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AGAINST THE VIOLENCE OF BORDERS: THE POLITICS OF HUMAN RIGHTS AND THE INTERNATIONAL RIGHT TO HOSPITALITY IN ÉTIENNE BALIBAR*

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CONTRA LA VIOLENCIA DE FRONTERAS: LA POLÍTICA DE DERECHOS HUMANOS Y EL DERECHO INTERNACIONAL A HOSPITALIDAD EN ÉTIENNE BALIBAR

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Abstract

The essay examines some of Étienne Balibar's recent work in which he establishes a critique of human rights theory. In dialogue with Hannah Arendt, Balibar focuses on the conditions of possibility for a "new politics of human rights" in the context of what he calls "absolute capitalism". Against the current violence of borders within absolute capitalism, and against its phantasmatic neo-racist corollary, Balibar theorizes an "international right to hospitality": a kind of "counter-right" which, through a confrontation with the Marxian theory of "relative overpopulation" and beyond the platitudes of liberal juridical universalism, can reconfigure the fundamental lineaments of a politics of human rights that is capable of responding to the present.

Keywords

Étienne Balibar; human rights theory; violence of borders; absolute capitalism; international right to hospitality.

Resumen

El ensayo examina algunos de los trabajos recientes de Étienne Balibar en los que establece una crítica de la teoría de los derechos humanos. En diálogo con Hannah Arendt, Balibar se centra en las condiciones de posibilidad de una "nueva política de los derechos humanos" en el contexto de lo que denomina "capitalismo absoluto". Contra la actual violencia de las fronteras dentro del capitalismo absoluto, y contra su fantasmático corolario neorracista, Balibar teoriza un "derecho internacional a la hospitalidad": una especie de "contraderecha" que, mediante una confrontación con la teoría marxiana de la "superpoblación relativa" y más allá de los tópicos del universalismo jurídico liberal, puede reconfigurar los lineamientos fundamentales de una política de los derechos humanos capaz de responder al presente.

Palabras clave

Étienne Balibar; teoría de los derechos humanos; violencia de las fronteras; capitalismo absoluto; derecho internacional a la hospitalidad.

This essay establishes the theoretical foundation for a Balibarian proposal which has not received much attention in the theoretico-political debate. It reconstructs the "international right to hospitality" that Balibar has turned to in recent years as a way to resume his work on the theme of the universal. Part one of the text demonstrates how Balibar uses Hannah Arendt's critique of the contradictions of modern universalism in order to open the path – with and beyond Arendt – to a new "politics of human rights" inspired by the principle of equaliberty (égaliberté). For Balibar, as the second part of the text argues, this politics is undermined by an "absolute capitalism" which has as an integral part the violence of borders referred to in the title of the essay. It is precisely against this violence, and through an interesting re-reading of the Marxian theory of "relative overpopulation", which – as the third and fourth parts of the text suggest – Balibar elaborates the proposal for an "international right to hospitality": a right beyond borders based on the respect for Arendt's "right to have rights" and conceived as an integral part of a broader "politics of human rights", whose theoretical conditions of possibility Balibar aims to think about in a new way.

Balibar and Arendt: towards a new politics of human rights

As is well known, following the approval of the 1948 Universal Declaration of Human Rights, in an essay with the title *Es gibt nur ein einziges Menschenrecht*, Hannah Arendt pointed out that against the dramatic phenomenon of displaced persons which occurred between the World Wars, it was necessary to account for the tragic impotence of human rights. Formally the holders of these rights, but actually deprived of the "right to have rights", refugees and stateless people had not been able to access the *Staatsburgerschaft* which, alone, would guarantee the true "human right" (Arendt, 1981, 162, 167; Arendt, 1996, 410). Defined as the "abstract nudity of being-nothing-other-than-man" – Arendt would write in a famous page of *The Origins of Totalitarianism* – human rights were in fact destined to remain "paper rights" (Arendt, 1996, 415).[1]

Balibar notes how in these pages, Arendt clearly demonstrated that the universality of human rights could not (and therefore cannot) be understood as "an *a priori* of the constitutions of citizenship" (Balibar, 2022a, 65). And the nation-state – the context in which the "universal proclamation of certain fundamental rights" had taken place – was (and is) also destined to flatten "human rights" onto "the rights of the citizen", binding the use of the latter to the "status of the national citizen" (Balibar, 2020a, 68).

1 On this point, cfr. Costa, 2007, 411 and Costa, 2018, 60–65.

For Balibar, the originality of Arendt's analysis not only consists in being "one of the most radical critics […] of the classical theory of the 'rights of man'", but also in the fact of knowing how to combine this critique with "an uncompromising defense of their imprescriptible character" (Balibar, 2020a, 61). As others have pointed out, against Lefort, Balibar argues that it is impossible to reduce Arendt's discourse to a simple denunciation, à la Burke, of "the abstract and formal nature of human rights", understood as a mere "fiction" (Deleixhe & Lacroix, 2014, 42).[2] Indeed, if Arendt certainly rejects "the idea that there exist [self-evident] fundamental rights", such as those declared by the Constitutions and the Universal Declarations, she nevertheless also supports the need to "situate an intransigent politics of the rights of man at the very heart of democratic construction" (Balibar, 2020a, 61).

In other words, Balibar intends the make the same move as Arendt in a profoundly different time. Just as she did, he argues that the priority of human rights over politics must be rejected, but he also emphasizes that the contempt of those same rights is equivalent to the "destruction of the human (Balibar, 2020a, 61). Balibar also agrees that human rights have no natural foundation. For him as for Arendt, "there is no universal or formal 'human essence' located in any human individuality" (Balibar, 2020a, 62).[3] There is no human nature, that is, but only a human condition: the condition of women and men inevitably thrown into a "plurality of relationships which are more or less conflictual, which are constitutive of their 'common world'" – Balibar writes, citing *The Human Condition* (Balibar, 2020a, 62). The Human in itself does not exist. Human rights cannot therefore be founded on any human essence or nature. They are groundless, absolutely artificial, conventional, "historically contingent" (Balibar, 2020a, 65; Balibar, 2007, 727-738). They are only the "fragile artifacts of life in common" (Deleixhe & Lacroix, 2014, 43).

Starting from the proposition of "the right to have rights" – which for Balibar is not a given but rather something to be relentlessly claimed in order "not to be excluded from the right to fight for one's rights" – human rights must therefore continually be produced (Balibar, 2012, 89).[4] They must continually be reinvented in public space through the insurgent and potentially constituent action of a plurality of human beings who cohabit within a common world and who recognize that common as "their end" (Balibar, 2020a, 62).[5] In other words, for Balibar "there can be a right to rights only

2 Balibar's object of critique is Lefort, 1986, 59–72.
3 Here is the passage in Arendt that Balibar cites: action "corresponds to the human condition of plurality, to the fact that men, and not Man, live on the earth and inhabit the world" (Arendt, 1998, 7).
4 On this point, cfr. Chingola, 2011, 503.
5 Citing *The Human Condition*, Balibar defines public space as that of "the plurality of relations, more or less conflictual,

where individuals and groups do not receive it from an external sovereign power or transcendent revelation, but where they attribute this right to themselves, or grant each other these rights reciprocally" (Balibar, 2016, 141).[6] The universality of human rights, that is, is not based on some essence but on the conflictual subjectivation of the governed: on the "contingency of insurrection", Balibar writes, "or if one prefers, of struggle" (Balibar, 2016, 141). In other words, for human rights to be human rights, they must be politicized. They are in fact indissociable and indiscernible from "a construction of the human […] immanent in the historical invention of political institutions" (Balibar, 2020a, 72; Balibar, 1996, 372–419); these are institutions in which citizenship can be practiced as a transnational isonomic apparatus centered on the principle and rule of "equal liberty" ("equaliberty").[7]

Recognizing the limit of Arendt's analysis in the inability to imagine other institutional forms "for the organization of a community of citizens" than those linked to the nation-state – whose crisis becomes for Arendt "a crisis without appeal of citizenship itself" – Balibar supports it with the awareness of someone who knows that it has not yet been understood how a citizenship "free from the state form […] can offer legal guarantees and give rise to obligations" (Balibar, 2022a, 65–66). But also of those who consider it necessary to think institutions beyond the nation-form that are capable of producing "equality in the public sphere and at the same time liberty in the relations with power" (Balibar, 2020a, 73). And it is precisely in Arendt's thought that, despite the limitations encountered, Balibar finds not only a well-equipped critique of human rights but also and above all an attempt to politicize them. In other words, Balibar finds in Arendt the theoretical opening towards a new "politics of human rights" (Balibar, 2020a, 63).

which are constituted by the 'common world'". On this subject, he refers to Possenti, (2002, 99ff).

6 On Balibar as a theorist of "insurgent citizenship", see Boonen, 2020, 60–110.

7 For Balibar, equaliberty (*égaliberté*) is the "arche-institution" of modern democracies, "what precedes and conditions all the others". Equaliberty can also be defined in Arendtian terms as "the right to have rights par excellence". Balibar claims that its "active side" consists in the insurgence of the governed for emancipation and the universalization of citizenship, against the denial of rights practiced by "universalist nation-states". The latter adopt normative models of society on the basis that what is considered "Human excludes the non-human or the inhuman", and what is considered "Social excludes the 'non-social' or asocial". For Balibar, this "intrinsic violence of the universal" is what the emancipatory politics of the governed opposes, i.e., the active side of equaliberty understood precisely as "the 'insurrectionary' principle that universally claims the right to have rights" (Balibar, 2016, 141, 143; Balibar, 2017a; Balibar, 2010, 155, 55–91). On the concept of equaliberty, see also Balibar, 1993a, 75–100. Some interesting critical remarks on this point can be found in Raimondi, 2011, 101–117.

The "phantom of the foreign body" as a legitimate child of "absolute capitalism"

For Balibar, such a politics must be conceived and practiced in a materially determinate way, within and against what he calls "absolute capitalism (Balibar, 2018a, 9–22; Balibar, 2019a, 269–290). With this term, Balibar defines a stage of capitalist development – our own – in which "accumulation occurs simultaneously at the two poles of the value-form": the "financialization of capital" and "unlimited commodification" (Balibar, 2020b, 272). In other words, absolute capitalism tends to dissolve the bonds that hold back the extraction of value and it aims at the "total subsumption" of life and nature to capital (Balibar, 2019b, 36–58). And yet for Balibar, absolute capitalism is by no means omnipotent, as some critics of his have charged, because it is moved by an unbridled and constitutive drive to self-valorize without limits which does not allow it any stability and characterizes it as "extraordinarily unstable, fragile, and therefore aggressive regime" (Balibar, 2020b, 277).[8]

For Balibar, a new "politics of human rights" will thus have to leverage all of the contradictions opened by absolute capitalism, by virtue of whose ordinary practice inequalities and new forms of racism and violence proliferate (Balibar, 2020b, 273), as paradigmatically demonstrated by the "condition of migrants in absolute capitalism" (Balibar, 2019c). This is indeed marked by the effects of a violence of borders which, while triggering "genocidal tendencies" against the "wandering population" (for example, in the central Mediterranean, in the Bay of Bengal, or in the territories that separate the United States and Mexico), aims to harness human mobility through a double apparatus of differential exclusion and inclusion: an apparatus in which the banalization of camps and the externalization of borders coexist with the subjection of migrant labor and lives in the most precarious positions of the societal order (Balibar, 2019c).[9] While it structures processes of the hierarchization of citizenship of a systemic character, that is, this apparatus makes the migrant an "*exclu de l'interieur*" (Balibar, 2001, 191). And

8 While grasping the elements of the analytical privilege in the concept of "absolute capitalism", Sandro Mezzadra notes the risk that it could lead to political impotence. He writes: "once freed from the reigns of politics and the world of states, and in particular […] from every bond with its essential 'other' – labor, however one wants to define it – [absolute] capital would constitute its world, its society, its 'culture' without obstacles of any kind, or better, without having to face any setbacks of an essentially reactionary nature" (Mezzadra, 2020, 298). As will be seen below, however, Balibar seems to escape this theoretical risk, noting that the recomposition of fragmented labor along ethnic lines and a "transnational class solidarity" remain the main levels of resistance to absolute capitalism.

9 Balibar defines migrants and refugees as "wanderers" not only to escape the linguistic trap that opposes the "good refugee" with the "bad migrant", but also to emphasize the condition of instability and insecurity experienced in a context of war on migration that takes the form of a "politics of eliminating the wandering people" (Balibar, 2022b, 24). On the concept of differential exclusion, cfr. at least Mezzadra & Neilson, 2013, 67ff and Mezzadra, 2020, 99–201.

for this reason, Balibar argues, we certainly cannot be satisfied with the idea that "if states and their military and police forces did not use repression, or did not exercise violence against the movements of migrants and refugees, everything would work perfectly" (Navone, Rahola, 2020, 36).

All of this takes place in the context of a genuine "War on Migration", according to Balibar, in which migrants, refugees, and post-colonial populations are rejected and/or illegalized and transformed into "refugees without possible refuge" (Balibar, 2019c). Thus, in a departure from the Geneva Convention and the legal texts which were inspired by it, a "major reversal of the right to asylum" is produced.[10] And the relation that the "mobile part of humanity" maintains with life and with the territories – Balibar argues, echoing Benjamin – increasingly resembles a "normalized state of exception" (Balibar, 2019c). The entire apparatus is then based on the "phantom of the foreign body", a "phantasmatics of immunity" articulated around the manipulation, and possibly the fabrication, of the "fear that people will settle"; that migrants "simply arrive, that they are there" (Balibar, 2019d, 31). This fantasy mobilizes "the fear and hatred of the 'wandering' foreigner", understood as "sad passions that make nationalism slide towards a form of generalized racism" (Balibar, 2019c).[11] And, continually risking the generation of autoimmunary social pathologies – Balibar continues, referring to the work of Roberto Esposito[12] – it combines two different types of fear: on the one hand, the fear that the foreign body could penetrate a healthy one by introducing "decomposition germs" into it, thus undermining the "threatened identity"; and on the other, a "panic of flows" centered on the idea that "capital circulates, jobs leave, migrants and refugees flow," and that therefore "everything that should remain inside flees, while what should remain outside enters without obstacles" (Balibar, 2019d, 33).

In other words, the phantom of the foreign body, which generates securitarian responses and identitarian reflexes, proliferates on what Balibar calls the "impotence syndrome of the omnipotent" (Balibar, 2019d, 33)[13]: that is, the widespread sensation in large portions of the population – and in particular among the losers and those "humiliated by globalization" (Revelli, 2019, 37) – that the state, "this mortal god who protects the national territory, has become impotent because flows, including migration, escape its control" (Balibar, 2019d, 33–34). The conviction is thus established that "not only would the state no longer protect us from economic risks, but it would also become the instrument of this generalized opening of borders which would consequentially lead to

10 On this theme, Balibar borrows from the theses in Valluy, 2009.
11 On the theme of fear in Balibar, cfr. Grangé, 2021, 93–104.
12 On the immunization apparatuses of society, Balibar refers to Esposito, (2022). Cfr. also Balibar, (2013).
13 On this point, cfr. Scotto, (2022, 7–24).

the dissolution of national identity" (Balibar, 2019d, 33–34). For Balibar, the phantom of the foreign body is the legitimate child of an absolute capitalism that "sets the masses in motion and uses them, or throws them away as unusable or in excess, depending on the case and the moment in question" (Balibar, 2019c).

Balibar and Marx: on the new "law of population"

Balibar picks up Marx on precisely this point, arguing that despite many transformations which neoliberal globalization has caused, at the center of the capitalist social relation there is still a strict link "between the 'law of accumulation' of capital and the 'law of population'" (Balibar, 2019c). Here Balibar recalls chapter twentythree of *Capital* Volume One, where Marx notoriously maintains that with the advance of the capitalist mode of production onto a global scale, there emerges a "relative overpopulation" of increasing dimensions[14]: an overpopulation which is an integral part of that industrial reserve army that capital has always used both to "govern its own stock of labor-power according to profit," and to "decompose the class of waged producers just as it reproduc-es." In this way it puts workers in competition among themselves and precludes their unification as a "class for-itself" in common struggle (Balibar, 2019c). For Balibar, Marx's thought "certainly still has much value," but in the contemporary conjuncture it can cause some "blinding effects" and requires an update. Such blinding effects are caused by the abuses that neo-nationalists on both the right and left make Marx's theses into when they refer to them in order to argue that "rejecting or limiting the entry of migrants and refugees into national territory" would be in the interest of the native workers, because immigration supposedly feeds "the formation of the industrial reserve army […] which, in turn, would allow the compression of wages and would threaten social rights" (Balibar, 2019c).[15] The necessary updating of Marx's thought here concerns, on the other hand, according to Balibar, taking into consideration the two main forms of precariousness that keep the relative overpopulation in its form in absolute capitalism.[16] The first is the "precariousness of the center", i.e., that of *désaffiliation* – here Balibar recalls the teaching of Robert Castel (1995; 2009;

14 For Marx, "worker overpopulation" is "one of the conditions of existence of the capitalist mode of production," because it constitutes an "industrial reserve army which belongs to capital as if the latter had raised it at its own expense, and creates for the changing needs of its valorization the exploitable human material is always ready" (Marx, 1973, I, 3, 82).
15 Ibidem. On the abuses of Marxian theory by neo-nationalists on the left, cfr. Basso, 2019, 261–280 and Basso, 2021.
16 It also being understood that absolute capitalism also produces an absolute overpopulation composed of "useless" or "disposable" humans. Balibar maintains this by mobilizing Giraud, 2015 and Ogilvie, 2012. Cfr. Balibar, 2012a and Balibar, 2019c.

2015) – which has made the precariat "a general social condition" (Balibar, 2019c).[17] The new "biopolitics of capital" has relaunched the old truth that "proletariat means precarious": with neoliberal globalization, "we did nothing but rediscover this reality after the parenthesis of the social state and collective agreements" (Balibar 2017b, 45). The second main form is the precarity of the "'periphery' of the world-economy" which arises from "uprooting": a concept that Balibar takes up from Pierre Bourdieu and Abdelmalek Sayad in order to indicate, with Saskia Sassen, the dispossession and expulsion of the wanderers in globalization Balibar, 2019c; Bourdieu & Sayad, 1964; Sassen, 2015. Although distributed differently between the Global North and South, these two forms of precarity affect both. Indeed, they are complementary and create a new relative overpopulation that capital uses. And everywhere, Balibar writes, "they put the 'poor' into conflict" among themselves, generating "violent antagonisms" (Balibar, 2022c, 314). This, then, is how the Marxian law of population continues to act in absolute capitalism, favoring the decomposition of the subaltern classes on ethnic bases: a decomposition which is then politically capitalized on by sovereigntist and neo-populist political forces, but which is also perfectly functional to the economic and political purposes of neoliberal forces.[18]

It is by starting from this post-Marxist analysis that Balibar proposes the idea of a new "international right to hospitality", understood as a politics of human rights that must be rooted in the "refusal of the intolerable consequences" of absolute capitalism: intolerable like the violence of borders (Balibar, 2022c, 321).[19] By rejecting both the neo-nationalist doctrines of "counter-hospitality" and the "institutional inhospitability" promoted by the European migratory regime, Balibar therefore claims that the "mobile part of humanity" must be recognized as both *hospes* and not reduces to *hostis* (a hostile foreigner) (Balibar, 2022c, 317; Balibar, 2019e, 14).[20] Against the idea that state sovereignty and national belonging constitute "the absolute horizon of apparatuses to protect people", the international right to hospitality must therefore be based, according to Balibar, on the principle that "the wanderers (and those who bring their rescue) can claim 'sovereign' state obligations them-

17 Ibidem. Balibar refers to the "national social state" in several places: Balibar, (2012b, 64–68); Balibar, (1993c, 61–74); Balibar, (1995, 69–82).

18 As Miguel Mellino has observed, neither of these two forces really opposes the "persistent and spectral color line" that cuts through "the long colonial and post-colonial history of Europe". For him, indeed – writing with reference to Mills, 1997 – both propose a "new 'racial contract of citizenship'" to the "productive classes" and the "native popular classes", each in its own way. This contract provides for the hierarchization of citizenship along ethnic lines and a greater exploitation of migrant work, real and potential, with respect to that of the native (Mellino, 2019, 10–11).

19 Here Balibar uses the term "intolerable" with a reference to the militant Foucault of the *Groupe d'Information sur les prisons*. Cfr. G.I.P., 2013.

20 On the semantic proximity of *hostis* and *hospes* in the ancient world, cfr. Benveniste, 1976, 64–71.

selves"; and can enjoy opposable rights at any time to the laws, regulations, and arbitrariness of states, based on the *Grundnorm* that "foreigners must not be treated like enemies" (Balibar, 2019e, 11, 14).

Against the "law of population": the international right to hospitality

From this "principle of principles", there are then five classes of prohibition which are able to prevent the exodus of migrants from being transformed into a "process of elimination": the prohibitions on "rejection"; on "brutalization"; on "discrimination on the basis of origins"; on "sabotage of rescue"; and on "the externalization of asylum applications and their rejection" (Balibar, 2022c, 318; Balibar, 2019e, 12–13). In this sense, the international right to hospitality that Balibar theorizes certainly goes beyond the "Kantian proposal of a limited cosmopolitan 'right' to visit".[21] However, he deliberately generalizes from it – and in a "hyper-Kantian"[22] way – the fundamental norm already mentioned, together with the one whereby states must be pushed to internalize the "unconditional" idea that there can be no place on earth in which a human being as such is excluded, undesirable, and therefore deprived of the "right to have rights" (Balibar, 2022b, 24).[23]

However, Balibar knows well, as the jurist Monique Chemillier-Gendrau has critically objected, that states sign and ratify treatises of international law "as proof of their virtuous character", but then "disregard and obsruct their application" (Chemillier-Gendraw, 2018). Balibar believes, however, that the sovereignty of states can be limited by an "supra-statal legal demand"; and the latter can in turn only be built by "states that recognize the need for a 'self-limitation' of their power and their autonomy" (Balibar, 2022c, 320). For Balibar, however, states can be driven to such only through the "pressure of citizens who strive to re-appropriate their 'constituent power'": a pressure that citizens will be able to exercise only if they can "see that the limitation of state sovereignty does not decrease, but rather affirms their own power" (Balibar, 2022c, 320).

For Balibar, the main obstacle to this political result is precisely the opposition between nationals and migrants whose form is held in shape by the new "law of pop-

21 Ibid., 14.

22 It is Balibar himself who defines it in this way. For the comparison with Kant, cfr. at least Balibar, (2022d, 41–58); Balibar, (2022e, 82–92); Balibar, (2019d, 21–26).

23 Balibar takes the idea up from Derrida (1997) that, in order not to remain an abstraction, the unconditional law of hospitality must be incarnated in necessarily conditional laws. These laws, however, are at first inspired and precisely for this reason oriented "towards the recognition of hospitality as a fundamental right that imposes obligations on states" (Balibar 2019e, 7; Balibar, 2011a; Balibar, 2018c, 23–44). On this point, cfr. Resta, (2019, 140–142).

ulation". Only by disarticulating it and recognizing the gigantic phenomenon of "re-proletarianization" that unites national (and precarious national) workers with foreign (and precarious foreign) workers will it be possible to reconstitute a "transnational class solidarity", to start a common struggle in solidarity and more generally, Balibar writes, "a cosmopolitical solidarity in the people of citizens" (Balibar, 2022c, 321–322). For Balibar's post-Marxism, therefore, in today's world a "reunification of the proletariat" is the "strategic task" and something that is preliminary to "every politics of human rights" which aims to disarticulate the lines of gender, race, and class that hierarchize citizenship (Balibar, 2022c, 322).[24]

The international right to hospitality thus can only be based on a political force that is capable of bringing about change in the legal form (state and international). "The idea of an unconditional hospitality", Balibar writes, "is an idea of struggle, directed against the increasingly restrictive conditions of 'hospitality' admitted by contemporary states and by the societies they administer" (Balibar, 2022b, 25). The international right to hospitality is therefore understood as an integral part of a new politics of human rights that "aims not only to constitute a broader inclusion, however useful this result is", but also an inclusion of those "without part" – Balibar writes with Rancière – which deconstructs the hegemonic legal-political order and empties it "of its 'concrete' and 'particular' substance which the historical institution that it addresses claims" (Balibar, 2017, 49).[25]

In other words, by acknowledging a social condition of impotence and striving to remove it, the international right to hospitality works against the legal form that legitimizes that same impotence. It acts, that is, as a sort of "counter-right" – to quote Christophe Menke – which rejects the border violence of globalized capitalism: as a right beyond borders, which forces the meshes of the institutional migratory order by pushing it to accept the continuous reinvention of rights and law (Balibar, 2022c, 316).[26]

The international right to hospitality that Balibar theorizes is therefore not another attempt to relaunch the exhausted narrative of liberal legal universalism, which

24 Marx's well-known words that "labor in white leather cannot be emancipated in a country where it is branded when it is in black leather" (Marx, 1973, I, 1, 328) find new relevance here. In the awareness that the pursuit of a new emancipatory political project can no longer be the result of a "single principle" implemented by a subjectivity that can be reduced "to a single actor": class gender, and race must be connected in "new fundamental forms of internationalism that are essential for any construction of communism" (Balibar, 2018, 181).

25 On those "without part", Balibar's reference is naturally to Rancière, (2007, 35).

26 On this point, critically, cfr. Ricciardi, (2020, 192–193). Menke refers to counter-rights (*Gegenrechte*) as legal apparatuses that contrast the depoliticization produced by the absolutization of subjective rights. For him, "counter-rights" arise from the observation of the impotence of the subaltern and are defined by valuing the practice that combats precisely this impotence. In other words, "counter-rights" aim to re-politicize the juridical and modify the structures of the social order, marking the very "political process that they make possible" (Menke, 2015, 388).

holds that the universal proceeds "by progressive and peaceful inclusions" (Raimondi & Visentin, 133; Balibar, 1993b, 183-210). For Balibar, the universal is affirmed in the conflict that continually raises the question of equaliberty for the "part with no part", whose condition concentrates "the effects of all the inequalities of the contemporary world" (Balibar, 2019e, 14). This "counter-right" aims to reactivate the "insurrectional" pole of modern politics – a classic theme in Balibar's thought – by forcing its "constitutional" pole not only to extend the space of rights and the horizon of democracy, but also to redefine the universal meaning of freedom and equality together with the arrangements of the social order.[27]

Conclusion

As has been noted, therefore, for Balibar the universal can only be fully realized "in the constant critique of the very forms of power and oppression that claim it" (Invernizzi, Accetti & Lacroix, 2016).[28] Critique is understood as an infinite task that lays the foundations for a new type of universalism that is rooted, as we have seen, in a politics of human rights. By playing "abstraction as a postulate of universality" against "idealized abstractions" that legitimize exclusion in the name of human rights, this critique aims to materially and symbolically deconstruct the hegemony of the existing order (Balibar, 2017b, 49, 39). The subjects who act out this conflict, moreover, are "already formalized by the language of law and therefore always subjected, always assimilated to a norm" (Raimondi & Visentin, 2003, 133). Their resistance and the projects of emancipation continue to be formulated "in the language of freedom and equality, that is, in the language of human rights": an ambivalent language which historically has played a "function of domination" and one of "contestation" (Balibar, 2017b, 48–49). It is on this latter function that according to Balibar, in order to claim the extension of the universal against the dominant order of absolute capitalism, a politics of human rights "which is not a fiction" (Balibar, 2017b, 50) must leverage itself. The international right to hospitality, which is a crucial nodal point of such a politics, must therefore be "something destabilizing for the universal itself": by extending it, it must in other words push it "to

27 On the dialectic between insurrection and constitution in modern politics, cfr. Balibar, (2010) and Balibar, (2012b, 47–50). The point is well understood in Boonen (2022, 904–933); Cesarale, (2019, 128–129); and Mezzadra, (2012), among others.

28 This is what happens "in an insurrectionary way", Balibar argues, "when "the workers ask for recognition of labor as the foundation of society […], women ask for active citizenship and participation in all levels of social responsibility, or when the colonized and ex-colonized, and thus the ancient slaves, claim equal dignity of cultures and human beings" (Balibar, 2017b, 49).

enter into the unknown" so that it becomes possible "to rethink another kind of human species for another kind of political community" (Balibar, 2017b, 49)

However, with an objection that even Balibar himself seems to raise, it remains to be seen whether the formulation of a project of universal emancipation in the language of human rights can really go beyond the particularistic element that has always been present in modern political universalism.[29] And it must be understood even if, "when it becomes a social movement", that formulation can lead "beyond the bourgeois horizon, in particular beyond the idea of citizenship, at the same time that it leads beyond capitalism" (Balibar, 2017b, 48). At the time of the crisis of neoliberal capitalism and its program, these questions continue to resonate. Human rights are indeed increasingly separated from social rights and understood as a mere expression of subjective rights: in other words, they tend to be the only way to compensate for an exclusion almost always conceptualized as an individual problem and almost never as a social and collective problem. While representing a "factor of political neutralization", human rights continue to present themselves as the only language "with which to express one's claims and to affirm or defend one's own identity" (Ricciardi, 2020, 190). It is in such a situation that we must continue to ask ourselves "which politics human rights allows for" (Ricciardi, 2020, 185). We need to better understand, in other words, if and how a politics of human rights – even if it is understood as a "politics of the governed" who rise up against the domination of class, race, and gender[30] – can lead beyond what Balibar calls the "*universalité bourgeois*" (Balibar, 2011b, 465–515): the particularistic universality conveyed by nation-state citizenship and capital.[31] Not only from absolute capitalism, but from capital understood as a "social relation between people mediated by things" (Marx, 1973, I, 3, 226).[32]

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29 On this point, cfr. Costa, (2017, 89–103); Costa, (2018); (Costa, 1999–2001).
30 The reference is to Chatterjee, (2006).
31 For a critique that considers Balibar's insurgent politics and his discourse on human rights, however radically oriented towards substantial freedom and equality, as still within the "juridical framework of the state" and an overly "juridical [understanding] of universalism", cfr. Tomba, 2019, 66.
32 Marx, 1973, I, 3, 226.

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