and *struggle* for existence (instead of the Hobbesian war of all against all). And the modern understanding of pain and the general consensus on avoiding unnecessary suffering (that has not always been obvious in the past) is worth mentioning as well.

But how can a change which nobody controls be vindicated and influenced?

Once again, for my part, I would draw attention to resources that turn out to be crucial when one moves from a foundational to an exploratory, non-confrontational attitude toward moral change. These resources originate from emotions such as sympathy, wonder and regret which are not immediately connected with specific actions, and yet are capable to induce global changes of attitude by fostering non-stereotypical forms of recognition.

More generally, I consider Odo Marquard's efforts to revive the modern category of *compensation* as particularly useful for this purpose (Marquard 1989). For in a context where there is no reason to expect a perfect overlap between animal life and morality, it becomes all the more important to make the most of all the "many and intermediate consolations that are made possible by the idea of compensation" (ibid., p. 45), in other words by the *bonum-through-malum* idea (ibid., p. 44: "good comes into being only through evil and in competition with it, a good that could not come about at all without this evil").

In this shift from a redemptive to a compensating horizon of expectation, there remains ample room for single issue advocacy in the animal liberation movement, but this is now subordinate to collective attempts to devise and invent new, uncharted and yet to be imagined social practices of companionship, eating, dwelling, and so forth.

So in this perspective, too, there is space for both moral and political notion of a "mixed community" of humans and animals, sharing the same fate and participating in a cooperative project.

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## **IV.**

### **Redesigning the Urban Space**



## Chapter 10.

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### *Sex Markets in the City*

#### 1. *Prostitution and the Urban Space*

Prostitution, in its modern as well as in its late modern rendition, is a distinctively urban phenomenon. The city, with its high concentration of population and the multiplicity of venues based on pleasure, often with relevant sexual dimensions, enriches and facilitates the opportunities for sexual encounters (Laumann *et al.*, 2004; Collins, 2006), and prostitution occupies a prominent position within this wide market of services ranging from leisure services to *club privé*, to strip clubs, up to the most explicit forms of sex-for-money exchange.

What prostitution needs to exist is a relatively autonomous public space for trade and consumption, and individuals who are sufficiently eradicated from traditional kinship networks to serve as a source both supply and of the demand for sexual services. Thus – despite the tendency to represent prostitution as an a-historical institution, «the oldest job in the world» – the sex market as we know it, as a mass phenomenon, is rooted in the birth of the modern industrial city (Bernstein, 2007).

The most peculiar spatial mobility of people involved in prostitution is from the country to the city, on a sliding scale from small regional movements to big international migration flows.

#### 2. *The modern-industrial city: a gender perspective*

To analyze the sex market and its spatial evolution within the city, from modernity to late modernity, we need to adopt a gender perspective on the spatial and social organization of the city. Although the sex market involves today both women and men, as well as transgender people, both as sex workers and as clients, the traditional and still most common figure of prostitution is that in which women provide sexual services while men buy and consume them. And this is

the consequence of persisting gender inequalities in the public domain as well as in the family.

If we go back to the origin of the modern industrial city, from which our post-industrial metropolis stems, and try to retrace the shift from the modern-industrial to the post-industrial organization of sex work, we must begin by noticing how affected by gender inequality was the partition of space in the city described – above all - by Simmel and by Benjamin.

The visual and cultural sociologist Janet Wolff, writes in her essay *The Invisible Flâneuse*, «The literature of modernity describes the experience of men. It is essentially a literature about transformations in public world and in its associated consciousness. [...] What nearly all accounts have in common is the concern for the public world of work, politics and city life. And these were areas from which women were excluded or in which they were practically invisible» (Wolff, 1985: 37).

The rise of modern industrial capitalism and the consequently growing urbanization are based upon and structured by the ideology of separate spheres, which assigned women to domestic space, and reserved every public space to men.

Thus, it is a male individual the one described by Georg Simmel in his early Twentieth century work *The metropolis and Mental Life*, where he analyzes the transformation in human psychology in the modern city. According to Simmel, what is taking place in the city is a distortion of perceptual experience, determined by the accumulation of fast changing images, and the sharp contrast among different impressions. The main defense available to the metropolitan individual against the fluctuation of experience is reason, the human capability which is least sensitive and most distant from the deep layers of personality. Reason is also the fulcrum of the modern Western hegemonic model of masculinity (Seidler, 1989), and the two processes – development of modern urbanism and construction of a male model founded on rationality – match with each other perfectly.

In Simmel, the domination of reason is deeply connected to the monetary economy, which in fact brands itself as a masculine domain. The most

characteristic participation of women in monetary economy is, in this view, prostitution, which is conceived as the degradation of an individual to mere means, unrespectful of its dignity as a human being.

The changing psychic conformation of the metropolitan man produces new attitudes of discretion and extraneousness in human contacts. And this causes the typical urban loneliness, which was unknown to traditional societies. It is the «lonely crowd», described fifty years later by David Riesman (Riesman, 1950). In the Nineteenth and early Twentieth century this crowd was still mainly composed by male individuals. The only mass phenomenon involving women, in the narrative of modernity, is prostitution. And this is what Walter Benjamin suggests in the *Passagen Werk*, when he describes prostitution as an allegory of the identification of human beings with commodities.

The prostitute is, in Benjamin's narrative, the female counterpart of the *flâneur*. While the *flâneur*, the city walker, is the man who embodies the typical transformations in perception of the modern urban subject, the prostitute represents objectivity rather than subjectivity. There is a unilateral direction in looking which gives form to the modern city, and this direction is affected by a relevant gender unbalance.

As the American philosopher Susan Buck-Morss explains: «the *flâneur* was simply the name of the man who wandered. But every woman who wandered run the risk of being regarded as prostitute» (Buck-Morss, 1986: 119), as evidenced by the words *street-walker*, or *tramp*, referred to sex workers.

Indeed, in the general interdiction of public space to solitary women, the prostitute, as an intimate and private figure moving across the streets and other public spaces, blurred the dividing lines between the private and the public spheres, embodying the danger of men's loss of control upon women's bodies, women's morality and sexuality.

In the literature of modernity, prostitution raises mixed feelings of attraction and repulsion. This can be seen in Benjamin as well. And this is the very cultural root of the Eighteenth-century system of spatial and social control of sex work. The most significant feature of this system was the institution of brothels, *maisons de tolerance*, which were created in the Eighteenth century in the U.S. and

in many European countries (see: Foucault, 1975, 1976; Gibson, 1986; Canosa, 1981; Corbin, 1978). Brothels, subjected to state control, were often located in specific neighborhoods, which took the shape of sex districts.

### *3. The modern-industrial paradigm of prostitution*

The spatial organization of sex work in regulationist systems corresponded to what can be called the modern-industrial paradigm of prostitution (Bernstein, 2007). This paradigm was based on the ideology of separate spheres, and on the partition of women's world into two main groups: women devoted to the family and their home (wives and mothers) and «public» women, women who used to frequent male spaces, such as work environments, streets, and leisure venues, and that were consequently stigmatized as immoral and deviant.

The sharp separation of the private and the public corresponded, within sex work, to the definition of bodily erotic geographies, which strictly preserved some part of the Self from sexual commerce. Typically, you could have sex workers who refused to kiss their clients on the mouth because this was something conceived as a romantic and intimate practice.

On the side of men who visited prostitutes, this organization matched with a double moral standard: on the one side the wife, on the other side the sex worker; on the one side marital sexuality, on the other side commercial sex as an outlet for any excess of sexual desire.

### *4. Sex and the Post-industrial City*

One first important change derived, in the first half of the Twentieth century, from abolitionism, the struggle against brothels which brought to the reform of prostitution laws in most of European and western countries. In Italy, the bill called «Merlin Law» from the name of its promoter, socialist MP Lina Merlin, was discussed for 10 years before being approved. And this is quite indicative of the resistance opposed by the traditional patriarchal culture towards what men represented as the loss of a social privilege (Bellassai, 2006).

Once closed the brothels, prostitution spread on the streets. However, looking at the organization of urban spaces, sex zones and sex districts remained quite the same as before. In most metropolis, they overlapped with the historical sites of prostitution for almost the whole Twentieth century. This was the case of

famous European sex districts such as Soho in London and Pigalle in Paris. In Italy, where no actual sex district ever existed, prostitution spread along the same streets, surrounding stations, harbors and commercial passages, where brothels were previously located.

The interruption of any spatial continuity between modern-industrial prostitution and post-industrial sex work occurred in the mid-90s in big cities of Europe and North America, when Western metropolises began to redefine their identity in a «revanchist» way, through the deployment of new urban policies focused on strategies of gentrification (that is the transformation of popular neighborhoods in residential neighborhoods), and supported by the rhetoric of «Zero Tolerance», from New York to most of global cities (Smith, 1996; Collins, 2006). These changes profoundly affected the social spatialization of pleasure and desire, and impacted on the redefinition of the streets of sex. Not coincidentally, this happened in conjunction with a massive increase in the number of migrant women (as well as transgender and men) who sold sex on the streets of Western cities.

In the «revanchist» city, urban requalification is centered on the promotion of the quality of life of the middle-class white family, the privileged cell of mass consumption. Socially and economically marginal groups, such as street vendors, homeless, beggars, roma people, migrant people, teenagers, and prostitutes, are represented as an obstacle to the expansion of real estate and commercial venues. They are therefore constructed as public enemies (Hubbard, 2006).

Municipal policies for the contrast of urban decay, such as those issued by most Italian cities in the latest years, have redesigned the cities, purified commercial and leisure zones, and confining disadvantaged groups to the margin. The public control on prostitution, in particular, can still be seen, as in the past, as part of the effort to control female sexuality, but it is also charged, today, with new meanings related to the preservation of an alleged social, ethnic and racial purity, since most sex workers are foreign women (Serughetti, 2013; Pitch, 2013).

Ethnic and racial diversity, added to social and sexual deviance, produces for sex workers a double exclusion. Comparing old and new representations of streetwalkers in literature and film, one gets the impression of a growing social and

cultural isolation. While Fellini's *Cabiria* could still be represented as a «social» prostitute, as a (subaltern) member of a wider community, the protagonists of the new narratives of street prostitution are mainly represented as purely victims, severely marginalized both socially and spatially.

In most of Italian political discourse on prostitution, street prostitutes' bodies are assumed as being «other», disturbing and indecorous, to be removed from the streets in order to assure their cleanliness. And this is what happens: through local anti-prostitution acts, sex workers are pushed towards suburbs, external roads, industrial areas, where they won't disturb «good citizens». Or, they are forced to move into «invisible» venues, such as apartments, night clubs, sex clubs, hotels, resorts, massage parlors etc.

The counter-effect of the «purification» of public spaces is that the sex market, in the post-industrial city, grows in ever new directions, takes several forms, and occupies spaces and urban neighborhoods which are other than the traditional ones. Moreover, it crosses the boundaries of traditional so called «moral regions» - the regions in which, according to the Chicago school of Sociology, population and human activities are organized in the city (Park, Burgess e McKenzie, 1938). Sex workers are not confined in the regions of social exclusion: they are rather admitted to the «respectable» society, provided that the real nature of their activity remains implicit, and hidden to the eye.

##### *5. The Privatization of «public woman»*

This process is part of what I call, following the studies of American sociologist Elisabeth Bernstein (2007), the «privatization of public woman». Privatization, in this context, has at least two different meanings. In a spatial sense, it means that sex workers are removed from the public space and pushed towards invisible and – so to say – «private» places. In a social and cultural sense, it indicates a shift in paradigm, from the modern industrial to the post-industrial paradigm of sex work.

In post-industrial society, in consumer society, the rigid boundaries that used to divide domestic and public spaces, as well as intimate/domestic and work activities, are progressively becoming blurred and confused. As Bernstein explains, the post-industrial paradigm of sex work is described by the following elements

(Bernstein, 2007: 171):

- A diversified series of products and services, with high specialization.
- The lack of a clear division between public and private spaces.
- Use of new technologies.
- The sale and purchase of a «bounded authenticity», meaning that sex workers offer, and clients buy, a fiction of authenticity, limited in time and space within the prostitution setting, in which eroticism, romanticism and commercial exchange are mixed and integrated.

One of the most representative phenomena for this new paradigm is the so-called *girlfriend experience*, an ever-expanding service in many western countries, in Italy usually labeled under *escort services*. This kind of prostitution service not only provide sexual satisfaction, but involves an appearance of romanticism, courtship, affective care, in brief a surrogate of what a girlfriend is supposed to be. Thus, sex work becomes a kind of «emotional labor», according to the expression coined by Russell Hochschild (1983), while authenticity, romanticism and intimacy are turned to commodities.

Men who buy sex, or - better said - who buy pleasure, express here their preference for a more complex and satisfying prostitution experience, powered by the fantasy of a personal relationship, very far indeed from the mechanic experience of street prostitution. Street prostitution has not disappeared in this paradigm shift: it survives in marginalized forms in all our cities. However, it is growingly represented and culturally interpreted as a residue of the past.

While the modern industrial model was characterized by the social and spatial segregation of prostitution, by the fragmentation and repeatability of performances, and by a strong state control, the post-industrial model is rather based on the multiplication, diversification and spatial dissemination of prostitution venues, by the specialization of sexual services, by the focusing of public intervention on street prostitution and by an elevated tolerance towards prostitution performed in private and less visible spaces.

#### 6. *Prostitution and the urban visual culture*

As mentioned above, the spatial organization of prostitution in the modern city can be seen as an effect of male gaze and male desire, based as it is on gender

inequalities and on male privileges. What happens to this sexual organization of urban space in the post-industrial metropolis? Is men's sexual desire and sexual satisfaction hindered or rather facilitated by the shift in paradigm of sex work? Do the new features of sex work meet new needs of metropolitan men, or should we rather say that men lost – in this shift – the advantaged position allowing them to access women's bodies and sexual care at their pleasure, both in the private and in the public space?

The urban space, today as yesterday, is marked by a sharp gender disparity between the observer and the observed, between the subject and the object of visual experience. This can be seen in the daily practices of women and men, in the way women and men move across the urban space, the extent to which they feel secure or insecure, the differences in their consumption experiences. However, what is most relevant, in this context, is the display of women's body in advertisement, especially on billboards, which colonize every urban surface, in particular downtown streets, station, airports, and shopping malls, producing a metropolitan visual culture in which female bodies are reduced to an aesthetic/erotic exchange value.

The same male power excluding women from the public space in the modern industrial city, include them in late modern metropolis as sexualized two-dimensional bodies, purified by any concretion of women's material and symbolic autonomous lives.

This process can be described as part of the repression of the sensual in favor of the abstract that is characteristic of modern and postmodern representations of space (Hubbard and Sanders, 2003), as well as an effect of the construction of the feminine operated by the «technologies of gender» analyzed by Teresa De Lauretis (1987). Moreover, such powerless representations of women's bodies are strongly inspired, in their aesthetical construction, by sex work. The way models are dressed (or undressed), the way they pose, the setting, as well as the words chosen to illustrate the connection between them and the product advertised, all these elements can allude to, and often explicitly refer to, prostitution (Serughetti, 2013).

This brings a massive and perpetual stimulation toward sexual consumption,

even in urban environments from which the real bodies of sex workers have been expelled and removed. Contemporary Western cities are colonized by a visual culture filled with sexuality, which constantly invites men to access the sex market. And while men who buy sex actually translate their fantasies into action, and search for real bodies of sex workers, men who don't, men who are not actual clients, consume at least those images. And are reinforced in their self-representation as the dominant gender.

### 7. Conclusions

In conclusion, the spatial organization of prostitution in contemporary city describes a moral geography which visibly represents the heterosexual norm.

This norm hardly stigmatizes street prostitution, as a remnant of industrial modernity, while implicitly celebrating the new possibilities for commercial sex in the varied and highly stimulating world of escort services and other «privatized» indoor markets.

The discursive device regulating sexuality and regulating sexual commerce as a unique mixture of sexual and economic behaviors, reveals its positivity in the urban space through the disposition of things and bodies (Bazzicalupo, 2010). A disposition that has never been, neither is today, a gender-neutral configuration.

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## Chapter 11.

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### *A path of tolerance in Milan.*

### *The museums at the service of the territory for the global social justice*

#### 1. *As an introduction: Milan, 313AD – 2013 AD*

The origin of the city of Milan dates back from the Roman times, according to the legend from the reign of the Roman king Tarquinus Priscus (7<sup>th</sup>-6<sup>th</sup> century BC). However, unlike other cities of Roman origin, it does not have a chequer layout but is characterized by a “concentric” type. It has in fact undergone an urban sprawl progressively from ancient up to contemporary times, which can easily be traced to four successive phases, even of each witnessing a peculiar phase of its history.

From its founding until the end of the Middle Ages, the city extended within the *cerchia dei navigli* (canals ring), an area of just 3 km<sup>2</sup>. This was the perimeter of the Medieval city walls bordered with a canal, between the 14<sup>th</sup> and 15<sup>th</sup> centuries made navigable, and today completely covered over. The changed needs of the Modern Age caused the enlargement of the town twice: a first time, during the 17<sup>th</sup> century, the walls of the city were extended to the new *cerchia dei bastioni* (bastions ring), so that the urban area was a little more than triple the previous one (10 km<sup>2</sup>); a second time, after the unification of Italy (i.e. during the second half of 19<sup>th</sup> century), the city expanded further until it occupied the entire area, of about 75 km<sup>2</sup>, bordered by a third ring route known as the *circonvallazione esterna* (external ring road). Finally, after the Second World War, when due to the industrial boom the city reached its highest population figure (in 1971 Milan recorded 1,732,000 residents), the urbanized surface area went far beyond the extent of the municipal territory (181.76 km<sup>2</sup>), also incorporating numerous neighboring municipalities.

During all these centuries, even if being a very important commercial, indus-

trial and tertiary centre – strictly linked with the rest of the region, the country and the world –, Milan has always been a town “solidly Lombard” (Anzoise *et al.*, 2010), with a culturally compact image. It is only during the last decades that the town, recording a massive incoming of immigrants, had to cope with an intercultural reality. After the stop of the immigration from the Southern regions of Italy, in fact, in the last fifteen or twenty years the town has assisted to the arrival of people coming from other countries. From the data provided by the Settore Statistica of the Comune di Milano, on the 31<sup>st</sup> of December 2012 the Milanese inhabitants with a non-Italian citizenship were 261.412, coming first of all from Philippines (39,858 i.e. 15.2%), Egypt (35,970; 13.8%), China (23,967; 9.2%), Peru (21,141; 8.1%), Sri Lanka (16,125; 6.2%), Ecuador (14,909; 5.7%), Romania (14,909; 5.5%), Morocco (8,720; 3.3%), Ukraine (7,820; 3.0%), Bangladesh (5,988; 2.3%) and other minor groups. If we consider that the total inhabitants’ number is today 1,262,101, the percentage of the foreign citizens living in Milan is 20.7%, a very high level never seen before. As an example, we can consider that the first family name is still the classical Italian surname Rossi (held by 4,345 Milanese), but at the second position there is the Chinese Hu, with 3,694 records on spring 2012 (source: *La Repubblica*, April 15<sup>th</sup> 2012), and 4,101 after only less than one year and a half (source: *Il Sole 24 Ore*, August 25<sup>th</sup> 2013). A town where one inhabitant on five is a foreign citizen is certainly a town where on one hand different cultures can be happily overlapping, but on the other hand also a town where problems of social justice can dangerously arise.

The links between Milan and the social justice are quite interesting under an historical point of view because it was really in our town that a very symbolic act has been taken in the Roman period. We are talking of course about the *Edictum Mediolanense*, the edict with which in 313 AD the Roman emperors Constantine and Licinius granted to the Christians full religious freedom just like anyone else. It is a definite fact that this act is normally interpreted by the historians as the time when an era of religious persecution was taken over by a subsequent one of tolerance, not only towards Christianity but also all other forms of worship. This factor makes the 1700<sup>th</sup> anniversary we are celebrating this year, albeit so far off, stringently topical since the intercultural status of today Milan reintroduces

in increasingly urgent and dramatic terms the question of cohabitation between different cultures and therefore also of different faiths.

In another occasion, we have already taken into consideration the anniversary of the *Edictum Mediolanense* to propose a cultural itinerary which, linking the eight existing Milanese ecclesiastical museums, leads the individuals to think over the different aspects of the idea of tolerance (Bagnoli, Capurro, 2012). In the present paper, instead, we don't focus our attention on the users of the same museums, but on the institutions themselves, to verify if they conjugate their traditional cultural vocation with the engagement towards the social justice that O'Neill (2006) auspicates for the museums.

## *2. Museums between society and territory*

### *2.1 The social role of museums*

Responding to the most known international definition of museum, one of the key-roles of museums is to be institutions in the service of society and of its development (ICOM-International Council of Museums: <http://icom.museum>). The meaning of this condition well defines the importance of combining museum activities with some of the social policy issues such as building cohesive and tolerant communities, fostering social inclusion, encouraging the engaging between communities and the museum itself. It is important to underline that this condition is specific for museums because they are permanent institutions, not entities that only promote temporary cultural events, and this allows them to establish a stable relationship with their territory and their community with a specific consideration to future generations.

The sense of the definition of museum as institution with a social role has been differently stressed by scholars and museum professionals that on one hand always put in evidence the social responsibility of museums as places of education, but on the other hand differently define museums and their social role. In fact, among many examples, Anderson (2004: 1) states that the social role of museums is to “provide the most good in society”; Janes and Conaty (2005) point out that this role depends on the fact that museum is “socially responsible”; and O'Neill (2006: 100) opens the new frontier of museology clearly sensitizing “museum policies in promoting social justice”. Indeed, in the last twenty years

meaningful experiences in museums all over the world do demonstrate the social benefits and public value of museums (Scott, 2006).

Just to remark the relevance of the social role of museums, as underlined by Silverman (2010), museums have long used their resources to pursue the same objectives defining the profession of social work, that is helping individuals, groups, or communities enhance or restore their capacity for social functioning and creating social conditions favorable to this goal. In our world the experiences toward this goal are very varied with approaches for serving as agents of well-being and as vehicles for social change. The design of this social approach in the museum life can be applied to all types of collections for enhancing the museum experience in particular for the local communities.

Regarding the ecclesiastical museums, there is an aspect that cannot be neglected considering their social role, that is the ownership by specific Roman Catholic Church institutions. In fact it is important to underline that the social role of museums is especially meaningful because, among the different museum owners, there are religious institutions. These have in their mission activities aimed to promote social justice, contributing with active help to favor tolerance (Capurro, forthcoming), social inclusion and charity.

Among the Milanese ecclesiastical museums, there are some of them owned by ecclesiastical institutions that are not particularly finalized to the social field. This is the fact of the *Pinacoteca Ambrosiana*, owned by the *Veneranda Biblioteca Ambrosiana* that have in its mission a social goal limited to the spread of culture, and of the *Museo del Duomo*, owned by the *Veneranda Fabbrica del Duomo* whose aims are to conserve, defend, and promote the cathedral of Milan as a place of worship, art and connection with the city of Milan. In these two cases, even if, as museums, they could anyway develop *ad hoc* social programs, the lack of a specific social aim in the statutes of their owners makes weaker this finality.

Another case is of the museums owned by the parishes of *Sant'Ambrogio* and *Sant'Eustorgio*. Even if a parish has of course, as one of its primarily aim, the exercise of the charity, the two homonymous museums do not have relevant educational or social activities, having till now pursued only a mere conservative function.

Finally, there are other ecclesiastical institutions very active in the social field with relevant programs connected with social inclusion, intercultural dialogue and charity. In some cases these aspects are the most relevant in their life, so as to be generally considered as essential contributions to the policies of social inclusion of the city. Considering the museums owned by these institutions, a vital connection with the property could be an important factor in the development of their social relevance that enforces on one hand the message of the institution and on the other hand the vital social role of the museum.

The aim of our research is to verify which is the consciousness of the social role for these Milanese ecclesiastical museums and which are the strategies and the approaches to let the museum to be the site where the social necessities can find a field of training and exchange. But before this, it is necessary to analyze another aspect of the modern science of museums, we mean the links there are between them and their surrounding territories.

### *2.2. The territorial role of museums*

The social role of museums we have already approached is of course related to a territory going from the local dimension for the more little museums to the global one for the museums having an international appeal. What it is important to stress is that in any case a museum is part of a territorial context with which it has a relationship in two senses: on one hand, the museum receives from the territory in which it is included a big number of inputs (usually the collection, the building, the accessibility, the visitors, the money...), but on the other hand the territory as well receives from the museum as many inputs (usually the touristic appeal, the cultural level of the local community, the connected services...). Also on the point of view of “significance”, it is not incorrect to tell territory and museums are so strictly linked each other that they would be both different if they were the one without the other (as an example, we can think about Paris and the Louvre: can we rightly say that Paris would be the same if the Louvre – with Monna Lisa! – was not there, and vice-versa that the Louvre would be the same than now if it was in another town than Paris?).

For this reason, in the last decades museology and geography have discovered a fruitful relationship under a new light. In fact, at the beginning of the 20<sup>th</sup>

century the two disciplines were linked only as far as the subject was a geographic museum; after the half of the century only to study the territorial context which produced every single piece stored in a museum; during the Eighties, with the interesting stimuli coming from the new cultural geography, only to analyse the symbolic, ideological and identitarian functions of the collections (Sturani, 2009). Instead, the most recent approach – as we have just seen, the one aimed to stress the relationship between museums and territory in the two senses – has permitted museologists and geographers, and first of all the ones most engaged among them, to clarify, if this was not already clear to someone, that their respective disciplines could be also, and perhaps first of all, of a social nature (Bagnoli, Capurro, 2013).

To what it concerns the territory, we do not have to forget that their new approach has abandoned the traditional thought that it is simply the stage on which the networks happen, preferring the one according to which it is the result of the networks, which in our society are becoming more and more countless (Painter, 2009). Consequently, the our days research has also abandoned the traditional multicultural approach, according to which the territory is a mosaic where every human community shares a common culture, preferring the intercultural approach, where the strict link between place and culture is mostly outmoded (Farinelli, 2003). Finally, the today social science has also definitely included the time in the dimensions of the space, so that every conclusion is always provisional and partial, open to the real processes of the becoming (Sereno, 1983).

In that sense, the territorial role of the museums is quite interesting. We can in fact consider a museum as an intersection of several fluxes mainly of people, but also of ideas, of tourists, of money; as a site useful to mix people of different cultures, religions, languages so that they can dialogue and increase their reciprocal knowledge and respect; and finally a temporal knot of which the past is well-known but the future is completely to be built. For all these reasons, a museum can be rightly considered as a remarkable site through which the local community can collaborate with the other subjects to build a “new territory”.

In the prosecution of this article, we will analyze the Milanese ecclesiastical museums to verify if they do have a role in modifying the society first of all in

the field of global social justice. As we have noticed before, we will reduce our research to four of them, the ones which are property of institutions linking clearly in their statutes the diffusion of culture and the exercise of charity. These are the *Museo Popoli e Culture* (of the Pontifical Institute for Foreign Missions), the *Museo dei Cappuccini* (of the Order of Friars Minor Capuchin), the *Museo Diocesano* (of the Archdiocese of Milan), and the *Galleria d'Arte Sacra dei Contemporanei* (of the no-profit Charity *Casa di Redenzione Sociale*). As we will see, they constitute very good (§3.1), good (§3.2), quite good (§3.3) and not so good (§3.4) examples of coordination between the two finalities, with different repercussion on the social tissue of the town.

### 3. Case-studies

#### 3.1. *The Museo Popoli e Culture*

The first case-study of our research is the *Museo Popoli e Culture* (Peoples and Cultures Museum), an ethno-anthropological collection property of the PIME-Pontifical Institute for Foreign Missions, hosted in a building of a Milanese residential zone where there is also to the seat of the Institute ([www.pimemilano.com](http://www.pimemilano.com)).

The *Museo Popoli e Culture* is one of the cultural institutions managed by the no-profit *Fondazione PIME* whose main aims are two: to develop the social justice in particular with projects of international cooperation for developing countries, and to spread the education for intercultural dialogue. These two activities are of course strictly linked with the main mission of the PIME, that is to spread the Gospel all over the world respecting the different cultures and peoples.

A first exhibit was founded in 1910 with the name of *Museo etnografico indo-cinese* (Indo-Chinese Ethnographic Museum) and was exhibiting various objects coming from the missionaries in India and China, with the mere aim to show something of exotic. Nowadays, instead, the collection is displayed to narrate the lives, the cultures, the values, and the beliefs of native peoples through their arts and crafts to stimulate the knowledge and the respect of the human being in all the regions of the world. It is still composed of artistic and ethno-anthropological objects, first of all from the Far East but also from other parts of the world, such as the Americas and Africa. Even if the entire collection is composed of ap-

proximately 3,000 objects, many of them made for religious matters, the exhibit is of about 300, displayed in two halls of about 400 m<sup>2</sup>.

The life of the museum is characterized by a constant development of educational activities, with special projects and experimentations to increase and improve the possible narratives of the museum from an inclusive point of view. The visitors are about 5,000 per year, one-third of which autonomous visitors, but two-thirds students of an average of age between 3 and 18, who benefit of educational programs designed for the schools of all levels.

Worthy of note initiatives are the inclusive programs addressed to the migrants and the projects of active citizenship addressed to the old and new Milanese inhabitants. In particular, the *Museo* has been the location of the project *Tam-Tam – Tutti Al Museo* (Everybody to the Museum) –, a participative project, studied by a team composed by professionals of the museum itself and experts of cultural mediation and education coming from other institutions. The initiative, held between January and September 2011, was a very interesting pilot project addressed to adults with the aim to enhance the experience of visitors from different parts of the world through participative strategies founded on personal narratives.

As a sum, the *Museo Popoli e Culture* has since now played its social role in dialogue with the other activities of the PIME and with the proper languages of the museums in a very good manner.

### *3.2. The Museo dei Cappuccini*

Another positive case-study of our research is the *Museo dei Cappuccini* (Capuchins' Museum), owned by the Lombard Province of the Order of Friars Minor Capuchin, hosted in a building in the center of Milan, just next to the poor people canteen ([www.museodeicappuccini.it](http://www.museodeicappuccini.it)).

The *Museo* – with the other cultural realities belonging to the Order and managed through the no-profit organization *Beni culturali cappuccini* (Cultural Heritage Capuchins) – was founded in 2000 as an occasion to let the Milanese know better the Order present in their region since 1535. The collection, visited by about 3,000 visitors per year, takes in about 2,000 artistic pieces coming from the Order Archive or from the 24 Fraternities of the Province, but only a few can

be exposed simultaneously. These works witness the Franciscan spirituality, the charitable activities of the Lombard Capuchins, and the cultural environment in which the friars have operated for almost five centuries. A particularity of this museum is to present, over a permanent collection, very frequent temporary exhibition, the last of which was *Venti capolavori per raccontare la carità* (Twenty masterpieces to tell the charity), held since 17<sup>th</sup> March to 16<sup>th</sup> June 2013. This exhibition, starting from the Jesus command “love one another as I have loved you” (John 13,34), passing through some best examples of Franciscan charity during the centuries, was ending with a photographic display of the action of the *Opera San Francesco* (Saint Francis Work) in our days.

The *Opera San Francesco* is another no-profit organization of the Lombard Province of the Capuchins, founded in 1959 with the aim of promoting social justice. One of its most important Milanese realizations is a canteen for poor people, which today serves more than 2,700 meals per day, but there are also a shower service, a wardrobe, a medical ambulatory, and a social bureau. It welcomes about 27,000 people per year, constituting a very important social reality for the city, where about 700 volunteers, among whom 200 are medical doctors, do their meritorious service.

The social engagement of the *Museo*, anyway, is not at all limited to the collaboration with the *Opera* in organizing the 2013 exhibition, but there are also interesting personal cases, among which the most singular is a homeless going to the canteen who manifested interest towards cultural aspects, and eventually was invited to visit the museum. Not only: the *Museo* cooperates strictly with a community of drug addicts in the immediate southern countryside of Milan, and with a house for girls’ victims of violence in a northern district of Milan, with projects of social rehabilitation and appreciable results.

It is not therefore incorrect to say that if the cultural role of the *Museo dei Capuccini* concerns first of all people coming from Milan and its hinterland, also its social effects have an important role about the Milanese social justice.

### 3.3. *The Museo Diocesano*

The third museum here considered is the *Museo Diocesano* (Diocesan Museum), owned by the Archdiocese of Milan and inaugurated in 2001 ([157](http://www.mus-</a></p>
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eodocesano.it).

The *Museo Diocesano* is certainly one of the most significant cultural centers of the Milanese Church: it is very active with exhibitions, conferences and educational programs with the objective to represent the Church of Milan not only from an historical point of view but also as an institution active in nowadays society. Located inside the cloisters of *Sant'Eustorgio* – one of Milan's most ancient and historically important monumental building comprising a basilica and a former Dominican convent – it contains a permanent collection of over 700 works of art, dating from the 4<sup>th</sup> to the 21<sup>st</sup> centuries. The visitors per year are estimated in about 65,000.

The Archdiocese of Milan is one of the most important in the Roman Catholic Church due to its history (dating back the 3<sup>rd</sup> century), its size (with 5 million of souls and 1,104 parishes it is the largest in the world), its unique liturgy (the Ambrosian rite), and the quality of its cultural and social activities. Among the various institutions committed with social aims, we limit to mention the *Caritas Ambrosiana* that coordinates and promotes all the projects of charity, assistance, and improvement of the social justice of the Archdiocese. Besides, in the last years the Church of Milan is also very active in the field of intercultural dialogue and many other projects oriented to the social inclusion.

The *trait d'union* between the *Museo* and the Archdiocese is the *Fondazione Sant'Ambrogio*, an ecclesiastical trust. Even if the museum operates with a large autonomy in managing the museum and its activities, the president and board of the *Fondazione* are assigned directly by the Archbishop, therefore they reflect the will of the Archdiocese. For this reason, the life of the museum could be more oriented toward a pastoral, or a cultural, or a social role, depending on the will of the *pro tempore* Archbishop. Until nowadays, the choice of the Church of Milan has been eminently that of a museum with mere cultural aims.

In fact, the *Museo Diocesano* today is not particularly involved in programs joining the cultural with the social aims. The potentiality of the museum as an instrument to develop educational programs to facilitate the social inclusion has not been sufficiently expressed until now, although it has instruments and competencies to undergo a radical change towards this challenge of the contem-

porary museums.

### 3.4. *The Galleria d'Arte Sacra dei Contemporanei*

The last case-study of our research is about the *Galleria d'Arte Sacra dei Contemporanei* (Gallery of Sacred Art of Contemporaries), property of the no-profit Charity *Casa di Redenzione Sociale* (House of Social Redemption), hosted in Villa Clerici, a remarkable 17<sup>th</sup> century elegant country house, today in the district of Niguarda ([www.villaclerici.it](http://www.villaclerici.it)).

The *Galleria* – that takes in about 200 contemporary artistic works (but at least 3,000 paintings, sculptures, gypsums, and drawings are stored in the warehouse) and welcomes more than 3,000 visitors per year – is the result of the engagement of the painter Dandolo Bellini, enthusiast collector of sacred art during the first half of the 20<sup>th</sup> century and meritorious collaborator of the activities of the *Casa di Redenzione Sociale*. In fact, when after the Second World War, the Charity extended its seat constructing new modern pavilions in the park surrounding Villa Clerici, Bellini proposed to transform the empty rooms of the Villa in a gallery capable of hosting his collection. Therefore, when the 7<sup>th</sup> December 1955 the President of the Republic inaugurated the new seat of the *Casa*, he inaugurated the same day as well the new *Galleria*. The collection is indeed worthy of note since the Archbishop of Milan Giovanni Battista Montini – eventually pope Paul VI (1963-1978) – expert connoisseur and sincere fond of contemporary art had to say: “Here we can reconcile ourselves with the modern art”.

The *Casa di Redenzione Sociale*, on the other hand, is an institution of the *Compagnia di San Paolo* – a pontifical secular institute of the Roman Catholic Church – founded in 1927 and since then hosted in Villa Clerici. Its aim was initially to help the adults released from prisons, but, after the War, quickly it evolved into the help of minors in situation of social difficulties. Today, its activities are first of all towards boys and girls of the secondary schools in charge of the social services for scholar, educational and psychological support, towards problematic families for mediation and support help, and towards immigrants with courses of Italian language and culture for foreign people.

Unfortunately, the links between the charitable activities of the *Casa* and the cultural ones of the *Galleria* are very few, and only some guided visits for school

classes are organized every year. This is perhaps due to some economic and financial problems the *Compagnia di San Paolo* had to cope with in the last years. Anyway, there is a strong will to reorganize totally and from their core the activities of the different subjects surrounding the secular institute, and this is one of the intentions to realize.

A good link between social and cultural needs would be desirable also for the inhabitants of Niguarda which sometimes don't even know the artistic and charitable treasures there are hidden in Villa Clerici.

#### *4. Some final considerations*

In Italy, the ecclesiastical museums have peculiar conditions. For the Italian national law, they are private, but in the facts they all have a strong sense of belonging to the Roman Catholic Church (a diocese, a religious order, a secular order...); they are strictly linked with a local territory (dioceses, parishes, provinces...), even those having strong international connections (missionary orders, pontifical entities...); they are usually of small dimension but very scattered in all the country (the AMEI-Association of Italian Ecclesiastic Museums counts about 1,000 of them); and they depend on hierarchic organizations where all the decisions are determined quite independently from external influences.

This last fact has relevant influences both negative and positive: on one hand, for example, a bishop could freely decide to close a diocesan museum if he does not deem it useful to his pastoral program, or to appoint an incompetent museum staff if he has not enough sensibility towards the role of a museum; on the other hand, he could support adequately the traditional museum activities, or he could freely choose to develop experimental social actions to fit the museum better with the pastoral work of his diocese.

In general, the innovative experiences in the ecclesiastical museums are very few. The only field where ecclesiastical museums have introduced novelties that distinguish them from other museums are specific programs for catechism, evidently addressed to the community of believers. It is instead an almost unexplored field the role of museums as places where improve the sense of solidarity, play inclusive activities, and act programs oriented to the global social justice. It is interesting to observe that these specific objectives should be imported in

the museums through the educational departments of the museums themselves, but in the majority of these the education is considered a secondary goal, so that there are very few with a specific staff.

The case of the ecclesiastical museums of Milan shows that in general we found a low consciousness of their social role and it is evident that the potential of them is therefore scarcely developed. However, we noticed interesting cases like the *Museo Popoli e Culture* and *Museo dei Cappuccini* that can be considered virtuous examples of good connection of their social and cultural roles. This depends on the fact that the owner-institutions maintain with the staff of the museum a constant dialogue, a mutual exchange of experiences, and a good sharing of the vision.

In the other two cases of *Museo Diocesano* and *Galleria d'Arte Sacra dei Contemporanei*, we saw that the important social mission of the owner-institutions are not really present in the activities of the museums, and this is a clear signal of a weak sense of the social role of the museum and of a limited vision of the educational opportunities. Besides, in particular for the *Museo Diocesano*, it constitutes a missed chance, in an intercultural city like Milan in 2013, to communicate the social justice and the tolerance to a different and wider public.

In conclusion, we can state that the Milanese ecclesiastical museums owned by institutions with a strong charitable mission have still unexpressed good potentials. In particular, they could all play a bigger role in the spread of social justice if they took deeper consciousness about their social function and if a deeper mutual exchange between the owner-institutions and the museums took place.

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NOTE: this work is the product of research carried out by the two authors who worked in close cooperation during all the planning and executive phases. However, the final draft of paragraphs 1, 2.2, 3.2 and 3.4 is by Lorenzo Bagnoli, that of paragraphs 2.1, 3.1, 3.3 and 4 by Rita Capurro.

**V.**

**Students' papers**  
**Rights between Imagination and Dystopias**



## Chapter 12.

Caterina Pellò

### **Christine de Pizan and Aristophanes: two “cities of ladies” in comparison**

“*Ἐγὼ γυνή μὲν εἰμι, νοῦς δ’ ἔνεστί μοι.*”

(*Aristophanes* 411, 168)

#### 1. *Introduction*

Christine de Pizan’s *Livre de la cité des dames* is definable the first feminist text and its author can be seen as the world’s first professional feminist writer. Her work consists in a Platonic dialogue regarding Christine’s attempt to build an allegorical city populated by all the famous and virtuous women from both past and present times, as well as by mythological characters who belong to the Greek, Latin and Biblical culture, with the purpose of contradicting and rejecting the countless untruths and misrepresentations of womanhood men have perpetuated since the ancient times. Women are vicious, unfaithful, avaricious and lustful, they are ungrateful as daughters and inconstant as wives: these are just some of the defaming statements made by male authors in order to discredit women’s reputation and de Pizan<sup>42</sup> tries to contest each and every one of them, commemorating the moral strength and noble virtues that characterize the ladies living in her ideal city and symbolically represent the solid and everlasting walls and buildings that will defend their unshakeable good nature for the years to come.

Christine de Pizan’s effort to rewrite and reinterpret tradition in order to praise women’s accomplishments and is nothing less than revolutionary, however hers is not the first “city of ladies” that has ever been written about. In fact, approximately a thousand years earlier a Greek comic playwright had made a similar

<sup>42</sup> I adopt the same distinction made by Christine Moneera Laennec in her paper “Unladylike Polemics: Christine de Pizan’s Strategies of Attack and Defence”, using “de Pizan” to refer to the author of *The Book of the City of Ladies* and “Christine” to refer to the main character of this dialogue.

attempt, imagining a society ruled by women, but, on the contrary, holding this utopian city up to ridicule. The name of the poet was Aristophanes, and his work is entitled *Ἐκκλησιάζουσαι*, or *Assemblywomen*. In this satirical play Aristophanes tells the story of a group of women who, following the lead of the wise Praxagora, decide to involve themselves in politics taking over the control of Athens, as they are convinced they can do better than men; however, he describes the consequences entailed by the government they established as ridiculous and deleterious, depicting a "city of ladies" that seems completely different to de Pizan's feminist allegory. The playwright deals with the issue of female political power also in another comedy, the *Λυσιστράτη*, or *Lysistrata*, which regards the Athenian women's ability to control men, organizing a sex strike in order to force them to end the Peloponnesian War, with the difference that in this second case women gain power *de facto*, while in the *Assemblywomen* they are *de iure* elected as Athens's new leaders. However, in spite of this distinction, the author's satire about the idea of women involving themselves in politics remains unchanged.

Aristophanes' plays seem a paradigmatic example of the male *forma mentis* that conceives female participation in public affairs as an oxymoron. Christine de Pizan's main aim is to contradict this belief. Therefore, my aim is to make these two authors debate with each other in order to analyze, despite their chronological distance, the differences and similarities between their viewpoints regarding the idea of "a *polis* of the feminine" (McWebb 2003, 52). I will compare these two perspectives so as to explore the potentialities, the possibilities and, perhaps, the limits that may characterize a "city of ladies": are women, likely, or even able, to take part in politics and citizenship? Which are, if there are any, the intangible inner and spiritual qualities that make women suitable for ruling their communities? As far as their public lives are concerned, are male and female citizens equal or is there a superior gender? Is there a place for equality and justice in this city? And which is the female conception of these two values? Most importantly, is Aristophanes one of the misogynist authors Christine de Pizan wants to criticize? Are their perspectives so diametrically opposite as they seem at a first glance or maybe some similarities can actually be found in what these two authors think about womanhood?

These are only a few of the questions I will ask myself and try to answer in order to understand whether Aristophanes and de Pizan's purposes are reached, whether their cities can be described as a success or a failure and, above all, whether a "city of ladies" will ever be realizable - if it has to be realized, of course.

## 2. *Christine de Pizan: A Feminist Allegory*

The majority of Christine de Pizan's literary work is focused on one main subject: the defence of women. For this reason I believe that she can be described as the first known feminist author, or better as a forerunner of this ideology, for she shares the purpose of challenging gender inequality and discrimination; thus, I surely agree with Sandra Hindman saying that Feminism is a "political ideology alien to fifteenth-century thought" (Hindman 1984, 472) and that de Pizan's writings must be contextualized in the France of her time in order to avoid meta-historical considerations, however I do not find misleading and misrepresenting defining her a proto-feminist as it highlights the link between this two chronologically distant perspectives and demonstrates that from a certain point of view Feminism does owe Christine de Pizan. In fact, in *The Book of the City of Ladies* she decides to confront misogyny and openly criticize every prejudice that have ever been spread against her gender and this is the reason why it seems to me that in a sense her work can be seen as the *pars destruens* of the fight against women's discrimination, while the feminist ideology constitutes its *pars construens*.

But let us step back for a little while to the content of *The Book of the City of Ladies* and to the author's intention to praise women as models of virtue and wisdom. At the beginning of this book we find Christine complaining about her being a woman "*enclins et plains de tous les vices*" (de Pizan 1405, 42), prone to vices by her nature, for many intellectuals before her have diminish her gender; all of the sudden, while she is even wishing she had been born as a man and not as that "*ville chose*" (de Pizan 1405, 44) which every women seems to be, she is visited by three majestic and crowned ladies, *Raison*, *Droiture* and *Justice*, who encourage her to defend her gender, extolling its qualities and worth. The three ladies want Christine to build an ideal city where all the women who have ever stood out for their virtuous behaviors can seek refuge and they intend to help her achieving this purpose: Lady Reason is carrying a mirror, which will show

the true noble female nature, and assists Christine in laying the foundations of the city walls, Lady Rectitude starts the construction of the buildings with her ruler which distinguishes good and evil and finally Lady Justice, who carries a gold vessel as a symbol of measure, populates the city and introduces its regent, the Virgin Mary.

In order to fulfil the duty of defending the dignity of her gender, Christine recounts the stories of some future female inhabitants of the city, demonstrating their inherent goodness, culture, prudence, honesty and integrity, their political skills and their exemplary morality; each tale stands for a stone of the fortress, enabling her to accomplish the foundation, and as a consequence from that moment on "ladies and all valiant women may have a refuge and defence against the various assailants, those ladies who have been abandoned for so long, exposed like a field without surrounding hedge" (de Pizan 1405, 55). In the end she addresses all women exhorting them to follow those admirable *exempla* so that they can also be welcome to dwell in this endlessly prosperous and unconquerable city of ladies. As Hindman says, Christine de Pizan is both the builder of this imaginary city of ladies and the author of this *ante litteram* feminist book: they both can be described as "a work by a woman about women" (Hindman 1984, 472).

From a certain point of view, de Pizan's work is inscribable in the tradition of political philosophy, for she discusses the thorny issue of the role played by women in politics and of the conditions that allow their exposure in the political arena and in the decision-making process, maintaining that there are not public and social functions belonging exclusively to men and that women should not be relegated in a domestic sphere because of their physical weaknesses, as these are often combined with intellectual strengths. I will first expose Tracy Adams perspective on this subject, borrowing from her paper "Christine de Pizan, Isabeau of Bavaria and Female Regency", in which she classifies de Pizan's writings as "the opening phase in what became a lengthy debate over the role of women in government" (Adams 2009, 1). In this paper Adams argues that de Pizan is in favor of both women's exclusion from the line of succession to the throne and their inclusion in the public political sphere and that this opinion is inspired by the figure of the Queen of France Isabeau of Bavaria, Charles VI's wife, to whom the

*Livre de la cité des dames* is dedicated. Since her husband suffered from mental illness, Isabeau had been designated as coregent, a “caretaker of the throne during the king’s absences” (Adams 2009, 5), in order to deal with the king’s tasks and responsibility without being a real threat to the throne, given her exclusion from succession; on the contrary male regents tended to usurp the royal power rather than just be representatives of the king and, as far as de Pizan’s opinion is concerned, this made women more suitable for this role. Another reason why women had a very important place in the French politics during the Fifteenth Century was since they were careful, tender and loving mothers, devoted to no other cause than their children and therefore responsible for the upbringing of the actual heirs to the throne. That being said, not being ambitious is not the only female prerogative that lead de Pizan to maintain that women should be involved in politics: they also “represent measure and intelligence, [...] are peaceful and conciliatory, although clever” (Adams 2009, 20 - 31), are endowed with diplomatic skills and concerned in peace, which once again means, as Adams stresses, that they are more mediators than rulers, arbitrators rather than leaders.

In Adams’ point of view, Christine de Pizan agrees and defends this form of female power without contesting women’s exclusion from other tasks, such as ruling a country independently, and this perspective is due to the fact that her aim is not to uniform the female and male gender, but to praise each one for its own qualities, strengths and virtues because, according to her, they must not substitute, but complete one another: as she writes, “God wanted men and women to serve him differently, and to help each other and to give each other mutual aid, each according to his manner, and he thus created the two sexes to be of different natures, as necessary to the accomplishment of the tasks” (de Pizan 1405, 93). Therefore women have the ability to “temper impulsive male reactions” (Adams 2009, 27), while men strengthen “the compassionate, maternal and peace-loving qualities of the female figures with the need for authority” (Adams 2009, 27), and this is the reason why women’s prerogatives make them appropriate co-rulers, as it is symbolized by the character of the Virgin Mary, “the ultimate regent” (Adams 2009, 26), who is brought into the city by Lady Justice in order to lead it not in her own name, but on behalf of her son.

Although I do not think that de Pizan's work can be read only from a political point of view and reduced to a discussion on female coregency, as her main aim remains the defence of her gender from misogyny, the reason why I find Adams' interpretation of the *Livre de la cité des dames* compelling for this paper is the fact that women are seen as "excluded from the male world yet essential to its successful functioning" (Adams 2009, 20) and as necessary in order to provide for male faults and defects. This does not mean that they should or even would be able to get along without their male counterparts: in fact, the city of ladies imagined by de Pizan has never been conceived as an actual political proposal, but will always remain an allegory, an unrealizable ideal, a Platonic *παράδειγμα ἐν οὐρανῷ*.

### 3. Aristophanes: an absurd solution to an insoluble political crisis

As I have already mentioned in the introduction, the Greek playwright Aristophanes wrote two comedies, facing the problem of women's place within the Athenian society: the *Lysistrata*, originally performed in 411 BCE, and the late play *The Assemblywomen*, dating from 392. The first one is set in a worn-out Athens during the period of the war against Sparta and is about the Greek women's heroic attempt to establish peace. Their leader, Lysistrata, described as the "boldest and bravest of womankind, [...] uncompromising and conciliatory, exacting and yielding, haughty and condescending" (Aristophanes 411, 169), has gathered women from all over Greece in order to plan a way to persuade men to negotiate peace and end this harrowing conflict which has been a far heavier burden to women than to men and during which women have been left languished for losing their sons, feeling abandoned by their husbands, "growing old in lonely grief" (Aristophanes 411, 123) and having to put up with this unbearable situation without being authorized to advise the quarrelsome and stubborn men about possible solutions to it.

She suggests they withhold sexual privileges, makes her female allies take a solemn, though hilarious, oath not to lie with their spouses until the war is finished and organizes a revolt that enable women to conquer the Acropolis, depriving men of the state treasury they need in order to keep on fighting. Therefore, the battle between the sexes begins. Although women are accused by their male counterparts to be a lascivious and vain breed, a *κακόν*, a misfortune, they are

forced to live with, though they are called every name under the sun and blamed to act due to a bacchanalian irrationality, in the end the female faction prevails thanks to the qualities that characterize their gender, their “lavished virtue, grace, boldness, cleverness” (Aristophanes 411, 119), as opposed to the weaknesses of men, and, as the playwright says, the war becomes women’s business. The play ends with a symposium in which men and women dance and drink together celebrating the end of both the war and the strike.

There are two main reasons why this play is particularly significant for the topic we are discussing: first of all, the *Lysistrata* is one of the first comedies with a female heroine as a protagonist, as it precede the idea of the “city of ladies” described in the *Assemblywomen*, imagining a society which should be dominated by men, but is *de facto* ruled by their wives; secondly, it is the one of the first attempt to analyze and solve female situation, or better female marginalization, in Ancient Greece. As Guido Paduano says, this had already been done by Euripides in his *Medea* with the difference that the solution the tragedian suggested could not be applied to the whole womankind because it was indissolubly linked to the extraordinary and exceptional character Medea is, while Lysistrata’s plan emphasizes and exalts the peculiar prerogatives of the entire female gender with the aim to “convert its marginalization in hegemony” (Paduano 1984, 16).

Let us now turn to the second comedy, the *Assemblywomen*. This play is about a group of Athenian women and their leader Praxagora, a character that, as Lysistrata did before her, represents one of the first examples of female heroine. Disguised as their husbands, women take part in the assembly to vote for Praxagora’s proposal to give them the control of Athens, as this is the only thing left to do in order to solve the moral, political and social crisis which is affecting the city.

Once in power, they establish a communistic society based on a quantitative idea of equality in which belongings, food, dwellings, slaves and families have to be shared among the citizens with the aim to create an orderly and uniform community without any injustice and economical imbalance. As in the *Lysistrata*, after the hilarious and witty descriptions of some of the measures that are taken by the new female rulers of the city, reminding us of the communistic utopia illustrated by Plato in his *Republic*, the play ends with a communal banquet in

which women are celebrated for their political triumph.

Once again, Aristophanes makes his male audience laugh at the female involvement in the political affairs of Athens, not only for the communistic principles they are guided by and the democratic purposes they aim at, such as the commonality of property and sexual equality, but also for the oxymoronic idea of female power itself, which was felt as unreasonable in the apparently democratic Athens. That being said, I do not think that satirizing women's attempt to take part in citizenship can be seen as Aristophanes' main aim. In fact, both the *Lysistrata* and the *Assemblywomen* were written in the period in which the so-called Athens Golden Age was about to decline: the first play dates back to the Peloponnesian War, immediately after the tragic defeat during the Sicilian Expedition, while the composition of the second one follows the loss of the conflict with Sparta, the reign of terror under the Thirty Tyrants and the laborious restoration of democracy. The Athens Aristophanes pessimistically describes is decaying and its citizens, especially the male ones, are seen as lazy, incompetent, valueless and corrupt; therefore, the government of women seems the only possible, though absurd and ridiculous, solution to an apparently insoluble political and social crisis. The author's purpose is not to ridicule Praxagora's plan and show its aberrant consequences, but to criticize the worsened Athenian society which made this plan necessary in the first place in order to restore the situation.

As in his previous comedies, Aristophanes is aggressive and bold towards his time; therefore he does present the idea of a "city of ladies" as an utopia, something which is definitely unrealizable, but he uses it anyway as a pleasant device that enables him to satirize Athenian politics and ironically show his discontent due to the way in which the city was ruled, as if to say that if his contemporaries had kept on inadequately ruling the city, they would have had to hand the government to their wives.

I think that Aristophanes really believes that women have certain qualities that make them suitable to lead the city, such as the already mentioned aversion to war, their being faithful, conservative, genuine and resistant to change, their frugality, their ability to manage property and their tendency to be loquacious as every politician worthy of his name should be; thus, his comedies should not be

classified as misogynist because the object of his satire are not women, but the decadence of the Athenian society. As Jaeger writes in his *Paideia*, Aristophanes' comedies have always had an educational task: they were a mirror of their contemporaries' lives and used to enter in the political arena, "discuss every issue that matters to the public opinion and blame, when appropriate, not only one citizen, not only this or that political deed, but also the entire community and its weaknesses" (Jaeger 1944, 615).

Besides being comical, the plays make the audience aware of the imminent and irreversible end of the Athenian *grandeur* and this is the reason why men seem always more meaningless, incompetent and unfit for politics than women. Since the gravity of the problem is connected with the funniness of its solution, female political power is indeed what the audience laughs about and what is ridiculed by the author, but the guilty of this situation is the city of Athens and its male leaders, not women themselves.

#### 4. Conclusion: Two "Cities of Ladies" in comparison

At a first glance, de Pizan and Aristophanes' work could not seem more different: the former author strongly contests all the untrue statements that have ever been spread against women and insists on the necessity of respecting them, while the latter writes satirical plays about, or maybe against, the female gender. In fact, a first and superficial interpretation of Aristophanes' plays may lead you to the conclusion that in his point of view women are neither suitable nor able to get involved in politics and this is because in the *Lysistrata* the one and only power women seem to exert on men is due to their sexual abstinence, while in the *Assemblywomen*, though Praxagora and her female allies succeed in gaining the control of Athens, in a short time the communistic society they establish ends in a ridicule disaster, where old and hideous women steal men from their younger lovers and citizens dine all together eating absurd dishes "compounded of all kinds of dainties, fish, flesh, fowl and sauces" (Aristophanes 391, 177).

Moreover, the Aristophanic "city of ladies" seems to fail also because of the weaknesses and defects of womankind: in fact, the heroines of this two comedies do not show all the intangible and spiritual inner qualities that Christine de Pizan attributes to her gender, but have bad habits, too, such as deceiving and

lying in order to take control of their city; they are not as pure as the characters described by de Pizan, but struggle against their vow of chastity as much as men. The difference between these two perspectives on womankind can also be inferred by the leaders of these "cities of ladies", Praxagora and Lysistrata on one side, the Virgin Mary on the other, for the formers are bold, daring, witty and resolute, while the latter is the symbol of goodness, purity, virtue and grace.

Another dissimilarity can be found in the fact that de Pizan's ultimate purpose has never been to maintain female superiority, but to give reasons for equally respecting both genders, while in Aristophanes' plays the comical element is due to the fact that women are truly convinced, they can lead Athens better than men, remedying their mistakes. Finally, the last difference between Aristophanes and Christine de Pizan is due to the conceptions of justice and equality that shine through their works: in fact, according to Aristophanes, women have a quantitative conception of equality, which means that in their city everyone is assigned the same, or better nobody has something on his own because all citizens share everything they have. Therefore they think of justice as something that uniforms people, levelling the social and economic differences between them; on the other hand, the idea of equality that is noticeable in *The Book of the City of Ladies* is qualitative, as in the Latin maxim *unicuique suum tribuere*, and justice is conceived as an Aristotelian "measure which will render to each his right" (Green 1994, 467), for de Pizan writes that the task of *Dame Justice*, the allegory of justice, is "*departir et donner la porcion a un chacun du bien ou du mal qu'il a desservi, [...] jugier, departir et faire la paye, selon la droicte desserte d'un chacun*" (de Pizan 1405, 60), not to uniform, but to judge and allocate to each person the proper amount of good or evil he or she deserves because different people have different merits.

Given the above-mentioned distinctions, I think that Aristophanes and de Pizan are not so opposite as they may seem to be and that it is also possible to find some similarities between their two ways of writing about womanhood. This conclusion is inferable from two premises. In the first place, as I have already pointed out presenting Tracy Adams' interpretation of *The Book of the City of Ladies*, de Pizan has never hoped for her allegorical city to become real, she does not

think that women should live on their own, “*sans subjection d’ommes*” (de Pizan 1405, 110), and found a women-only society as the legendary Amazons did; on the contrary, she imagines an ideal, defensive fortress in order to condemn misogyny and female marginalization in theory and to speak out against a situation that has to be changed in the real world.

Secondly, as far as Aristophanes is concerned, it is important to bear in mind the fact that, though he does not wish for women to rule and finds their measures hilarious, he thinks that a “government of ladies” could be the only solution to the political, social and economic crisis that is damaging the city of Athens; once again, despite his satirical portrait of the female gender, the real object of his criticism is the Athenian government and women are called to adjust this situation. As a consequence, it seems to me that for de Pizan and Aristophanes a “city of ladies” is the exception, not the rule, in charge of solving a political or social critical situation and that both of these authors do not hope for women to found a society on their own, keeping men out, but think that they should be asked to make up for men’s flaws.

The dissimilarities between these two perspectives are due to their historical distance as much as to the different purposes they aim at: in fact, in his comedies Aristophanes wants to satirize the entire Athenian society of his time, including women, whose defects and weaknesses are held up to ridicule, while de Pizan excessively praises women and paints the feminine gender as flawless because her main aim remains the fight against misogyny. That being said, both of these authors think that women have the prerogatives and qualities which are necessary in order to be successfully involved in politics. These political capabilities are not sufficient for women to get along without men, however. Thus, as Adams argued, women are essential for the successful functioning and necessary reform of their currently male-ruled societies.

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## Chapter 13.

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### ***Geometric Dystopias, Anthropological Discourse and Constructive Imagination in Edwin A. Abbott's Flatland***

#### 1. *Introduction*

Between the second half of the nineteenth century and the beginning of the twentieth, the perception of the world changes considerably due to important economical, technological, scientific, social and political transformations. Economy is centralized, population is concentrated in cities, and political administrations and the power of the state increase accordingly. Worldwide implementation of daylight saving time in 1912, the diffusion of electric light, the expansion of education, the development of transportation structures (railways, automobiles, and airplanes), photography, radiotelegraphy, the telephone, cinema and the cutting of images in films are all innovations that influence the daily life of the masses; this new technology allows the simultaneity of involving and connecting many people in different and distant spaces in the same moment.

On the one hand, imperialism and the prospect of European hegemony were energetic manifestations of the appropriation of and in others' future spaces; on the other, increased travelling and reading led to an awareness of the difference and alterity present throughout the world, seriously calling into question the ethnocentrism of Western Europe (Kern 1983). There were several factors that influenced these transformations and realizations: Einstein's theory of spatial-temporal relativity, that is, of the infinite number of moving spaces in relation with one another; the development of non-Euclidian geometries (between 1830 and 1850 Lobačevskij promoted his hyperbolic geometry, while in 1867 Reimann's posthumous work on elliptical geometry was published); José Ortega y Gasset's philosophy of perspectivism regarding the existence of as many realities as there are points of view; Edward B. Taylor's anthropological reflections on

the plurality of cultures being as numerous as human societies, expressed in his widely diffused landmark text, *Primitive Culture*, published in 1871; Émile Durkheim's sociological analyses of the social relativity of time and space, as well as their heterogeneity, dynamic nature, and discontinuity.

The vision of time and space also mutates because human consciousness extends in time and space: individual and collective projections towards the future abound, as illustrated by the proliferation of fantasy and science fiction literature that takes possession of the future – by this point having become more than real – in the imagination (Fitting 2010). Utopia becomes dystopia: it is, in practice, a true “dystopian turn” (Claeys 2010, 110). In other words, current problems for which a solution must be found are no longer pointed out, rather the present becomes an uncertain future, monstrous and deformed, catastrophic and degenerative, whose developments, evolutions, consequences and often irreversible conclusions are outlined and planned. By way of example, think of the most famous dystopian novels published between the end of the nineteenth century and the mid-twentieth century: *The Time Machine* (1895) and *When the Sleeper Awakes* (1899) by H.G. Wells; *The Iron Heel* (1907) by Jack London; *We* (1924) by Yevgeny Zamyatin; *Brave New World* (1932) by Aldous Huxley; George Orwell's *1984* (1949); *Fahrenheit 451* (1953) by Ray Bradbury (Bergonzi 1987; Kumar 1987; Kem 1983; Jameson 2005; Claeys 2010; dell’Agnese 2012).

The plurality of spaces and dimensions imagined and analyzed by scholars of mathematics and geometry, physics and biology, painters, novelists, sociologists and anthropologists, but in particular experienced by common people, stimulated a general cultural sensitivity to alterity and diversity. What had previously been considered negative, empty, primitive, a mere background, begins to make sense and to relate meaningfully to its positive, full, civilized opposite. The modern sense of space was therefore connected to new forms and concerns that have marked our present ever since (Foucault 2008), and to *predictions* and potentialities of the future and its invasions: dynamism, excess, uncertainty, disorder, difference, metamorphosis, anguish, dissipation, sensationalism, decadence, waiting, catastrophe. Thus, myths of desire and the end of the world converge in the eclectic narrative machine of dystopia.

## 2. *Flatland: dystopia between geometry and anthropology*

Dystopia is based on and emphasizes reprehensible social, cultural and political forms belonging to a certain historical era whose negligence and idle acceptance gives rise to perverse dictatorships which must be challenged through a decisive change (Bergonzi 1987; Kumar 1987; Mezciems 1987; Calabrese 1991; Claeys 2010; Fitting 2010; Antonini et al. 2011; dell’Agnese 2012).

*Flatland* (1884), written by the English reverend and cultural promoter Edwin Abbott Abbott (1838-1926), falls squarely into the canon of dystopian literature. The book is a diptych commonly interpreted as a satire of Victorian society on the one hand – comparable in this regard to *Gulliver’s Travels* (1726) by Jonathan Swift, which by describing bizarre people and places through a succession of travels, mocks certain figures of British society of the period – and on the other as a way of visualizing the fourth dimension through analogy. Rhonda Shearer (1995) combined the two apparently incompatible interpretations by suggesting that *Flatland* has only one central theme: social, perceptive and conceptual mutations are the echo of changes that occur in geometry. The new geometries, therefore, had transformed our social, visual, and intellectual values; moreover, they were at the heart of artistic and scientific innovations. All of this is perfectly understandable if one considers the repercussions of the fractal geometry paradigm on our visual and cultural contemporaneity. Shearer’s arguments are convincing, but we must note that in Abbott’s novella there is also an unrecognized tie between the non-Euclidean geometries of the last half of the nineteenth century and the emerging discipline of anthropology, a bond made clear by the dystopian narrative. Let us examine how.

The first part of the novella is an endogenous dystopian description of the physical and social *forms* of Flatland’s geometric culture. In this two-dimensional land, the rigid hierarchical ladder is immediately clear, described with ethnographic skill by the narrator and protagonist, the Square. Starting at the bottom of the ladder, we first meet the ordinary pointed triangles (soldiers and laborers), followed by the more esteemed squares and pentagons (professionals and gentlemen), and finally the aristocratic polygons and the circles (priests). Women are simple segments whose nature is thought of as base and insidious, yet also

energetic and threatening. Everything in Flatland is based on geometrical forms and contents: the landscape, the dwellings, the inhabitants, the political and social relationships, the criteria for recognition, and the value system founded on regularity, or the equality of angles. When a Flatlander is visibly recognizable as “irregular”, or non-Euclidean, this perception in and of itself is a concept, a *prejudice* that condemns him to the sphere of monstrosity, criminality and ethical obliqueness. The very geometrical form of the houses (which have a pentagonal structure) and the two entrances (a small door on the east reserved for women and a large one on the west for men) symbolically represent the imperialist and patriarchal ideology that is at the core of the Victorian mentality. In reality, Abbott uses the geometrical image of the house and the East/West spatial orientation to express a whole series of negatively amplified polar opposites, which make Flatland an unlivable world, indeed dystopian: hegemony/subordination, conqueror/subject, identity/alterity, here/elsewhere, culture/nature, civilized/barbarian-savage, man/woman, strength/weakness, intelligence/stupidity, regularity/irregularity. Although strongly encouraged by the strength of the colonialist-orientalist “discourse” on the one hand (Said 1978; 1993), these concepts were beginning to be scientifically re-examined by the anthropological one on the other hand.

The microcosm of Flatland, with its narrow-mindedness and ruthless laws, is so satisfied with its own structuring that it believes that it is exempt from knowing other realities. Indeed, the reformers who attempt to unveil new horizons are silenced, imprisoned or killed. In the first half of the book, therefore, the geometric link between perception, cognition and social structure is absolutist: there is only one culture, one space and one history. This connection is inversely present in the second part of the novella – which is what ties it to the first – when the Square, due to unexpected circumstances, finds himself confronting other geometric worlds (Pointland, Lineland, Spaceland) through inter-dimensional journeys that overturn the previous paradigmatic relationship by demonstrating a plurality of cultures and spaces, an anti-historic, anthropological and imaginative moment. From Spaceland, the land of three-dimensional space, a Sphere arrives to pay a visit to the Square.

The Sphere's mission is to appear at the beginning of each millennium – in this case the third: December 31, 1999 – with the aim of revealing to a Flatlander the existence of spaces other than the two-dimensional one. In each of these lands the inhabitants have dogmatic spatial viewpoints (non-dimensional, one-dimensional, three-dimensional) and like in Flatland, are incapable of seeing any space-cultural possibilities other than their own, blind and ignorant of one another to such an extent that all other dimensional manifestations seem absurd, diabolic and deformed. There is no *space* for dialectics. Only after visiting and becoming anthropologically aware of different dimensions does the Square intuit the importance of analogical thought (Thoughtland) as an imaginative and cognitive tool.

This discovery, by extension, induces him to suppose the probable existence of infinite dimensions beyond the second and the third. The protagonist's fate is not a happy one since the revelation of his discoveries leads to his being declared a blasphemer of his society, brought to trial and finally imprisoned for life. Although *Flatland* is an imaginary tale, to think that it is pure abstraction detached from reality does not do it justice – on the contrary. The Flatland dystopia must be re-examined through pragmatic and constructive lenses. This describes and refers to an important correspondence based on oppositions (in dystopian terms) Platonic knowledge /non-Euclidean geometry and European culture/savage cultures. In each case, the other is irregular, monstrous.

Just before the epilogue, the parallelism between geometric and anthropological cognition is made clear. There is such a strong concurrence between the two in the Square's language that their overlapping often makes it difficult to determine whether it is a surveyor or a field ethnologist who is speaking. Abbott understood the conceptual change brought about by the scientific revolutions concerning the knowledge of spatial irregularity and alterity concerned not only physics, mathematics and geometry, but also extended to all of the human and social sciences: Euclidean geometry is not sovereign over space, just as western society is not sovereign over culture. Anthropological discourse was the promoter of these intellectual transformations linked to observation and documentation of space-cultural diversity, as distinct from the western model. *Flatland*, there-

fore, is not merely a tale of futuristic geometry nor a derisory and dystopian commentary on Victorian society, but an anthropological study of geometry as a metaphor/metonymy of culture.

### *3. Spaces of imagination. From dystopia to possibilism*

Although *Flatland* concludes with the protagonist's incarceration, the reader hears his anarchical cry from behind those prison walls. An outburst of anthropological consciousness against the social, spatial and cultural dystopian injustice:

Well, that is my fate: and it is as natural for us Flatlanders to lock up a Square for preaching the Third Dimension, as it is for you Spacelanders to lock up a Cube for preaching the Fourth. Alas, how strong a family likeness runs through blind and persecuting humanity in all Dimensions! Points, Lines, Squares, Cubes, Extra-Cubes – we are all liable to the same errors, all alike the slaves of our respective Dimensional prejudices, as one of your Spaceland poets has said – ‘One touch of Nature makes all worlds akin’ (Abbott 1991, 11-12).

The unconscious, in this case dystopian, “reflects the emotions and the fears of its present” (dell’Agnese 2012, 546), serves as an outlet for socio-cultural taboos, and incites a change in current behaviors, by revealing the socio-political and scientific dimension that characterizes it. It offers a synthesis of the here and now in constant variation, ever more prepared to compare itself with the flaws of alterity and shows us the future not as a linear consequence of the past and the present, but as a dimension of possibilities. The “narrative strategy of dystopia” (*Ibidem*, 542) blurs the borders between reality and imagination in order to cast its gaze on the world, until this passage collides with our world, amplifying it, making it the only space that we can know.

There is no better way to know space, then, than turning to imagination. *Flatland* is a geometric-cultural mine. It is an imaginative projection, a “reality invented” in order to assert that consciousness of the world comes about through an incessant re-construction and a relationship that reverberates with cross-redefinition of subject and object (Watzlawick 1998; Miceli 2005).

In order to know other spaces, the Square takes a leap out of his own dimension, *he moves*, creating a mechanism of concentric circles, a game of mirrors in which

the dystopian perspective opens itself to plurality. If, in fact, dystopia provides us with reflections and hypotheses about the future and its “conquest” (Jameson 1991), then spatial projections become part of a “topology of multiplicities” (Deleuze-Guattari 1987, 533), because spaces do not exclude one another, they relate to one another. A topology, therefore, that is on the order of space-cultural possibilism, the overlapping of smooth and striated spaces, which exist because of reciprocal hybridizations. Franco Farinelli writes that in experience, “in the practice of space, affirmation and negation coexist” (2003, 149), thus each space has its margins of alterity that make of identity and difference an ethic of understanding rather than a source of tension (Chambers 2001).

Dystopia becomes the possibility to think about alterity by making it concretely penetrate reality. Anthropological spaces, where individual and collective relationships are sketched out, are such because identity relates to and negotiates with alterity, they are “common places” and, as Augé maintains, they are above all geometric – lines, intersecting lines and points of intersection, that is, itineraries, intersections and centers (2009, 64). Cultural space, as Abbott demonstrates clearly, must be examined from a “topological-anthropological” viewpoint, which allows for the potential relationship between forms and cultures. Spaces, cultures and societies – as Edward Said (1978; 1993) has reiterated many times – are heterogeneous and multiple, so interconnected that they subvert and contradict any stereotyping that produces distinct, monolithic and abstract entities. A topological-anthropological space is a space where there are only subjects and objects that face one another and switch sides, but it is a mobile, connective dimension.

Through dystopia – a problem related to nightmares, the expansion of desire, spatializing predictions and at the same time to a principle of reality – or as Meschiari puts it, from a pathology of space (2012, 132), Abbott promotes a spatial and anthropological awareness that is constructive, possibilist, of the other and of elsewhere, based on the importance of imagination in *every* dimension.

#### 4. *Conclusion*

According to Peter Fitting, the birth and diffusion of literary utopias in the sixteenth, seventeenth and eighteenth centuries corresponds to the European voyages of discovery (2010, 143).

Following this observation are two others. The first, geometric, is that all utopian representations adhere to the principles of rigorous Euclidean geometry and centric, linear perspective with uniformity of viewpoint; the second, anthropological, is that geographic exploration provides the first non-scientific ethnographic stories and *reports* of other peoples and spaces, with the primary aim of proclaiming difference with regards to alterity, by usurping and suppressing it.

The same presuppositions apply in the nineteenth century, with the development of utopian literature that coincides with the success of colonialism (which is linked to the birth of anthropological science, no longer compliant with refusal of the other, but with observing and understanding him), the diffusion of non-Euclidean geometry and the destruction of perspective in favor of multiple points of view. In both cases the relationship between utopia/dystopia, anthropology (identity/alterity) and geometry (images, forms of space) is ineluctable. If utopian space is linear and ordered, dystopian space is fragmented and disorderly. The same is true today; one need only think of the catastrophic or post-apocalyptic dystopias where what remains of space is a chaotic dimension, a mass of ruins that are anything but Euclidean.

In the end, it is only space that counts, that *makes* space for itself. Dystopian tales make up a large part of the mythology that *Sapiens Sapiens* tells today. Nightmares that if well interpreted hide diagnostic, critical and decisive solicitations regarding the problems that afflict us (primarily ecological). In his day, Abbott did it with and in the *spaces* of his story, in the social, domestic, historical, sexual, governmental dystopias, with an almost apocalyptic tone, but with an imaginative, constructive and creative echo; in short, an antidote to historical narcosis and anthropological and geometric solipsism, in favor of a space-cultural multiplicity and possibilism.

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## Chapter 14.

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### *Seeking Refuge from Rights: Indigenous Places of Refuge in a Post-Colonial World*

#### 1. *Introduction*

The 13th of September 2007, after more than twenty years of deliberation, the 61st session of the United Nations General Assembly adopted the Declaration on the Rights of Indigenous People (Resolution 61/295). Indigenous representatives entered the United Nations system for the first time in 1982 with the establishment of the Working Group on Indigenous Populations, asking not for special rights but rather for the extension and application of fundamental human rights to indigenous peoples (Frank & Oldham, 2008): thus, the final recognition of their struggles through the adoption of the Declaration has been considered a significant step in the quest for global justice. As Anaya points out, the Declaration is essentially a remedial instrument, conceived to put an end to the historical pattern of human rights violations suffered by indigenous peoples in colonial and post-colonial times (Anaya 2009). Therefore, the rights affirmed by the Declaration are simply derived from human rights principles of equality and self-determination, that is the right to autonomous governance and participatory engagement; the right to the lands, territories and resources which indigenous peoples have traditionally owned and occupied; the rights to culture, religion, traditional knowledge, the environment, physical security, health, education, the welfare of women and children, and the media. In sum, the Declaration contextualizes human rights with attention to “the patterns of indigenous group identity and association that constitute them as peoples” (Anaya 2009, 193).

Indigenous delegates were allowed to participate in the normative process since its beginning, and they enjoyed extraordinarily strong ownership over the Declaration’s contents. Indigenous participation grew substantially over the years,

thus showing an important departure from the classical UN procedure. This was acknowledged by Victoria Tauli-Corpuz, Chair of the Permanent Forum on Indigenous Issues, in her speech to the Assembly upon the adoption of the Declaration: “This Declaration has the distinction of being the only Declaration in the UN which was drafted with the rights-holders themselves, the Indigenous Peoples” (Oldham & Frank 2008, 5).

However, there is a question that remains apparently unanswered: what do we mean when we speak of “indigenous peoples”? Anthropologists, historians, politicians and jurists have argued over this issue during the last few decades. Considering that the Declaration does not give a clear-cut definition of “indigenous peoples”, the rights-holders’ identification does not seem an easy task.

The following paper presents a spatialized interpretation of the indigenous global movement in the human rights framework: indigenous advocacy at the UN fosters the development of a new indigenous global identity and creates places of refuge for different imaginaries and different narratives, both opposing and overlapping the international space of human rights discourse. The first part is dedicated to a brief overview of the definitional debate, underlining the difficulties that scholars and activists have encountered in the effort to define indigenous groups and identities. The analysis will then examine the way out offered by the UN Working Group on Indigenous Populations: the choice not to define and – consequently – the stress on self-identification and self-definition. The second part takes into account the complex relation between indigenous rights and human rights in the United Nations system: on the one hand, indigenous representatives question the universality of the narratives underlying Western human rights discourse; on the other hand, their critique takes place inside the UN system, thus contributing to the ongoing evolution and transformation of human rights themselves.

## *2. From colonialism to indigenism: defining identities in the framework of human rights*

The term “indigenous” derives from the latin *indigenae*, used to distinguish people born in the place they live from people coming from other places. Its first occurrences in international law are intertwined with European colonialism: in

1884-85, in occasion of the Berlin Conference on West Africa, “indigenous” was defined as the African individual who found himself in a situation of colonial domination, legitimized by the racial classification of human beings (Franceschini, 2013). Following the epistemic tradition of Spanish *Conquistadores* in Latin America who invented the *indio*, the abstract “indigenous” category established by the Berlin Conference was applied to the multi-faceted reality of a whole continent, thus reducing plurality and difference to a relationship of power between colonizers and colonized<sup>43</sup>.

The colonial legacy of the term “indigenous” endures in the definition given by the League of Nations’ Covenant in 1919: indigenous populations are “peoples not yet able to stand by themselves under the strenuous conditions of the modern world” (art. 22) and for this reason in need of the civilizing supervision of colonial powers. Indigenous peoples’ legal description followed Western social beliefs and political practices: indigenous Africans, Native Americans, Aboriginal Australians were all constitutively lacking as non-whites, non-Christians, non-civilized – in a word, “primitives” – and because of this, destined to assimilation in dominant societies. The “indigenous” label was applied from the outside to a variety of peoples spread throughout the globe, denying them both the opportunity to have an input into the debate on their legal status and the possibility to submit specific claims to international fora such as the League of Nations<sup>44</sup>. Still in 1957 the International Labour Organization’s Indigenous and Tribal Populations Convention, the first international legal document dedicated to indigenous peoples’ rights, was drafted without indigenous participation and shows a clear assimilationist orientation (the Convention was revised only in 1989 with the contribution of indigenous representatives): up to this moment, populations referred to as “indigenous” have not developed a self-referential “in-

<sup>43</sup> The description of the colonial system as a dichotomous world governed by the unceasing and violent opposition between the colonist and the indigenous may be found in Frantz Fanon (1961).

<sup>44</sup> Indigenous peoples actually tried to access the League of Nations’ forum in 1923, when Levi General Deskahéh of the Six Nations presented a petition entitled “The Red Man’s Appeal to Justice” concerning a dispute with Canada over tribal self-government. However, the League of Nations denied to Six Nations’ representatives access to the international forum. For a complete account see Niezen (2000).

digenous” identity (Niezen 2000).

However, in the following decades, the use of the term flourished in the writings and conferences of international politics, academia, and among indigenous peoples themselves: in a paradoxical way, indigenous group identity has grown largely out of the international institutions of former colonial nation-states. Indigenous peoples with a shared experience as politically and economically marginalized groups were able to build an international movement through the re-appropriation of international law’s terminology. “Being indigenous” is then a relatively new political reality, originating in the subversion of colonial narratives and definitions. Moreover, this subversion took place not only outside, but mostly inside the international legal space: indigenous group identity developed in the global arena offered by the United Nations, and the human rights discourse provided the conceptual origins and practical focus of such identity.

Rejecting a universal legal idea of indigeneity, most discussions at the UN Working Group on Indigenous Populations (WGIP) referred to the working definition proposed in 1983 by UN Special Rapporteur José Martínez Cobo, which states:

Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems<sup>45</sup>.

Despite the animated debate on Martínez Cobo’s definition, a consensus was reached regarding a concept of indigeneity that recognizes four key factors: pre-existence, nondominance, cultural difference and self-identification (Cook & Sarkin, 2009). Yet, two of these factors aroused uncomfortable issues.

Firstly, preexistence – interpreted as historical continuity and connection to

<sup>45</sup> Special Rapporteur on the Study of the Problem of Discrimination Against Indigenous Populations, *Final Report on the Study of the Problem of Discrimination Against Indigenous Populations*, para. 379, Comm. on Human Rights, U.N. Doc. E/CN.4/Sub.2/1983/21/Add.8 (Sept. 30, 1983) (by José R. Martínez Cobo).

ancestral land – makes it difficult to apply the “indigenous” label in the Asian and African context. In the Americas, as well as in New Zealand and Australia, the long temporal gap between early migrations of today’s Indigenous Peoples and the later European conquest eases the task to identify a category of people who were the first to occupy the region. On the contrary, in Africa and Asia, “no such long time gap exists between an initial peopling and a subsequent conquest” (Bowen 2000, 13). This has been referred to as the “Afro-Asian problematique”, which essentially claims that Asian and African peoples are all indigenous to their lands and therefore no single population should be granted special indigenous rights (Cook & Sarkin, 2009). In a second report, Martínez Cobo suggested the UN to omit Asian and African groups from its activities in the indigenous field inasmuch all Africans and Asians were “autochthonous”<sup>46</sup>. However, the WGIP never heeded Martínez Cobo’s suggestion, and indigenous representatives from Africa and Asia continued to participate in meetings and their numbers kept increasing after the establishment of the UN Permanent Forum on Indigenous Issues in 2000.

Secondly, cultural difference may lead to particular associations of indigeneity with cultural authenticity – with romantic and essentializing identifications of indigenous peoples with timeless traditions, spiritual ties to the land, and old-fashioned costumes. The cultural difference factor may lead to paradoxical outcomes: do indigenous people that choose to “modernize”, to change and transform their ways of living, and who no longer live “traditionally” have a lesser claim to indigeneity and indigenous rights? Clearly, being indigenous should not mean that a group must live exactly as their ancestors did centuries ago.

Therefore, in order to avoid both the essentialist risk incidental to the cultural difference factor and the separatist risk inherent to the preexistence factor, indigenous representatives at the United Nations resolved to focus on the two remaining factors: self-identification and non-dominance, both suggesting a subjective and performative character of indigenous identity, rather than an objective, uni-

<sup>46</sup>Special Rapporteur on Indigenous Peoples, *Study on Treaties, Agreements and Other Constructive Arrangements Between States and Indigenous Populations*, para. 91, Comm. on Human Rights, U.N. Doc. E/CN.4/Sub.2/1999/20 (June 22, 1999) (by José R. Martínez Cobo).

versal definition of indigenous peoples. Thus, the “official” position of the WGIP is that “is neither possible nor desirable to formulate a universal definition, although it is said to be a concept of universal application” (Lehmann, 2007, 523). This position was maintained during the drafting of the Declaration on the Rights of Indigenous Peoples: both the WGIP and the inter-sessional Working Group on the draft Declaration<sup>47</sup> asserted that an explicit definition would reduce the effectiveness of the Declaration, which should rather depend on the principle of self-identification. The absence of a clear definition was probably one of the main reasons of the long delay to the Declaration’s adoption, but at the same time the decision to leave the concept open and flexible has encouraged the growing identification of indigenous activists, representatives and intellectuals with a “global indigenous identity” with the power to influence international and state entities (French 2011).

In this context, indigenous identity appears to be twofolded: on the one hand, it describes the resisting strategy of a historically marginalized group to discrimination and dispossession, hence it is relational rather than essentialist. On the other hand, indigenous identity grounded on self-identification is a creative achievement: it represents a meaningful shift from the ontological “indigenous” of the Berlin Conference – eternal victim of a colonial past – to the political “indigenous” of the Global Indigenous Peoples’ Caucus<sup>48</sup> – wanting a future of possibilities<sup>49</sup>.

### *3. For a geography of human rights: indigenous places of refuge in the universal space of rights*

<sup>47</sup> In 1995 the United Nations Commission on Human Rights established the intersessional Working Group with the only purpose of elaborating a draft declaration on the rights of indigenous peoples.

<sup>48</sup> The Global Indigenous Peoples’ Caucus, consisting of the group of indigenous delegates present at the WGIP meetings, would meet to discuss their positions on the issues at stake through intense debate and consensus decision making (see French, 2011).

<sup>49</sup> I expressly use the verb “wanting” to describe indigenous politicized identity as unstable and open: an identity centered on desire rather than history and memory. I owe this intuition to Wendy Brown’s theory of politicized group identity, inasmuch she stresses the need of supplanting the language of “I am” – as defensive closure and insistence on the fixity of position – with the language of reflexive “wanting”, in order to perform politicized identity “as in motion, as temporal, as not-I, as deconstructible according to a genealogy of want rather than as fixed interests or experiences” (Brown, 1993, 407).

Apparently, indigenous claims for rights in the international arena are merely a matter of correcting a blatant inconsistency in human rights law: indigenous peoples demand effective respect of the universal principles of equality and self-determination, and they insist on the restitution of lands and cultural artifacts confiscated without their prior and informed consent.

However, indigenous peoples' struggle for rights is altogether a strong critique to dominant conceptions of human rights. Indigenous delegates at the UN human rights bodies have called into question current liberal human rights regimes, arguing that they cannot do justice to the collective rights sought by indigenous peoples. By demanding multilateral organizations such as the UN to look beyond the rights of individuals and states, indigenous representatives challenge the basic tenets of democratic liberalism – cultural neutrality, national integrity, and the value of a shared concept of community (Muehlebach 2001). Moreover, indigenous claims to cultural rights and environmental rights fall outside the parameters of Western legal language, as they entail notions of culture, place and identity that cannot be contained in the current terminology of international law.

How then the international human rights regime may accommodate the structural difference of indigenous peoples' rights?

I would like to suggest the use of the geographical concepts of space and place as analytical tools in order to examine the dialectic between the international human rights regime and indigenous claims for rights. Traditionally, space and place have been considered as two opposite modalities of geographical representation: space is a universal, neutral unit of measure, equally applicable all over the globe, whereas place is a particular, emotionally bounded description of a determined world's portion. If we apply the classic space-place model to the indigenous rights-human rights relationship, the latter would be reduced to the binary opposition of two distinct realms: on the one hand, the international liberal political space, where human rights apply universally and equally to all individuals; on the other, indigenous rights as places of difference, tied to identitarian claims, bounded and closed, always at risk to become places of privilege and separation. Thus, to win an entrance ticket to the human rights' space, indigenous claims

should abandon their place-based social, political and cultural specificity.

However, this is a misleading alternative, both from a theoretical and an empirical point of view. Firstly, as various scholars have observed<sup>50</sup>, place is not simply “the other” of space, rather it is relational, made of translocal ties with other places: place is connected to, and partly produced by, spatial logics – that is, the global is in the local (Castree 2004; Escobar 2001). Hence, places are not pure, closed, exclusionary and engendering regressive political actions; rather, the porosity of boundaries is essential to place, as the latter derives not from some mythical roots but from a particular mixture of influences – both local and global – found together there. As Massey affirms, “there are always loose ends in place, always an element of chaos” (Massey, in Castree 2004, 144). Most importantly, neither place nor space are culturally neutral, rather they are both socially assembled and politically oriented. In this context, space and place are interconnected through power-filled social relations, which are embedded in layered histories and narratives.

People construct places intertwining the local and the global in translocal networks (Escobar, 2001), thus showing different modalities to link together place, space and identity. Indigenous peoples’ international networks are a fitting example of this “rooted translocalism” (Castree 2004, 135): as communities of descent and dissent, their territorially rooted identities build translocal solidarity at a global level. Indigenous place-based activity in the international space of human rights oversteps classic dichotomous thinking that opposes space to place, progressive to regressive, modern to traditional, universality to difference.

Secondly, as we have seen, indigenous peoples’ approach to the UN multilateral bodies has been quite the opposite of a quiescent acceptance of human rights regimes. Indigenous representatives have claimed the fundamental right to make their own places both inside and outside the international human rights space. As a result of their activity, the UN Working Group on Indigenous Populations (now Permanent Forum on Indigenous Issues) has displayed indigenous

<sup>50</sup>The current critique of place as closed, fixed and bounded to traditions and privilege has recently been questioned by multiple sources, including, among others, feminist body politics, phenomenological biology, new forms of dwelling in architecture, social movements, alternative thinking on land and community. For a complete overview see Escobar, 2001.

peoples' performative capacity of place-making through the combined efforts of indigenous and non-indigenous peoples and institutions. The WGIP itself amounts to a "transnational locality where notions of indigenous identity and cultural difference are discursively spatialized" (Muehlebach 2001, 416). Indigenous place-making at the WGIP combines three complementary strategies: firstly, indigenous delegates managed to carve out a space for themselves in the UN system, in order to rise international attention to their problems and aspirations. Secondly, indigenous intellectuals and representatives engaged in a process of "displacing and replacing" (Muehlebach 2001, 434) Western sedimented notions of sovereignty, culture, nationhood and self-determination, which constitute the normative framework of human rights' space. In this way, indigenous practices at the WGIP confirm the unboundedness of place, as indigenous delegates undertake a continuous dialogue with customary concepts of international law – a dialogue that leads to challenge, re-appropriation and transformation of meanings.

Finally, indigenous representatives, by questioning the international legal space from within, create marginal places in the international legal and political imaginary. Indigenous places of difference in the UN system intersect local needs and global sensibilities: space and place become hybrids, and linked to an equally open and porous indigenous identity.

#### 4. *Conclusion*

The absence of a clear-cut definition of "indigenous peoples" in the UN Declaration on the Rights of Indigenous Peoples may be seen as a weakness, undermining the Declaration's effective application. However, at a closer look, the choice not to define could be interpreted as an attempt to cross definitional boundaries in order to match indigenous peoples' multiple reality. There is no "Certified Indigenous Person" (Castree 2001, 153), rather indigenous group identity is both political and relational, emerging out of a history of colonization and dispossession and re-appropriating the language of Western international law. Thus, after centuries of colonialism's definitional authority, the absence of a fixed definition represents a transformative and performative possibility: indigenous communities and individuals may choose to identify with a global indigenous identity al-

though preserving their local distinctness. Indigenous representatives in the UN system have claimed the right not to define, thus opening new imaginaries in the context of human rights and international relations. Borrowing Zibechi's definition, the global indigenous movement may be described as a "society in motion" (Zibechi 2008), inasmuch it is fluid, mobile and transforming through space and time. Such phrasing captures also the spatialized character of indigenous identity and political action by pointing at its ability to disclose places of difference inside the international arena.

The analysis of indigenous peoples' involvement in liberal human rights regimes may represent an interesting case study for political theory, particularly regarding the issues of politicized identity and the kind of political recognition sought by identity-based claims. As various scholars have noticed, group rights based upon group identities may lead to paradoxical outcomes. Liberal theorists are often worried that the recognition of group rights could infringe the principle of equality as a fundamental guarantee of social justice; hence, political recognition should proceed from difference to equality following the economy of inclusion and exclusion (Brown 1993; Kymlicka 1991, 1995). By contrast, critical theorists have considered group rights as a circular trap, that reaffirms patterns of oppression by granting special rights to a subaltern sector of society: a politics of difference can not transcend the conditions of marginalization that produced those differences, even if they are subsequently deployed for emancipatory purposes. Hence, politicized identities run the risk of becoming dependent on their own exclusion to remain prominent (Brown 1993, 2000a; Kowal 2008).

In this sense, indigenous rights' claims and achievements in the UN system may offer an alternative solution to the issue at stake: indigenous places of refuge such as the WGIP and the Permanent Forum on Indigenous Issues are beyond the liberal alternative between inclusion and exclusion but, at the same time, they develop and perform within the universal space of liberal human rights. By presenting place as an ongoing political project, the indigenous peoples' global movement may contribute to draw new paths for a politics of difference.

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## Chapter 15.

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### *Discourses relating to human rights and the detention of asylum seekers entering the Netherlands*

#### 1. *Introduction*

The detention of refugees when entering the border of the Netherlands by plain or by boat has become normalized. While the government wants to protect society, by detaining asylum seekers when entering the border and excluding them from society, civil society is protesting against these practices. The government of the Netherlands is detaining these migrants because of security reasons, while migrant rights advocates state that the detention of irregular immigrants without conviction is a violation of their human rights. In this paper discourses used in the Netherlands regarding the detention of refugees will be analyzed using theories from political philosophers.

In May 2013 around 70 asylum seekers who are detained in Rotterdam and Schiphol started a hunger strike. They protested their detention, because they felt they were detained as criminals. One of the protesters told that they were obliged to hand in their passports, their fingerprints were taken and incoming phone calls were not allowed (NOS, 2013). In the following statement one of the protesters is questioning why he is detained: “What did I do wrong? I requested asylum. That is the only thing’ (NOS, 2013).

In many of the northern EU member states, the expulsion of irregular migrants has become a political priority. In the Netherlands, up to 2010, the number of irregular migrants in detention centres was increasing, while the number of effective expulsions has been decreasing (Broeders, 2010). Around eight to ten thousand irregular migrants and asylum-seekers are detained for a shorter or longer period of time (Amnesty International 2010). The detention of irregular migrants

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entering the border of the Netherlands opened up a debate in the Netherlands, especially among civil society organizations like Amnesty International and the Dutch Council for Refugees. The debate mainly focused on the necessity of this act, if it is violating the rights of these people and if alternative approaches could be adopted in the future. The debate showed the different discourses relating to the detention of irregular migrants, discourses of exclusion, 'otherness' and human rights violations. This paper is aiming to show the different discourses that are used in the 'detention debate' and to compare these discourses with the political philosophical literature on this topic. In this article the focus lies on the administrative detention of irregular migrants, a category of migrants without a legal right of residence (any more), who is detained at the border, or who are asylum seekers whose request for asylum has yet to be granted.

## *2. Justice and detention*

The 1948 Universal Declaration of Human Rights is one of the key articulations of the human rights principles that are important to asylum seekers. Especially important for asylum seekers are the right to recognition, the right to freedom of movement, the right to seek asylum, the right to a nationality and the right to not be subjected to arbitrary arrest, detention or exile (Universal Declaration of Human Rights, 1948). However, the Declaration is silent on the obligations states have 'to grant entry to immigrants, to uphold the right of asylum, and to permit citizenship to alien residents' (Benhabib 2005, 674). A contradiction exists within the Universal Declaration between universal human rights and territorial sovereignty of individual states (Benhabib 2005). Giorgio Agamben (2002) explains in his book 'Homo sacer', the relation between human beings and nationality and the difficulties that arise when human beings are moving between states. Refugees, Agamben (2002, 142) argues, are a disturbing irregular element of the nation state, because they tear the direct link between human being and citizen apart. The refugee shows the distance between birth and nation and therefore is indeed the 'human of the human rights', his only truthful appearance, separated from the mask of citizen, as argued by Hannah Arendt (1979).

In the literature on political philosophy many authors distinguish between demanding moral norms that apply among those who share a state and demanding moral norms that apply among all human beings. Hannah Arendt (1979) thinks that the condition of statelessness registers as a loss of rights altogether, as she argues that the stateless cannot enforce any claims in a world of states (Pupavac 2008). Within states it is determined who do or do not belong to a particular political community, therefore groups of peoples forced to flee their homeland, are simultaneously deprived of any reasonable prospects of attaining a new homeland (Gibney 2004). Seyla Benhabib thinks that individuals are rights-bearers as human beings, not only as members of states (Risse 2012). Although Benhabib rejects an unlimited right for everybody to migrate as they please, states should make sure that everybody is a member somewhere to contribute to cosmopolitan solidarity. Therefore, asylum seekers can be kept at a temporally status for a while and admission to permanent status can be subject to conditions (Risse 2012).

However, when asylum seekers are kept in 'refugee spaces' it should be questioned if they are members of society. Diken (2004) argues that both 'open' spaces, like accommodation centres and 'closed' spaces, like detention centers, can be called 'non-places'. These places 'do not integrate other places, meanings, traditions and sacrificial, ritual moments but remain, due to a lack of characterization, non-symbolized and abstract spaces' (Diken 2004, 91). Most of these refugee sites are often located outside the city, in rural areas and contact with the outside world is minimized. Most of the refugee centers in the Netherlands are indeed located in the rural area, like the centres Ter Apel, Delfzijl, Oude Pekela, Drachten, Burgum, Sint Annaparochie, Luttelgeest, Zweeloo in the provinces of Groningen and Drenthe. In figure 1 the refugee centres of the Netherlands are shown.



Figure 1: The refugee Centres of the Netherlands.

Therefore, it seems that asylum seekers are not supposed to integrate into society, until they acquire a residence permit or until they are sending ‘home’ (Diken 2004).

Policies of containment are not new. In times of war or when there are threats to the security of the state, widespread detention is used globally (Cohen 1994). This control of movement and freedom can be seen as the ‘global hierarchy of mobility’ (Bauman 1998, 69). Freedom of movement is in that case only a privilege of the ‘dominant’, while the ‘dominated’ can expect the ‘strictest possible constraints’ (Bauman 1998, 69). Asylum is increasingly seen as a security issue, rather than one of protection for refugees (Hyndman, Mountz 2008). Asylum seekers are often seen as the ‘others’ and are considered as dangerous and bringing risk to society. Fear to the ‘other’ results in efforts to protect society against the risk these ‘others’ pose (Malloch and Stanly 2005). Moreover, asylum seekers are often related with ‘illegality, racketeering and disregard for sovereign borders’

(Harding 2000, 57). Furthermore, in contemporary presentations, asylum seekers are often shown to be different from 'us' and therefore it is impossible to change 'them' to become one of 'us'. Kundnani (2001) states that:

'We no longer hear of their different values, their alien religion, their strange language.

Rather, the image of asylum seekers is defined not by what they are, but simply by the fact that they are 'not one of us', and are, therefore, a threat to 'our way of life' (p. 52).

The implied dangerousness of asylum seekers means that they lose their eligibility for social resources, aid and human rights protection (Malloch and Stanley 2005). When asylum seekers are seen as a threat to society, according to Judith Butler, inhabitants of these societies are incapable to recognise the needs of these refugees (Cover 2013). Within the current 'criminology of the other', asylum seekers, who are seen as outsiders, are not only treated with suspicion, but 'their detention, although unnecessary, is understood to be appropriate' (Welch and Schuster 2005, 348).

In Giorgio Agamben's (2002) political theory, 'politics is an ongoing process of clarification, between inclusion and exclusion, between forms of life that the sovereign will protect and represent and those it will not' (Rajaram and Grundy-Warr 2004, 34). When refugees and migrants are detained in centers, they are thus excluded from society and politics. Agamben's concept of 'homo sacer', derived from ancient Roman law, refers to someone who is outside the law (Rajaram and Grundy-Warr 2004). In their article, Rajaram and Grundy-Warr (2004) explain the similarities between refugees in humanitarian refugee camps, asylum seekers in detention and terrorists and irregular migrants, who are all lacking apportioned rights and must depend on the charity or goodwill of aid workers or the police. The asylum seeker as homo sacer: 'describes the condition of exclusion that those exempt from the normal sovereignty are subject to' (41).

Broeders (2010) questions if the nature of immigrant detention in the Netherlands is one of exclusion or one of identification. Administrative detention can also be seen as a necessary space of transit in preparation for expulsion. However, if expulsion is the underlying policy objective, simply 'keeping' irregular

migrants would be pointless. Detention according to Broeders (2010) would have to serve different goals, like serving to close the 'policy gap in order to gain and claim control over the migration process. By detaining asylum seekers, it would prevent them from abscondment and in this way the expulsion could be prepared through the identification and documentation of irregular migrants. Migration control theories expect that states are constructing new migration policies that can close the policy gaps that undermine migration control. Therefore, detention could serve not only as exclusion of asylum seekers, it could also serve to identify them, in order to make expulsion policies feasible (Broeders, 2010).

### *3. Detention in the Netherlands*

In the following section an overview will be given of policies, laws and practices around the detention of irregular migrants and a discourse analysis will be done on the different narratives used relating detention centers.

#### *3.1. Asylum Procedure in the Netherlands*

The detention of irregular migrants is officially part of migration policies. Irregular migrants are migrants without the right documents to enter the border. Member states of the European Union have the right to detain asylum seekers according to the United Nation High Commissioner for Refugees (UNHCR) on a varied number of grounds. This list includes: detention for the purpose of transfer to a safe third country, pre-admission detention, pre-deportation detention, criminal detention linked to illegal entry/exit or fraudulent documentation and detention for the purposes of transfers to the responsible state under the Dublin Convention (UNHCR 2000, quoted in Hailbronner 2007, 163).

In the Netherlands any person arriving in the Netherlands seeking asylum must report the Immigration and Natural Service (IND). When asylum seekers enter the Netherlands by land or if they are already in the country, they have to apply at the Central Reception Centre in Ter Apel, where they will be registered. Furthermore, their fingerprints and their identity-documents are taken<sup>52</sup>. Irregular migrants, who arrive in the Netherlands by plane or by boat, have to apply for asylum before crossing the border, at the Application Centre Schiphol

<sup>52</sup> To read the entire asylum procedure, please read the country report on: <http://www.asylumineurope.org/reports/country/netherlands>

Airport, which is a closed center. Asylum seekers from a non-Schengen country, arriving by plane or by boat, are refused to enter the border and they are detained and deprived from their liberty.

The regular procedure is divided into a short regular procedure and a long regular procedure. Before entering the short procedure, the asylum seeker has a rest and preparation period of at least six days. When the short procedure starts, a rejection of an asylum application has to be issued within eight working days. When the IND cannot decide within this time frame, the IND has to refer the case to the extended regular procedure, where the time limit of making a decision is six months (which can be lengthened with another six months, when necessary). The duration of detention of irregular migrants who arrived at the airport or at the harbor depends on the length of the asylum procedure and in case the asylum application is rejected, the asylum seeker will be expelled. Formally these migrants are not on the territory of the Netherlands (Ammeraal, Broekhof, van Kampen 2013), as is standard practice across the western world.

By law, when the IND decides during the short regular procedure that more time is needed to assess the asylum claim, the migrant will be relocated to an open reception center.

Migrants are also detained when expulsion is expected to be carried out within two weeks. Furthermore, when an expulsion cannot be accomplished within two weeks, migrants are restricted in their freedom up to twelve weeks (Ammeraal, Broekhof, van Kampen 2013). Lawyers and NGO's are allowed access to the detention centers and the detainees and detainees are entitled to information on their case during the period of waiting. The maximum detention period set in the legislation (incl. extensions) is 18 months, where in practice the average length of the detention of asylum seekers is 39 days. Adults are detained at the Justitieel Complex Schiphol and families with minor children are detained in a separate wing at the detention center for a maximum period up to 14 days. Unaccompanied children are not detained when there is still doubt about their minor age. Health care, both physical and psychological, is provided to detainees during the asylum procedure. The law allows that asylum seekers are detained in prison-like accommodation. In 2011 the European Committee for

the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) recommended that there should be more emphasis on the difference between the facilities for criminal detention and for the detention of foreign nationals (Ammeraal, Broekhof and van Kampen 2013). Although asylum seekers do have access to open spaces, they are mostly locked in their cells during evenings and nights.

### *3.2. Policies and Laws*

The 'Aliens Act 2000' (Vreemdelingenwet 2000) would be the legal basis to detain irregular migrants. It establishes the legal basis for immigrant detention, the entrance of foreign nationals, the issuance of residence permits, and the deportation of asylum seekers and immigrants (Global Detention Project, 2009). Section 6 (on 'border detention') stipulates: "An alien who has been refused entry into the Netherlands may be required to stay in a space or place designated by a border control officer, which "may be secured against unauthorized departure."

Therefore, irregular migrants can be detained, when not having the right documents, visa, when they are posing a threat to the public order or national security, if they cannot explain why they came to the Netherlands, or if they have insufficient means to cover the costs of staying in the country. This means that people without an address to stay or without the means to pay for their living can also be detained. Section 59 of the Aliens Act 2000 provides for detention for purposes of deportation for unlawfully staying residents, including rejected asylum seekers (Global Detention Project, 2009). Conditions to detain irregular immigrants based on article 59 are that expulsion would be possible in the near future and that the government will work vigorously on the expulsion of this specific 'alien' (Amnesty International, 2010).

Furthermore, according to the Dublin convention it is agreed that the first country where people are entering Europe is the responsible country (Soetens 2010). Therefore, people who are coming to the Netherlands, while waiting for the decision for asylum in another European country, will be detained (Soetens,2010).

It is stated by the European Union that detention should be used as a last resource as shown in the following quote:

‘Detention should be used only if less intrusive measures have been tried and found insufficient. Consequently, priority should be given to alternatives to detention for the individuals in question (although they may also have human rights implications). Alternatives to detention are financially more attractive for the states concerned and have been found to be effective’ (Amnesty International 2010, 9)

In practice however, asylum seekers who enter the Netherlands at the border are systematically detained. This detention lasts throughout the asylum procedure (Ammeraal, Broekhof and van Kampen 2013).

Furthermore in the European Union guidelines of 2008 on illegal migration and expulsion, in article 15 it is said that *unless other effective measures* can be applied, member states can detain a member of a third country in order to prepare his expulsion when a risk exist that this person will hide himself, or when this person is hindering the expulsion procedure. However, the detention period should be as short as possible (European Union, 2008).

4. *Discourses relating to the detention of irregular migrants. Often these people came to the Netherlands to ask for asylum and protection.*

This paper will draw from Fairclough’s (2005) interpretation of Critical Discourse Analysis (CDA). Every context and every situation has its own language (Phillips and Jorgensen, 2004). Underlying the word discourse is the idea that language is constructed according to different patterns, people use different language and different expressions when they take part in different domains of social life. Discourses are used by people in relating to one another, cooperating with one another, distinguishing themselves, competing, cooperating, dominating and seeking to change the ways in which they relate to one another (Fairclough 2003, 124). Thus, different discourses show the social relations of stakeholders in the policy environment, which indicates the effectiveness of the translation of discourses into non-discursive aspects of social life (Fairclough 2003, 126). In the following section the discourses regarding the detention of refugees will be analyzed.

<http://www.astridessed.nl/hongerstaking-asielzoekers-voor-vrijheid-en-waardigheid/>

<http://politiek.blog.nl/binnenlandse-politiek/2013/06/19/fred-teeven-houdt-woord-over-humaner-asielbeleid>

<http://www.kritischestudenten.nl/blog/nieuws/grote-hongerstaking-van-vluchtelingen-in-detentiecentrum-schiphol/>

<http://nos.nl/audio/503928-vluchtelingen-die-via-schiphol-komen-komen-meteen-in-gevangenissetting-terecht.html>

<http://stil2.wordpress.com/2013/06/12/nieuwe-vluchtelingen-in-detentie/>

### *Politics*

After the debate that arose after the hunger strikes in detention centers, the government responded in September 2013 with the promise to make the asylum procedure and especially the detention procedure more humane. A consultancy bureau advising the government states that the detention of asylum seekers is not always helping to expulse these people. Furthermore, and even more important, it is against international agreements, as detention should be a measure of last resort. Detention, therefore, can only happen when lighter measurements do not help to reach the goal. Moreover, the consultancy bureau noticed that many mistakes are made. In many cases, someone just signed the papers, while not thoroughly researching the case (Nieuwsuur 2013).

When detaining people without a conviction, the government of the Netherlands is thus excluding asylum seekers from the rights Dutch people have in the Netherlands. When referring to Hannah Arendt, it seems to be that the 'stateless' indeed have no rights outside their own state. They are treated differently, as outsiders and they cannot claim rights in another state. Moreover, considering Bauman's (1998) argument, freedom of movement is only the privilege of the 'dominant' group, namely the Dutch people. Asylum is seen as a security issue, because detention is used in order to keep asylum seekers to hide themselves in the illegality, which is seen as dangerous. By detaining asylum seekers, the government assumes that most of them will hide themselves and stay illegal. Therefore, asylum seekers are 'othered' and excluded from society (Malloch and Stanly, 2005).

#### 4.1. *Civil Society*

The National Ombudsman and Amnesty International criticized the detention of irregular migrants and asylum seekers in the Netherlands, specifically the fact that alternatives to detention are hardly used, while the Aliens Act 2000 contains several other possibilities:

However, alternatives to detention are hardly used in practice. Amnesty International's research shows that in detention cases the grounds for ordering the detention

are given, but that there is a lack of substantive arguments for not using alternatives to immigration detention in particular cases, such as a reporting measure or providing a surety. The existence of a former criminal background, the mere absence of official registration or an address, and a lack of financial to show that there is a risk of absconding" (Amnesty International 2008).

The ombudsman states that the detention of asylum seekers is 'inhumane and boring [boring in the sense that the mind is not inspired]<sup>53</sup>. Also, the Asylum Information Database (AIDA) calls the detention of asylum seekers as very controversial. They state that the detention of asylum seekers is highly undesirable and should be avoided. It should only be used in specific circumstances, when other measures are not possible anymore. They explain that when detention is used during the examination of an asylum claim, it is counterproductive, as this creates a feeling of distrust towards the authorities and it may result in the asylum seeker to be less cooperative. Detention in the Netherlands is used as an administrative measure; however, legal assistance and representations is more difficult to reach. Furthermore, persons who are traumatized due to torture or other violence in their previous situation, could be re-traumatized when detained, especially when put in isolation cells. Moreover, AIDA (2013) and Amnesty International (2010) both state that the physical and mental health of vulnerable people is at stake when they are detained.

Furthermore, Amnesty International launched the website 'I am embarrassed deeply' (<http://www.ikschaammediep.nl/>), where people could sign the petition

<sup>53</sup> Spokesman of the Ombudsman, in the NOS news on 29 May 2013. <http://nieuwsuur.nl/onderwerp/512045-vreemdelingendetentie-te-vaak-opgelegd.html>

against the violations of human rights against asylum seekers. This petition is signed by 86.500 people. Moreover, in the media it has been argued in different programs, like Netwerk and Zembla, for over a longer period, that human rights are violated and that asylum seekers are maybe even worse off than detained criminals. They are locked in their cells for longer hours, put in isolation cells, sometimes even up to a week, and they do not have the possibilities to educate themselves or to work. Most of the time they are just doing nothing (Zembla 2012; Netwerk 2006).

To refer back to the theories of human rights and exclusion, it seems to be that the civil society in the Netherlands mainly sees detained asylum seekers as excluded from society. It is argued by many that the human rights of these asylum seekers are violated, and they are excluded from societal matters, like education and work. They do not deserve to stay in detention, while the only thing they did was seeking asylum. Civil society thus feels that asylum seekers are treated as Agamben's homo sacer, someone without rights. They do not agree with this, because they think that these people are human beings, no matter if they are 'stateless'.

### *Conclusion*

In this paper it is shown that the discourses that are used around the detention of irregular migrants are narratives based on exclusion and otherness. Especially the practices of detaining asylum seekers in the Netherlands show that these people are 'othered' and excluded from society, law, education and work opportunities. They are seen as a threat to society, as they might hide themselves from the government. On the other hand, civil society speaks out against the human right violations these people encounter. They protest against the exclusion of these people and promote that they should have the same rights as everyone in the Netherlands. Although the government promised recently that the asylum procedure is going to be more human, it is unclear how they are trying to reach this goal.

A difference can be seen in the discourses that are used towards the detention of asylum seekers. However, both discourses relate to the 'exclusion' of immigrants

from society. The government wants to protect society, while civil society wants to protect the asylum seekers. Therefore, it seems to be that until now, asylum seekers in the Netherlands, as well as in many other Western countries are still 'homo sacers', people outside the law.

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## Chapter 16.

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### *The Italian Social Workers Facing Migrants*

#### 1. *Introduction*

The social workers in Italy face a lot of challenges working with migrants. Particularly, I'd like to focus on the situation I saw during my internship, in spring 2012. That period in Italy is known as ENA, which stands for "North African Emergency." Thousands of migrants came to Italy by the Mediterranean Sea, escaping from the war in Libya. The Italian government welfare program for poor and unemployed people had to reorganize itself in order to give shelter and help them to pay for their food, housing, and medical costs.

A main role was given to the social workers, who had to deal with those people and the welfare institutions at the same time. The welfare system was not prepared to welcome so many people, so the whole situation has been handled as an emergency.

The aim of this paper is to focus on the social workers' difficulties, and to find out how they should act in front of these particular kinds of migrants.

#### 2. *The social worker during an emergency: notes from my internship*

"The plan for today was to go again to the Hotel Ambra to meet the guys; we also had to find out and understand the problems from the previous week and make the appointment with the prefecture. If we had enough time we also planned to try to fill up the social folder, even though every time it seemed to be harder. Once arrived there, we had been run down again by all the boys, who had a lot of questions to ask with their strange English. It was very difficult to understand their speech. The smell inside the place was unbearable and taking a look in the dining room, we noticed that the owner did not clean up again.

The social worker Valentina who was responsible of the hotel approached us with her usual tired face. She told us the news of the week, and we moved to the

other room where we used to have the interviews.

Briefly, these were the main problems of the week:

- The conflicts between the French speakers and the Nigerians
- The linguistic difficulties with some people who could not speak either English or French.
- The problems with the appointment with the prefecture
- The convivial difficulties between the guys and the owner.

Actually, the problems were more or less the same as the week before, but this time the guys were much more nervous and tired of the situation. We tried to do some individual interviews, but it was impossible to separate them from the other guys while talking with one of them. We gave up, and tried to listen to all of them together, but it was very difficult to understand each other. They hardly accepted our answers.”<sup>54</sup>

These lines are taken from my internship’s notes and they perfectly show how hard the situation was.

A lot of inhabitants of the North-Africa were forced to leave Libya because of the war, looking for the political asylum in Europe.

The hosting project was programmed on a national level and it should have been applied by all the regions. It guaranteed to migrants the most important health cares, followed from the procedures to analyze the situation of each person, with the aim of giving them asylum.

The institutions decided to spread people who arrived in Lampedusa all around the country; the plan was based on the density of population in different areas.

The local government had to guarantee them accommodation and meals. At the same time they had to find a kind of tutor dedicated to help them with the bureaucratic procedures. In some cases the social services also helped them to find a job or a better place to live, in order to insert them into the social life of the country.

Moreover, the services also had to provide the cultural mediators, giving them legal and linguistic orientation, defined from the national level as “additional

<sup>54</sup> Taken from the internship’s diary, done in the A.S.S.E.MI. company, ASLMI2 (San Donato Milanese), during the spring 2012

services to the person”.

The most important point was to define the political identity of migrants, but the local institution did not receive precise instructions from the government, so they defined all migrants as applicants for the international protection. This decision obliged people to afford a long and difficult procedure.

In this kind of emergency situation, there are some problems that immediately show up, mostly because of the lack of competence of the people working in the institutions.

The local government made a distribution in the country. Some accommodations made by the local government were not well organized; in particular, they did not consider the cultural differences between the people. For this reason, migrants arriving from different countries (often in conflict with each other) were located side by side, causing a lot of conflicts in the accommodations. Because of this situation, the social worker's job was more difficult and the migrants did not feel comfortable, too.

The buildings dedicated to the hosting were not adequate, because of the emergencies the government accepted all the proposals, without caring about the conditions of the buildings. Moreover, the cultural shock caused by the sudden change of context and the false imaginary that the migrants built in their minds, scared them.

One of the main problems was the fragmentary quality of the projects. It was organized in the perspective of a short stay, so the institutions were first activated with the idea of create a network that tried to help all the migrants. Finally, the wave of migration was larger than expected and they also wanted to stay longer, and this is the reason why the projects were so fragmented.

The worst choice was to insert the migrants into hotels and hostels, considering the situation as temporary, but finally they left the people in that condition for months, with individuals from other nations, who spoke different languages, with different habits, without giving them any hope for a change. (Statistic Immigration Dossier, 2012, Caritas Ambrosiana)

To understand the reason of this situation, is important to underline that today in Italy the economical helps to citizens are really rare, and they can access to

them only in a really emergency situation; the social work is covered by a huge number of needs of the citizens, and today it has to work more on the emergency level than on the classical to be in charge. It's clear how these problems increase when we stop talking about citizens and we start describing the situation of migrants asking for the refugee permit to stay.

Anyway, the main difficulty for them was to orientate into the Italian welfare system. The communicative system, together with the complexity of our welfare and bureaucracy, made the relation almost impossible to develop. The sensation they had was that no one was listening to them; they were treated in a different way than the others, and they had less opportunities than their flat mates.

Typical questions were: "Why does he already have the permit to stay?" "Why don't I have it?" "Why have you already given him an appointment for looking for a job and I don't have any?" "Why is my sanitary card still provisory and he already has the definitive one?" While months were passing by, people were getting more insistent, more scared, also because the system was really slow, and it often gave negative response.

In front of all these difficulties, the question is: "How to explain them our welfare?" and "Why is our welfare so complicated?"

### *3. The migrants in our welfare*

In Italy, the local governments have a central role on being in charge of migrants. They only receive some general guidelines from the state, and they can activate them as they want. For this reason they can also activate them in an innovative way.

Mostly the agencies that play a central role for the migrants are the "migrant's offices" lead from the municipality and the non-profit agencies.

The "migrant's offices" are responsible for this kind of problems (Spinelli, 2005):

- Receive the migrants
- Help their families
- Promote the working activities
- Encourage Cultural activities on the territory

All these services are mostly dedicated to the immigrants with a legal permit to stay, but it is really difficult to find services for the reception and the accompani-

ment of illegal migrants or clandestine.

One other big problem, for what concerns the access to the services by the immigrants is that often the services in Italy are dedicated to the citizens and not to the residential people. For this reason they are blocked out from the services and this creates a huge disparity and discrimination against migrants who are excluded from an important part of the welfare services.

In the services this situation is called “the phenomenon of the unjustly underserving migrant” (Spinelli 2005). Those are the people who are out from the welfare because they are migrants. If they were not migrants, they would receive all help from the services.

Spinelli says that it is really important to activate ourselves, as a single social worker and as groups. We have to work with the non-profit agencies that help migrants, so that all those people could be integrated, and helped with the right tools.

Spinelli claims that main problem is our concern about the illegal migrants in our country. Analyzing this situation, there is a huge contradiction about the getting permit to stay; it gives to migrants the possibility to access to the services, but people usually need more help when they lose their job and in that moment the permit to stay has to be changed. For this reason, a lot of migrants who lost their jobs and went to the social services could not get help because there are no jobs. The migrant is considered responsible for his situation and for this reason he does not deserve help. (Spinelli, 2005)

The main problems of migrants are connected to the house, to the missing family network; they have problems in communication and they usually have economic problems.

One of the main characteristics of Italian welfare is that the family in our services system has a really important role, in fact the State acts only if the family is not able to give support to the person anymore. This system is evident in an economical level (the state helps the person only if the family is not able to do it) and in a programming level, both in sanity and in social work. These sectors structure their interventions and the take in charge considering the family as the most important actor in the project and working a lot on the family network.

This really important part of the network is missing in the migrant's situation, so his situation is much more difficult to handle for services.

The migrants (the legal ones) have the right to be helped in two different levels: the one associated to the social work and the ones dedicated to migrants, but even if they can be helped by these agencies, they still have a lot of problems.

Firstly, there is a huge bureaucratic wall to go through also for the legal migrants. Usually, the services are bounded to one defined territory, but the migrants are used to change place to live often, because of the undefined job. For this reason, if they change house, they do not have the right to be helped from the previous service anymore and they lose the contact with them, restarting again a relation of take in charge with the service of the new living area. In this situation it is impossible for the social work to do a serious action that is always really fragmentary.

Secondly, usually the migrants are not well informed, and they have difficulties to find the right information. This happens because our welfare is really complicated and it is difficult to do orientation towards services and bureaucracy. Also, for Italians it could be really difficult, but for migrants it is almost impossible, so they are discouraged to access to the services.

Moreover, there is a strong impression that comes from the cultural network about the rights that migrants usually have. They arrive at the service being sure that they have the right to access it because a friend of them accessed it. Often these two people have different conditions, so they do not have the same right to access.

All these difficulties make hard for the migrant to integrate into our society. As Maggian (Maggian, 2011) claims, the integration is not based only on practical factors, like the house, the job or the school for children, but is also based on subjective factors, such as the quality of the social relations that people create in the new country, and mostly the difference between the "expected life" and the "real life", between the imaginary and the reality.

The situation already described concerns economic migrants and does not include refugees. Studying the laws, we found out that refugees should be more protected, should receive more help from the local services, and should be in-

formed about their individual situation. People asking for a refugee claim, can enter illegally the state, even without any kind of passport or identity card, or with a fake one. They must declare to the border police that the document has been falsified, and they have to explain why. After that, every single situation will be examined individually.

The status of refugee is guaranteed by a territorial commission, which evaluates individual situations. The refugees are included in the international protection and are recognized as refugees all over the European Union. This status gives to the refugees the right to access to a permit to stay for asylum that has duration of five years. The refugee has the right to the family reunification, he cannot be expelled, he can look for a job, and he can access to the social work at the same way of Italian people; he can use a shelter if needed, and he can have access to the public health and education.

As we described in the previous paragraphs, in the situation in spring 2013, it was not possible to handle the situation in this way. The reasons concern the huge number of people arrived all together, each of them with a really large number of needs.

### *Conclusion*

In this paper we analyzed the situation of migrants in Italy, in particular the situation concerning migrants escaping from wars. They arrive all together in Italy and they create a really big emergency, difficult to handle for the Italian institutions.

We state how the Italian government reacts to an emergency situation, like the one of North-Africa and finally which were the main anxieties and fears of migrants in that situation, comparing them to the problems of the migrants in a normal situation.

Now it is important to see how a social worker should act with migrants.

The relation between immigration and services is really complicated, and the main difficulties could be divided in:

- client's difficulties
- operator's difficulties

- difficulties of welfare
- difficulties during meetings

The difficulties connected to the client concerns a different way of thinking about resources and the different kind of welfare that characterizes our country. There are also difficulties connected to the environment: usually immigrants have a lot of difficulties leaving the job to go to the services, or maybe they do not have the requirements to enter the services. Moreover, the Italian system is based on a strong relation with the family network, which the immigrants often do not have.

Other difficulties are connected to the role of the operator. The immigrants could have difficulties accepting that role, maybe because of the gender, sometimes because they are afraid of the operator, who is seen as a dangerous bureaucrat. After that, there could be some language and communication problems, there could be prejudices from both parts and the social worker could also be afraid to the user, if he is not used to work with immigrants.

The difficulties connected to the welfare are first based on politics, which are not organized for migrants. Secondly, today the services are overfull, and the social worker takes charge of the user only if it is an emergency, while immigrants often need help during all the migration process.

The difficulties about meetings relate to finding an adequate space for the meeting and mediation difficulties with external services for creating a functional network, able to help the person.

The migrant, who arrives at the service, is really disoriented, scared and often totally disillusioned. In this case, more than with the Italian users, it is really important that the social worker creates a relationship with the user, based on trust, as Marisa Pittaluga says, the “trusting stranger”, that can help the migrant in his difficult moments.

In order to do this, the social worker has to be really conscious of the cultural differences between him and the migrant, he has to be able to welcome him without prejudices and he has to be able to revisit the traditional social worker's skills, so as to go through the linguistic and communicative difficulties that this particular kind of user has.

Quoting again Elena Spinelli:

“The operator has to be able to think in a flexible way, to accept that his point of view is not the only one existing, but it is only one in an ocean of point of views. It’s not the obvious one, it is not normal, and it is not indisputable. [...]

Evaluating the different situations, the social worker has to recognize that the cultural differences are not deviance. They have to be considered as positive aspects of an answer to a difficult situation, adaptive behaviors, which read out of the contest, would be considered as negative and dysfunctional”. (Spinelli, 2005)

Considering all the cultural differences and all the anxieties that characterized this particular kind of users, the most important thing is the role of the social worker in the relationship with the migrants. The social worker should be flexible, out of prejudice and should try to look at the problem of the user in the particular context that characterized him.

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