THE EMANCIPATION OF CITIZENSHIP: FROM LAW TO CONFLICT

Filippo Corigliano
Università della Calabria

Introduction

To this day, we find ourselves tackling the issue of citizenship as a question "embedded within the problem of sovereignty" first raised by Bodin[1]. For obvious reasons, however, the context has radically changed. Most of the factors which have lent shape and substance to this concept are now undergoing a profound transformation. The endpoint of this process is still nowhere in sight.

We are experiencing a phase of *transition* which radically affects two categories, those of *time* and *space*, which have always been a focus of reflection on political philosophy. And as in every age of transition, a sense of emptiness and suspension is in the air: the presence of something new which is developing and gradually establishing itself, while the "old" still endures and continues to influence historical and social reality[2].

In facing this phase of transition, a clear awareness emerges: the current global disorder cannot be addressed and resolved by reverting to some kind of Westphalian order[3]. Still, borders remain the *space* that defines a given territory, preserving the homogeneity of shared space from the intrusion of external/alien elements. To this day, frontiers constitute the line separating outside and inside, where "all political practice is

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1. L. Jaume, "Le citoyen: concept indispensable mais obscurci. Un parcours européen en philosophie", in G. M. Labriola (eds), *Filosofia Politica Diritto. Scritti in onore di Francesco M. De Sanctis*, Editoriale Scientifica, Napoli, 2014, p. 99.
2. K. Jaspers, *Über das Tragische*, R. Piper & Co. Verlag, München, 1952, p.23.
3. S. Mezzadra, B. Neilson, *Border as Method, or, the Multiplication of Labor,* Duke University Press, Durham, 2013, p. 6.

territorialized"[4], and where acceptance and rejection follow well-defined rules and patterns. Indeed, processes of exclusion or inclusion are never completely impersonal, but rather represent the outcome of (political) choices and mechanisms that take account of a whole range of "relationships of force exercised by institutions and power apparatuses over individual and collective subjects"[5].

Balibar highlights the cornerstone of the rule of exclusion: "to put it in clear terms, we would say that *it is always citizens*, 'knowing' and 'imagining' themselves as such, *who exclude from citizenship* and who, thus, 'produce' *non-citizens in such a way as to make it is possible for them to represent their own citizenship to themselves as a 'common' belonging*"[6]. Even if one were to envisage citizenship as merely a "method" of inclusion/exclusion, the question of the choice of the criteria of access to the community would nonetheless remain a salient political issue, revolving around the definition of the status of citizenship –and what this entails in terms of subjecthood– through the *consensus* of the members of society or state sovereignty[7].

Setting out from these premises, an attempt will be made to examine the way in which political philosophy addresses the double challenge of the "now" and "when" posed by citizenship[8]. The *now* has to do with the relativity of time, with the contingency of everyday life, which is always subject to specific "rules" of its own, which are never the same; the *where* concerns the spatial dimension, the physical place in which every existence is at least provisionally –and often precariously– rooted.

The time of history, the space of the *nation*

Only a few years before the French Revolution, in 1784, Kant envisaged a philosophy of history directed towards progress, towards the accomplishment of the moral ideal of mankind[9]. The revolution opened up a new perspective on the future and a new progressive idea of historical time became entrenched in the collective consciousness.

What also emerged was a key concept: that of *nation*. This came to be defined starting from some primary elements with which communities identify –namely, a shared

4. E. Balibar, *Citizenship*, Polity Press, Cambridge, 2015, p. 68.
5. Ibid., p. 75.
6. Ibid., p. 76.
7. P. Mindus, *Cittadini e no. Forme e funzioni dell'inclusione e dell'esclusione*, Firenze University Press, 2014, p. 273.
8. S. Veca, *Cittadinanza. Riflessioni filosofiche sull'idea di emancipazione*, Feltrinelli, Milano, 2008, p. 54.
9. I. Kant, *Idee zu einer allgemeinen Geschichte in weltbürgerlicher Absicht*, Berlín, 1784.

memory, language and blood–. But what ultimately contributed to establishing the concept of nation was its historical definition: "a nation, in the European sense of the term, is first of all a place, which is to say a territory with well-defined frontiers"[10].

Nationality became the distinguishing feature that separates the *us* from outsiders in a radical and conceptually definitive way. The figure of the *foreigner* thus took shape and came to be defined on the basis of the legal boundaries of the nation, which exclude that which lacks similar traits. This is arguably the most paradoxical outcome of the French Revolution: the principles of universal citizenship are only confirmed and applied through territorially defined, positive law[11].

The nation becomes "statalised" to fulfil its historical role. The more it acquires state capacities, the more powerful it becomes[12]. Citizenship is one of the means by which the nation exercises its state capacities. And it does so by broadening or restricting the criteria of access and membership to the group. Citizenship is the state capacity *par excellence*. It is the means of selection and definition of the body politic.

The legacy of the French Revolution consists in a notion of citizenship revolving around the core principle of national identity. The unity of the nation acquires a normative value and ensures conditions of equality among citizens[13]. These conditions of equality can only be achieved within the space of the nation, delimited by its frontiers: the universalistic perspective finds new legitimacy within national boundaries –citizenship "is *hard on the outside* and *soft on the inside*"[14].

In the present context, globalism is having a marked impact on the structural elements of nationhood. Time and space go hand in hand, as do their transformations. Laura Bazzicalupo notes: "the present time is not one of progress towards the better, but rather a time marked by *contingency*"[15]. What is becoming uncertain and contingent even more than time is the space of global life. Frontiers are vulnerable, crossable and

10. J. M. Guéhenno, *La fin de la démocratie*, Flammarion, Paris, 1993, p. 19.

11. According to Norberto Bobbio, rights are developed through "a dialectical movement which starts with the abstract universality of natural rights, passes through the concrete particularity of positive national rights, and ends with the no longer abstract but concrete universality of positive universal rights." N. Bobbio, *L'età dei diritti*, Einaudi, Torino, 1990, p. 24. For a discussion of the notion of rights in their historical context, see A. H. Puleo, "Los derechos humanos, un legado de la modernidad", in F. Quesada (ed.), *Ciudad y ciudadanía. Senderos contemporáneos de la filosofía política*, Trotta, Madrid, 2008, p. 197.

12. M. Foucault, *Il faut défendre la société: course au Collège de France, 1976-1977*, Gallimard/Seuil, Paris, 1997, pp. 200-201; on this point, see too M. R. Somers, *Genealogies of Citizenship. Markets, Statelessness, and the Right to Have Rights*, Cambridge University Press, Cambridge, 2008, pp. 122-132.

13. L. Bosniak. *The Citizen and the Alien. Dilemmas of Contemporary Membership*, Princeton University Press, Princeton-Oxford, 2006, p. 97.

14. Ibid., p. 99.

15. L. Bazzicalupo, *Politica. Rappresentazioni e tecniche di governo*, Carocci, Roma, 2013, p. 86.

constantly redefined[16]; they are turning into the point where the uncertainty of globalism undermines the spatio-temporal dimension of the nation-state.

The dynamics of globalisation are contributing to the erosion of borders and increasing the fluidity of mobility processes. Migrations are once again at the centre stage. Border areas are becoming home to the ill-defined figure of the *migrant*, which tends to metamorphose into that of the "frontier citizen"[17], ready to inhabit a space, which has in turn become uncertain and indeterminate.

The governing of security

Borders have acquired a regulatory function: they are places of admission and exclusions; the places where citizenship originates as a status and where this status is first governed[18]. The most recent migratory phenomena have consistently concerned the borders of Europe, turning them into unstable spaces, into a setting for both human tragedies and claim-making. Aside from representing the privileged venue for encountering the other, the "foreigner", these borders raise a series of key political questions, "because they entail the distinction between citizens and aliens, as well as the crucial decision whom to admit into the national territory"[19].

What appears particularly significant from this perspective is the analytical element of *governmentality* developed by Michel Foucault. This refers to a specific way of exercising power, which encompasses three aspects: the institutions enabling the exercise of this power; the consequent preeminence of "government" power over all other powers; and the establishment of a more or less extensive and specialised range of know-hows and apparatuses which find a crucial technical resource in "safety devices"[20]. The distinguishing features of an apparatus of security essentially consist in "a constellation of moral norms, beliefs, police administrative deeds and measures, architectural spaces, and regulations and practices serving biopolitical goals"[21]. The lives of migrants are the object to which power strategies are applied and by means of which power is held together. They constitute a foreign body with respect to a space

16. See A. Tucci, "Crossing the Borders of Governance", in *Soft Power: Revista euro-americana de teoría e historia de la política*, 2, 2014, pp. 59-72.
17. L. Bazzicalupo, *Politica. Rappresentazioni e tecniche di governo*, p. 73.
18. L. Bosniak, *The Citizen and the Alien*, p. 126.
19. S. Mezzadra, B. Neilson, *Border as Method*, pp. 179-180.
20. M. Foucault, *Sécurité, territoire, population: course au Collège de France (1977-1978)*, Gallimard, Paris, 2004, p. 111.
21. L. Bazzicalupo, *Politica. Rappresentazioni e tecniche di governo*, p. 193.

whose borders have already been traced[22], and are now being called into question by a new pervasive presence.

On the one hand, migrants are perceived as bodies that enter into the power relation and resist from within increasing the power, which they resist[23]; on the other, they appear as elements in an antagonistic dimension of politics. They become the "central protagonists in the drama of composing the space, time, and materiality of the social itself"[24].

Conflicting ethics and unexpected guests

In his *Perpetual Peace*, Kant expounds upon the concept of cosmopolitical rights, founded on the right of visit belonging to every human being. The key factor here is the notion of *hospitality*: every individual has the right "not to be treated as an enemy when he arrives in the land of another"[25]. This perspective leads to a series of considerations.

The first consideration concerns the nature of hospitality. It is directed towards the foreigner, the "other", who expresses his difference through his unexpected, unforeseen and chance presence. This presence carries uncertain consequences. If the *other* is not integrated according to the rule of inclusion, if he does not become "one of us", he runs the risk of existing as a foreigner and hence, of being identified as an *enemy*[26]. What emerges here is a process whereby, on the one hand, an apparatus is developed to remove the foreigner by labelling him an enemy and driving him beyond the frontier; and, on the other, a levelling tendency whose explicit aim is to erase foreignness and all its distinguishing features. Integration within the citizen body limits differences or even tends to erase them completely. Exclusion, by contrast, preserves the identification of the foreigner as the enemy and eventually leads to his expulsion.

The second consideration concerns the risk level –which is always high– in the relation between guest and host. The diversity embodied by the foreigner may translate into hostility, distrust, a desire to distance oneself, and hence, conflict. The possibility of

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22. On this point, see G. Marramao, "Dal paradigma della sovranità al discorso della *civitas*", in M. Failla, G. Marramao (eds.), *Civitas augescens. Includere e comparare nell'Europa di oggi*, Leo S. Olschki Editore, Firenze, 2014, pp. V-XI; see too G. P. Cella, *Tracciare confini. Realtà e metafore della distinzione*, il Mulino, Bologna, 2006.

23. L. Bazzicalupo, *Politica. Rappresentazioni e tecniche di governo*, p. 193.

24. S. Mezzadra – B. Neilson, *Border as Method*, p. 159.

25. I. Kant, *Zum ewigen Frieden. Ein philosophischer Entwurf. Ein Philosophischer Entwurf* (1795), Philipp Reclam, Stuttgart, 1973, pp. 35-36.

26. B. Giacomini, "Inclusione e ospitalità: due grammatiche a confronto", in M. Failla, G. Marramao (eds.), *Civitas augescens*, p. 69.

this occurring can in no way be foreseen. What risks compromising the relation of hospitality even further is precisely the impossibility of providing any certain answers with regard to the behaviour and attitude of the foreigner who is being hosted, and hence the possible risks faced by the host community.

This is the classic dilemma faced by King Pelasgus in Aeschylus' *Suppliants*, a tragedy far removed in time yet still dramatically relevant[27]. Pelasgus, a Greek king, must answer the asylum request made by the Danaids, "barbarian" women who wish to dwell in the land of Argos and become citizens. The reason for this is that they have fled Egypt in order to avoid having to marry their own cousins, who lay claim to them. The Danaids approach the king with twigs that symbolise their status as "suppliants" sacred to the gods. Hospitality cannot be denied to them without contravening the will of Zeus, which is repeatedly referred to in the tragedy.

With his heart flooded by "a multitude of ills", the king voices his worry at the prospect of such great responsibility. He addresses the suppliants with the following words: "without harm I do not know how to help you. And yet again, it is not well advised to slight these supplications. I am perplexed, and fear possesses my soul whether to act, or not to act and take what fortune sends"[28].

Pelasgus ultimately decides to leave things up to the community: "in common let the people strive to work out the cure"[29]. The people's verdict, as expressed by the citizen assembly, is in favour of granting the suppliants hospitality. The women are welcomed into the community, even though there remains the risk of war. The *demos* has ruled in favour of acceptance, obeying a principle that was not laid out by any written law, but which rather violated the rules which help "distinguish and separate those coming from outside from those who are within"[30]. Addressing the Egyptian herald who lays claim to the women, the king makes his pronouncement official: "Not on tablets is this inscribed, nor has it been sealed in folds of books: you hear the truth from free-spoken lips"[31].

The free will and determination of the people –citizens– opens the door to hospitality and to the welcoming of refugees fleeing from violence. In this case, the pronouncement was a positive one. But does people –gathered in an assembly or, as in modern times, voicing its opinion through representatives– always display such wisdom? What

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27. On the enduring relevance of this Greek tragedy, see A. Jellamo, "La tragedia Attica come fonte giuridica", in R. Siebert, S. Floriani (eds.), *Andare oltre. La rappresentazione del reale fra letterature e scienze sociali*, Pellegrini Editore, Cosenza, 2013, pp. 41-59.
28. Aeschylus, *Suppliants*, pp. 375-380.
29. Ibid., pp. 365-371.
30. B. Giacomini, "Inclusione e ospitalità: due grammatiche a confronto", p. 70.
31. *Aeschylus, Suppliants*, pp. 945-950.

would the European "demos" say today with regard to the incessant influx of refugees seeking asylum and protection from violence?

The democratic universal as a productive paradox

Without wishing to recall the most recent news events, it is worth stressing an important and all too frequently overlooked aspect of the nature of democracy[32]. Democracy carries with it the utopian trait of transparency, while at the same time always keeping the field of conflict and tension open. As Giacomo Marramao writes, "democracy enjoys neither a temperate climate nor enduring, uniform light"; rather, it presents itself as a paradoxical community, *a community of those without a community*, ready to welcome even "unexpected guests"[33].

Democracy establishes itself through the coexistence of particular identities, operating within an universal dimension. None of these identities can have a hegemonic character, less still become permanently dominant. The universal, Ernesto Laclau writes: "has no necessary body and no necessary content; different groups, instead, compete between themselves to temporarily give their particularisms a function of universal representation"[34].

The premises of democracy rest on what is essentially a paradox: on the one hand, democracy presents itself "as something belonging to everyone, something universal"; on the other, it produces claims on the part of those who remain excluded from the *us*[35]. However, it is important to note that this dichotomy "enables the rise of the heterogeneous"[36], making democracy itself possible.

The claims advanced by those who are excluded from –or do not belong to– the demos ultimately amount to a mobilisation for non-particularistic causes and find expression through the invoking of a universal principle which, as Koskenniemi recalls, raises the following question: what is it that we lack?

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32. On this point, see L. Bazzicalupo, "Introduzione. La doppia crisi della democrazia", in Ead. (ed.), *Crisi della democrazia*, Mimesis, Milano-Udine, 2014, pp. 17-29; more generally see S. Petrucciani, *Democrazia*, Einaudi, Torino, 2014.

33. G. Marramao, "La democrazia, la comunità e i paradossi dell'universalismo", in G. Marramao, *Dopo il Leviatano. Individuo e comunità*, Bollati Boringhieri, Torino, 2013, p. 81.

34. E. Laclau, "Universalism, Particularism and the Question of Identity", in E. Laclau, *Emancipation(s)*, Verso, London-New York, 1996, p. 35; see too the discussion of the same topic in M. Koskenniemi, *The Gentle Civilizer of Nations. The Rise and Fall of International Law 1870-1960*, Cambridge University Press, Cambridge, 2001, esp. ch. 6.

35. L. Bazzicalupo, "Introduzione. La doppia crisi della democrazia", p. 21.

36. J. Riba, *Republicanismo sin república. Filosofía, política y democracia*, Ediciones Bella Terra S. A., Barcelona, 2014, p. 103.

The overcoming of an "instrumental and ethnocentric pseudo-universalism"[37] can only occur if the capacity for collective action extends to the whole world. Once again, it is only democracy that can mediate conflict and channel it towards the accomplishment of a common project.

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37. G. Preterossi, "La sfida dell'immediatezza. Una riflessione meta-giuridica sulla crisi del diritto internazionale", in A. Tucci (eds.), *Disaggregazioni. Forme e spazi di governance*, Mimesis, Milano-Udine, 2013, p. 167.