

PHENOMENOLOGY AND MIND

16





# PHENOMENOLOGY AND MIND

Special Issue on

*UNPACKING POLITICAL  
AGENCY: EQUALITY,  
VULNERABILITY,  
DISCRIMINATION*

*Edited by Virginia Sanchini, Francesca Pongiglione, Roberta Sala*



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# INTRODUCTION

# INTRODUCTION

*Virginia Sanchini, Francesca Pongiglione, Roberta Sala*  
On the Notion of Political Agency

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# ON THE NOTION OF POLITICAL AGENCY

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Political agency may be the easiest notion to define and the most complicated at the same time. Such ambivalence is not just a play on words: in fact, it depends on what being a political agent means, if that being is any citizen or any individual *in se*. Further questions arise: is political agency something like a status to be acknowledged to any human being or to any member of a democratic polity? Are there requirements to be fulfilled, in order to be labelled as political agents?

Basically, an agent is the one who is 'capable to act'; meanwhile, 'agency' means that capacity or, even, the expression of that capacity. In some detail, political agent is the one who is 'capable to act' politically: that is, someone who is capable of participating in a 'common' exercise of political power. The accent on the idea of a collective exercise of power is paramount: in such an account of political agency the more a person is 'isolated' from other people, the more her political agency diminishes.

Beyond this very general meaning of political agent, there is further room for a deeper examination (Marchetti 2013). For example, some authors see political agency as the capacity to take part in the struggle to define the models of a common life, stressing the conflictual dimension of politics (Mouffe 2005). Other scholars understand political agency in a liberal view, as being the strategic capacity to coordinate with others in order to settle a fair society. These are only two ways to understand political agency. Generally, all traditions share a preoccupation with the issue of power. The point is about legitimacy: we should ask when power may be coercive, when coercion is legitimate, who is legitimate to coerce others and why. If 'the state' has been the traditional actor, its role and functions are being transformed by the process of globalization: a state's capacity to influence the political course is now controversial. Given this context, further articulation of the notion of political agency is needed: questions such as what political actorness means today, what doing politics means in the present time wait for better answers. Differently, by eluding these philosophical questions of what political agency is and what being a political agent means, the debate would be anchored to an out-of-date understanding of political agency as rooted in conventional images of political actorness, while ignoring what currently challenges the traditional political thinking. By doing so, we would fail to capture politics in the real world, while giving up taking reality seriously.

The present issue of *Phenomenology and Mind* entitled "*Unpacking Political Agency: Equality, Vulnerability, Discrimination*" contains a selection of papers presented at San Raffaele Spring

School of Philosophy (SRSSP) 2018 written by contributors selected through a double-blind peer review process. Moreover, it includes invited papers (subjected to peer review process as well) written by scholars working on the topic of political agency, who were not able to attend the SRSSP, but whose contributions may have added some value to this debate. SRSSP was held at Vita-Salute San Raffaele University in Milan, in June (5th – 7th) 2018. It was organized by the research centers CeSEP, CRESA, gender, IRCECP, and PERSONA of the Faculty of Philosophy, and it also received support from the Faculty and the Ph.D. program.

The aim of this SRSSP was to try and fill the gap between traditional theoretical accounts of political agency and the new practical challenges addressed by this notion in different domains, thus investigating political agency in relation to vulnerability, discrimination, migration, equality, and the community. Contributors were asked to reflect upon the notion of political agency within their respective fields of expertise, exploring issues such as the followings: what does it mean to be a political agent, which is her identity, why a form of political agency emerged and in what context, what practices the agents concerned do undertake.

Drawing from the collected contributions, this special issue is organized through four thematic sections: Political Agency, Vulnerability and Discrimination; Political Agency and Migration; Political Agency and Equality; and Political Collective Agency.

The first section – **Political Agency, Vulnerability and Discrimination** – hosts the two papers written by Luca Iacovone and Valeria Venditti.

Drawing from the well-known distinction between inherent vulnerability and situational vulnerability (Mackenzie *et al.* 2014), **Luca Iacovone** focuses on the notion of vulnerable population or vulnerable group, analyzing the effects of the vulnerable group-based approach in the case law of European Court of Human Rights. Taking the *Chapman v. the United Kingdom* (2001) European Court of Human Rights' judgment as case study, he criticizes the very concept of vulnerable population as it has been traditionally interpreted and used within this framework, on the basis of two main reasons. First, it turns out “constructing and reiterating the idea of stable identities”. Moreover, and consequently, “it reduces the political agency of the social actors through the boundaries defined by the list of the available vulnerable groups”. Against this background and starting from the belief that vulnerability still represents a promising concept, he sketches out “a multifaced conception of vulnerability meant to take into account at the same time its universality and its specificity”. As such, vulnerability does no longer conflict with the notion of agency, but becomes the condition of possibility for agency itself.

Not less problematic than the notion of vulnerability is the one of inclusion, on which the contribution of **Valeria Venditti** revolves around. Despite being a powerful political tool in virtue of its promise of allowing people to gain access to forms of recognition, according to Venditti “the vast majority of models of political inclusion requires people's adhering to fixed policy matrixes that do not allow the articulation of forms of life falling short of the standards that these matrixes incorporate”. Moving far from traditional accounts, the author suggests to embrace an alternative form of political inclusion, which appears able to “revitalize political agency by valuing practices carried out in smaller social networks of solidarity – ones that entail some sort of normativity but are characterised by fluidity and proximity”.

The second section – **Political Agency and Migration** – hosts the four papers written by Silvia Mocchi, Gaetano Marco Latronico, Francesca Pongiglione and Roberta Sala, and Elettra Repetto.

Insofar as it deals with the notion of vulnerability, the contribution of **Francesca Pongiglione** and **Roberta Sala** builds a bridge between the first and the second section of this special

issue. The two authors embrace an ontological as well as political concept of vulnerability, considered as “a distinctive feature of human beings on which our duties towards each other are grounded”. Drawing from this definition, they claim that, although migrants are, by definition, vulnerable agents (as they flee from wars, dictatorships, poverty, climate change, and/or other calamities), they nonetheless should not be considered as entitled of duties of beneficence, but of justice. By doing this, they explicitly take a distance from David Miller, who refers to duties of beneficence while speaking of migrants, and argue that pursuing justice, in this context, also requires the fulfillment of the duty to host migrants, as their vulnerability is not due to some kind of misfortune, but to some form of injustice.

On the question wondering whether migrants – ‘undocumented’ migrants, in particular – may be political agents and, in case of positive answer, what does it mean for migrants to be political agents, is built the contribution of **Elettra Repetto**. The author rejects a so-to-say ontological account of political agency, denying that such a notion may be reduced to a status represented, in this context, by the right to vote. Differently, and following Arendt amongst others, Repetto argues that “whenever a *person* expresses herself in the public forum, in a legal or in an illegal way, addressing the incumbents or the other residents, participating in setting the agenda of what should matter for the community and discussing how institutions should implement the obligations individuals have towards each other, she expresses herself in a political way”. By saying this, Repetto endorses a more inclusive and broad definition of political agency, which requires capacity and action, and which has, as its main implication, that migrants may become political agents who deserve to be heard ‘simply’ by acting and voicing their claims as autonomous individuals.

Precisely on the concept of participation on a national and local level as the core content of political agency focuses, instead, the contribution of **Silvia Mocchi**. The author argues in favor of a two-fold strategy aimed at addressing social and political marginalization experienced by minorities, in particular migrants. On the one hand, at a national level, political agency for immigrants should be enhanced “through a system of enfranchisement designed to improve the participation rights of outsiders”. On the other hand, and insofar as enfranchisement alone is not enough to allow a proper participation, this should be accompanied by a residency-based policy. Through the expressions used by the same author, whether at a national level political agency requires “modifying restrictive citizenship laws that are based on the *ius soli* principle [...], the *demos* at local level should be enlarged in line with the principle of *ius domicili*”.

Finally, a broader theoretical perspective underpins the contribution of **Gaetano Marco Latronico**. Starting from the consideration that the phenomenon of immigration considered in its general meaning of “human mobility” is far from being a recent one, the author relates present occurrences of such phenomenon to fundamental dynamics shaping contemporary societies. Namely, the author argues that the so-called “neo-liberal” turn in “advanced capitalistic societies” generates impersonal dynamics that “appears to put into question the same political capacity of classically conceived National States” as primary political actors. Within this context, the phenomenon of immigration seems to require the elaboration of new coping strategies from the part of established political actors, which could also foreground the lived experiences and political agency of immigrant groups.

The third section, entitled “**Political Agency and Equality**”, contains the two papers written by Federica Liveriero and Dragan Kuljanin.

In *The Social Bases of Self-respect. Political Equality and Epistemic Injustice* **Federica Liveriero** defends a non-ideal account of political equality that relies on both moral and epistemic features. This specification, according to the author, is extremely important insofar as “it helps developing a framework that defines epistemic forms of injustice as instances of social suffering that endanger the very possibility for agents to be granted the social bases of self-

respect”. Recovering the epistemic dimension of political equality, pretty underestimated by the contemporary debates, may have a positive impact on members belonging to disadvantaged groups, who may feel themselves as devoid of political agency, if subjected to “structural injustices related to epistemic wrongs”. The conclusion of Liveriero’s reasoning is that, if the epistemic dimension of political equality matters, “political institutions have a duty to contrast forms of epistemic injustice, because these injustices do not simply concern the horizontal interpersonal relationships among citizens but, rather, are detrimental to the enactment of the ideal of political equality in institutional contexts as well”.

In his contribution, **Dragan Kuljanin** investigates the intriguing topic of epistocracy. After having introduced what the authors summarize as the two assumptions of epistocratic systems – equal political rights are not fundamental rights, and democracy cannot be considered as endowed with a privileged epistemic status – he focuses on one of the epistemic accounts developed by Brennan, namely “restricted suffrage”. By showing all the (fatal, according to the author) problems that restricted suffrage epistocracy poses, such as the level of knowledge dilemma, and the epistemic problems related to the identification of the epistocrats, Kuljanin ends up supporting – albeit indirectly – democracy over epistocracy. The conclusion is, in the author’s view, that “the most promising way to solve, or at least minimize, the problem of an uninformed electorate lies in more equality (economic, social, gender and racial), better and more accessible education, public and publicly-spirited media, and not in abandoning democracy”.

The last section, entitled “**Political Collective Agency**”, contains the two contributions of Adélaïde de lastic and Marco di Feo.

Both authors defend a collective account of political agency, the first contributor wondering whether enterprises may be considered as political collective agents, the second contributor focusing on a core issue of political agency in its collective stance, i.e. social integration. More in details, **Adélaïde de lastic** argues in favour of an ontological account of political collective agency applied to the reality of enterprises. In her view, enterprises may be defined as specific kinds of social objects, presenting intrinsic properties which, if considered as a whole, enable them to act as a group with a definite political significance. On the other hand, and drawing from a phenomenological perspective, **Marco di Feo** investigates the importance of social integration in relation to collective political agency, where the former is broadly defined as “a processes of personal change, in which the subjects involved have to find a way of living together”, i.e. intersubjectivity. After having identified four possible ways in which intersubjectivity occur – namely community, society, territory, and state – the author claims that “Since the failed integration of new subjects may have a deep negative impact on the life of communities, on the flow of social interactions and on the order of legality, causing critical situations of social exclusion, then social integration, in all its forms, must be always a priority of the political agenda”.

Throughout the contributions of this special issue, the notion of political agency appears in its entirety and complexity, as a multifaced concept, that may be investigated from different perspectives and within different disciplinary domains, and which may be referenced to the individual as well as to the community. Despite the intrinsic and unavoidable complexity characterizing the notion of political agency, we hope that this special issue may help clarifying the different layers of a debate, which, in our view, will deserve, in the near future, ever more consideration.

We are grateful to all those who made this experience possible. First, we would like to thank the contributors to this volume, as well as our reviewers for their availability and their competent job.

**Acknowledgments**



Second, we would like to thank all the members of the Scientific Direction of the School for having allowed us to organize the SRSSP and prompted us to edit this special issue. Last but not least, we are very grateful to the administrative personnel and all the members of the Organizing Committee of the School for all their efforts before and during this special event.

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SECTION

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# SECTION 1

POLITICAL AGENCY, VULNERABILITY AND DISCRIMINATION

*Luca Iacovone*

Vulnerable Identities: Political Agency and the European Court of Human Rights Case Law

*Valeria Venditti*

Revitalizing Political Agency: Contextual Politics against Discrimination

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# VULNERABLE IDENTITIES: POLITICAL AGENCY AND THE EUROPEAN COURT OF HUMAN RIGHTS CASE LAW

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## abstract

*The aim of this paper is to analyze the effects of the vulnerable group-based approach in the case law of European Court of Human Rights (ECtHR). ECtHR mostly use the notion of vulnerability to identify, isolate and protect some specific groups of population. I will highlight two important effects of these policies: the construction and affirmation of stable identities and the consequent limitation of the political agency of the social actors through the boundaries defined by the list of the available vulnerable groups. I will conclude the paper by providing a different, multifaced conception of vulnerability meant to take into account at the same time its universality and its specificity.*

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## keywords

*vulnerability, agency, identity, group, European Court of Human Rights*

### 1. Vulnerability and human rights law

In accordance with the classical liberal tradition, the moral person and the rights-holder were the autonomous, rational and “quasi-disembodied”<sup>1</sup> (Gear 2007, p. 511) archetypal subject. Law was perceived as a rational discourse, while in turn rationality was viewed as a structure independent from the human body. Western legal systems, constructed on this basis, have influenced the grammar of human rights. Although in the late-modern process of dismantling the traditional modern dividing line between state and society,<sup>2</sup> new significant aspects, dimensions and experiences of the human life have appeared in the light of the public dimension out from the obscurity of the private sphere in which they had been traditionally relegated (Fineman 2004). Issues such as the caring labor of the weakest and marginalized people, dependency from others (Kittay 1999), vulnerability of the human body and human condition (Fineman 2008) started to be perceived as central issues in the public and legal discourses. In addition to it, they were able to solicit the responsibility of the state and the institutions towards the citizen. As a result, an attempt to repair the fallacies of the liberal frame has been made: “specific treaties have proliferated, such as the Convention on the Rights of Persons with Disabilities; the Convention on the Elimination of all Forms of Discrimination against Women; the Convention on the Elimination of Racial Discrimination; and the Convention on the Rights of the Child” (Peroni & Timmer 2013, p. 1062). Their declared aim is the protection of vulnerable groups previously excluded by the tangle of human rights, since they could not be inscribed on the archetype of the liberal legal subject – “rationalistic” and “quasi-disembodied” (Gear 2007) and, therefore, invulnerable – around which they had been elaborated. For example, women have long been excluded from the protection of human rights, in that sex/gender differences were not taken into consideration in their provision (Radacic 2008); migrants were excluded for their staying on the blank side of the citizenship’s

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1 According to the genealogy of human rights elaborated by Anna Gear (2007), human rights contain two different and conflicting impulses. On one side, they have been elaborated after the horrors and tragedies of the Second World War, and from this point of view the whole grammar of human rights contains a constant worry for embodied vulnerability. On the other side, the liberal subject has been introduced in the structure of human rights, too: the result is the partial exclusion of the subjects who cannot be caught in it. She adopts the expression “quasi” disembodiment of the subject of human rights, because it can well describe “this paradoxical form of disembodiment” (Gear 2007, p. 522). The body is not totally extraneous from the grammar of human rights, but “when the law does have a human body in mind, that body is ‘the bounded heterosexual male body’, ‘immutable’” (Gear 2007, p. 522).

2 See Poggi (1978).

protection; children's rights were not taken into account since they do not have autonomous capability to take rational choices; and homosexuality was regarded as an act of "an essentially private manifestation of human personality" (Johnson 2010), and thus beyond legal controversy. Instead of being overtaken, the binaries that drive this traditional conception – public/private, invulnerable/vulnerable, autonomous/dependent – still act through the notion of vulnerability, but in the different modality of a grid of intelligibility able to manage some groups of population remained out from the regularity of the independent, autonomous and self-sufficient liberal legal subject. Thus, as the notion of vulnerability became a powerful instrument in the hands of the Courts, with the ambitious hope of promoting measures aimed at protecting some specific portions of population, it changed the way state and institutions can handle the terrain left empty by the previous liberal politics.

I will devote the next paragraph to the examination of the way vulnerability is used by one of the most important international Courts – European Court of Human Rights (ECtHR) – to trace and test its social effects.

ECtHR tends to use the notion of vulnerability through the identification of some specific groups of people in need of a special protection – among others, asylum seekers, children, persons living with HIV, homosexuals, transgender persons, victims, elders, migrants, pregnant women (Ippolito & Sánchez, 2015). Although, the ECtHR have never provided an accurate definition of vulnerability<sup>3</sup>, it seems to be synonymous of 'particular exposition to harm' or 'being at risk' due to some specific characteristics shared by the social actors framed in vulnerable groups. Moreover, its meaning emerges through a process of exemplification (Wrigley 2015) expressed by the names of the groups. The evaluation of the risk is measured by considering the "inherent" or "situational" (Mackenzie, Rogers *et al.* 2014, p. 7) sources of vulnerabilities.

Inherent vulnerabilities arise from some internal factors which typify a vulnerable group. For example, the vulnerable group of the elderly is characterized by the inherent source of vulnerability expressed by the age; persons living with HIV have a place in the list of vulnerable groups because of their disease. Inherent vulnerabilities can emerge "from our corporeality, our neediness, our dependency on others, and on our affective and social natures" (Mackenzie Rogers *et al.* 2014, p. 7). Conversely, situational vulnerabilities arise from a set of situations, conditions and social statuses 'outside' the individual. For example, in *M.S.S. v. Belgium and Greece* (2011) ECtHR have defined asylum seekers as a "vulnerable population group"<sup>4</sup> referring to the condition of an applicant because of "everything he had been through during his migration and the traumatic experiences he was likely to have endured previously"<sup>5</sup>. However, the situational sources of vulnerability can be so totalizing that what seems to be an external condition of weakness becomes a fundamental, natural, non-questioned feature of a group, which is supposed to be shared by *all* its members. As emerges from the ECtHR judgements, being vulnerable primarily means being a member of a group or, more generally, *inscribable* in some specific group of population. In a separated opinion of the previously mentioned judgement *M.S.S. v. Belgium and Greece*,

## 2. Vulnerable group-based approach and the construction of identities

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<sup>3</sup> ECtHR is not the only institution to adopt this approach. Among the others, it is commonly adopted by non-governmental organizations (such as CIOMS), national and international Courts, legislations (such as the institution of "incidente probatorio" in Italy), reports or declarations of research committees, international organizations or ministries (such as the *Belmont Report* of 1979, the Declaration of Barcelona of 1998, the Declaration of Helsinki of 2000 art. 8).

<sup>4</sup> *M.S.S. v. Belgium and Greece*, 2011; 53 Eur. H.R. Rep. 2, ¶ 251 (2011).

<sup>5</sup> *Id.* ¶ 232.

Judge Sajò expressed his disagreement: according to him asylum seekers cannot be viewed as a homogeneous group, and not even as a group. In fact, he claims they do not share two main factors which are the *condicio sine qua non* of being a vulnerable group, as it emerges by the ECtHR case law. One is a long history of discrimination (namely, a situational source of vulnerability), the other is an innate or derivative internal characteristic of the applicant (an inherent source of vulnerability), such as being a pregnant woman, a child or a person with disabilities. Without these features, they cannot achieve the status of a group and, least of all, the status of *vulnerable* group.

Although many authors (Fineman 2008, 2010; Luna 2009; Peroni & Timmer 2013; Wrigley 2015) have advanced criticisms about this approach to vulnerability, they do agree on believing vulnerability frame as a new important step forward for human rights. Peroni and Timmer (2013) have pointed out that addressing vulnerability only to specific groups could in some cases reinforce “[their] vulnerability (...) by essentializing, stigmatizing, victimizing and paternalizing them” (p. 1070). Wrigley (2015) and Wrigley and Dawson (2016) argue that the problem with the vulnerable group-based approach is inherent in its definitory method. From an epistemology point of view, Wrigley and Dawson (2016) bring out some significant inconsistencies of this approach. According to Wrigley (2015), the exemplificatory method inherent in the group-based approach is deeply inadequate when it is used to provide the definition of a “substantive concept” (p. 6). In fact, even if it were possible to include all the elements of the ‘vulnerable groups’ set, without a criterion for defining and delimiting the whole thing – of the kind “all and only those attributes, contexts, and categories listed” (p. 6) – there are no means to determine whether somebody should or should not be inscribed on it. Moreover, it seems that such an assembly cannot be completed, since the emergence of new health, political, economic and social issues make necessary the indefinite creation of new vulnerable groups which require special protections. Indeed, Wrigley and Dawson (2016) state, as this approach does not explain what it means to be vulnerable, it cannot solve the issues arisen in such cases where it is unclear whether a group can or cannot be considered vulnerable, as it emerges for example in *M.S.S. v. Belgium and Greece*. Therefore, this approach is too broad, as it fails to delimit the categories of subjects to which it wants to provide a special protection.

Another methodological problem of the group-based approach is that the name of each vulnerable group indicates one specific feature which allows to include or exclude on it certain people. However, it is possible that the source of vulnerability of the person inscribed, for example on the vulnerable group of the elderly is not her age-status, but another specific feature not included in the vulnerable groups lists yet. In other terms, this approach focuses on certain traits of a group and it is not able to take into account other individual features which are outside their membership in a specific group. As Wrigley and Dawson (2016) conclude, “it will potentially miscategorize certain individuals or groups as *not* being vulnerable if, for example, they are a group that has not been encountered previously or if some trait has not made it onto the list of specified characteristics” (p. 207). Therefore, on top of being too broad, this approach is also too narrow, since it fails to cover the whole wide range of features, contexts and conditions which can make a person vulnerable.

From these methodological issues, it is possible to highlight other important criticisms which pertain not only formal problems of the group-based approach, but also its inner, diffusive social effects. The process of tracing, naming and inscribing specific groups of population by individuating some features through the filter of vulnerability implies the creation or the maintaining of some identities built on what is evoked by a standardized representation of the name of the group. What a person is, what is important to her, what should be taken into account to establish her *situated* vulnerability emerges only from the name of the group within

she is inscribed on. As Luna (2009) points out, the notion of vulnerability ends up becoming a label which indicates that a person is essentially vulnerable because of the characteristics she shares with the other members of the group. In a sociological perspective influenced by Max Weber, Pierre Bourdieu and Michel Foucault, Brubaker and Cooper (2000) observe how the process of grouping in the social field involves the productive power of the state and the institutions that “seek to monopolize not only legitimate physical force but also legitimate symbolic force (...). This includes the power to name, to identify, to categorize, to state what is what and who is who” (p.15). The ‘groupness’ mechanism leaves a little space of political agency to the social actors and narrows their possibilities of actively create identifications, forcing them to use what the institutions provide as a legitimate vocabulary of self-description. Being inscribed in some specific group means being fixed in some specific identities which, contrary to what the dynamic process of identification implies, “designat[e] a *condition* rather than a *process*” and entails “too easy a fit between the individual and the social” (Brubaker and Cooper 2000, 17).

The inscription on a vulnerable group or the inherent potentiality of ‘being inscribable’ by the possession of a particular vulnerable body or by the living in a presupposed vulnerable condition means to be put under an intense power pressure. In fact, the applicant is brought to struggle between her demand of having her rights recognized and her friction with the available vulnerable groups within which she has to position herself in order to acquire them. Being labelled as vulnerable becomes an inevitable consequence of some features that the subject shares as a group member, such as gender, race, disability or sexual orientation. Since the group-based approach is at the same time too broad and too narrow, a social actor might happen to be inscribed in a group which cannot catch her source of vulnerability, and/or to be inscribed in a group which does not reflect her self-identification. This means for her a constraint to be integrated as a member of that group in order to have her right recognized. Therefore, defining a group as vulnerable implies creating or maintaining a fixed identity which invests the whole subjectivity of the social actor who has no choice but to come to terms with it. By this process, the “cultural inscription” (Butler 1989, p. 603) power of institutions reveals its capability to engrave the identity of the subject constructed as if it had a truth or an available knowledge which the social actor has to overlap.

*Chapman v. the United Kingdom* (2001) is the first judgement of ECtHR in which the vulnerable group-based approach was adopted (Peroni & Timmer 2013, p. 1063) and in which its effects clearly emerge. The applicant was a gypsy woman who had decided to buy a plot of land and to live there in a caravan. She took her decision “due to harassment while she led a travelling life, which was detrimental to the health of the family and the education of children”<sup>6</sup>. The permission was negated, and she addressed the ECtHR because according to her there was a violation of Article 8 of the Convention. As Dembour (2006) stated, “the Court found that what was at stake in Chapman was not the right to respect for the home of the applicant but the ability for her to maintain her identity as a gypsy and to lead her private and family life in accordance with that tradition”. Nevertheless, “the applicant’s lifestyle could have been worthy of protection only if she had stuck to a tradition of itinerancy” (p. 199). If her lifestyle had conformed to that of “the vulnerable position of Gypsies as a minority”<sup>7</sup>, she could have been inscribed in that group and her vulnerability recognized as having the potentiality to redeem her right. But since her choice to live in a sedentary way conflicted with the common representation of gypsy identity, the applicant lost the case.

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<sup>6</sup> Chapman v. United Kingdom (GC), 2001-I; 33 Eur. H.R. Rep. 18, ¶ 12 (2001).  
<sup>7</sup> *Ib.* ¶ 96.



In spite of her position as a weak party, the conception of vulnerability provided by the group-based approach was not sufficient to prevent her from harm. But this is not a sufficient reason to drop the notion of vulnerability. As Dembour (2006) has pointed out, there were other important aspects of the condition of the applicant which could have been important to recognize her vulnerability. As emerges by the separated opinions of some judges, she was “the principal carer for some members of her family (no longer her children by the time the case was heard by the Court, but her 90-year-old father who required constant care)” (Dembour 2006, p. 199). Analyzing her situated condition, the problem of her possible membership in the vulnerable group of the gypsies is inconsistent in the recognition of her vulnerability. The vulnerable group-based approach was too broad because it failed to offer a valid reason to recognize the person as vulnerable, and too narrow because it could not take into account the wide range of situated conditions which may render the person vulnerable. In addition, it contributes to produce and maintain fixed identities – in this case the gypsy one – through the definition of what a person should embody to be inscribed in a group and to be recognized as vulnerable. It seems there were a truth of the identities by which the vulnerable subject should perfectly fit together– as if she were a crystalline mixture of the individual and the social. Moreover, identity emerges as what the Court or, more generally, the institutions recognize as such, and not as what the social actors perform in their unpredictable self-identifications. Finally, the identities that emerge through the vulnerable group-based approach are inserted within a discourse marked by traditional binaries. Instead of upturning the traditional liberal paradigm, this approach to vulnerability reinstates the demarcation line between the normal, autonomous, invulnerable subject on one side, and groups of individuals which are vulnerable and in need of protection on the other side. These binaries imply the same assumption which the traditional frame of human rights law and liberal politics sustain behind an unattainable neutrality: human beings *normally* enjoy a healthy body with the same *normal* abilities and needs, and *normally* they are male, heterosexual, adult and white. All those categories of population outside these attributes are inscribed on specific vulnerable groups in need of protection. The potential expressed by the social and corporeal vulnerability shared by all human beings is recognized only to a certain portion of population and it works as an inscription device which negates that “human vulnerability is universal, constant and complex, and (...) also particular” (Fineman 2010, p. 31).

- 3. Vulnerability: a promising concept?** Vulnerability gives an account of a multifaced condition which is more complex than the membership of a group. It is a concrete experience of dispossession which deals more with being different in situated conditions, than being similar due to the sharing of the identity features of a group. It can be both a positive and a negative condition, or even a matter of voluntary choice, as Cooper (2013) has pointed out. As a relational experience, it cannot be fixed in some pre-constructed identities, but rather it should be seen as a result of a situated process of identifications.
- The question at stake is whether the notion of vulnerability could be a promising tool aiming at the protection for the weaker party, or as a concept that is so vague – as some authors have stressed (Brown 2011; Chambers 1989; Daniel 2010) – that it should be abandoned. As Butler (2004, 2005) has highlighted, being vulnerable means experiencing a condition of dispossession, an epidermal openness to alteration which could be neither willed nor accepted, but as a fundamental experience of human beings it constitutes an “ever present possibility” (Fineman 2010, p. 28). It is qualified as a general condition that “foregrounds our frailty, dependence, susceptibility, interrelatedness, and the contingency of our development” (Gilson 2015, p. 230), and it constitutes our capacity to dismantle our self, to learn by and to be interrelated with our susceptibility of the ambient and the others.

Seen from this ontological and universal point of view, vulnerability seems to become a concept that explains our capability of agency, rather than negating it. Vulnerability deals with our sociality and affectivity, the capacity of altering and being altered by the world and the social actors around us. As Gilson (2015) has pointed out, most fundamentally, the idea of intersubjective vulnerability indicates that vulnerability is our ability to be open to others, to be shaped by them, to become a self only through relation to them; it is the condition that makes it possible for us to become who we are and will make it possible for us to become otherwise. Given vulnerability's intersubjective nature, conceiving vulnerability as a fundamental condition also entails recognizing how that condition is actualized and experienced differently given the varying ways people are situated in the social milieu (p. 231).

As such, vulnerability is the condition of possibility of our agency, because it forms the space within which we can move. It will be different to one another, because it forms the uniqueness of the condition of each human being in its interrelation with the others and the world. Vulnerabilities, which are differently lived, differently experienced and differently performed, cannot be trapped in preconstructed identities, since they form the unpredictable, wide and rich situations of the social actors. Only by recognizing at the same time its uniqueness, its intersubjectivity and its universality as an unavoidable state that "cannot will away without ceasing to be human" (Butler 2004, p. xiv), it is possible to face its challenge. We can react to it only by considering the situated conditions of all social actors, who do and undo their selves through their own performative processes of susceptibility with the world.

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# REVITALIZING POLITICAL AGENCY: CONTEXTUAL POLITICS AGAINST DISCRIMINATION\*

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## abstract

*This article centres on the predicament of political discrimination insofar as inclusive policies fail to address it and end up impoverishing political agency. On the one hand, inclusion plays out as a powerful political tool, as people are believed to gain access to forms of recognition granting legal protection and social visibility. On the other hand, however, my claim is that most models of political inclusion require people's adhering to fixed policy matrixes that do not allow the articulation of forms of life falling short of the standards that these matrixes incorporate. The following analysis will be devoted to foregrounding the limits of inclusion and to advancing an alternative model that revitalizes political agency by valuing practices carried out in smaller social networks of solidarity - ones that entail some sort of normativity but are characterised by fluidity and proximity. On this alternative account, inclusion comes to be reframed as a web of relations and relocated within the subject's reach. Whether in a vertical or a horizontal exchange, the subject becomes part of a collective that is not configured as the mainstream or the majority, nor does it saturate the subject's life. Rather, inclusive processes appear as sectional moments of renegotiation and rearticulation of one's subjectivity exposed to the constant flux of daily interactions.*

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## keywords

*discrimination, inclusion, rights, social context, utopias*

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This article centres on the predicament of political discrimination insofar as inclusive policies fail to address it and end up impoverishing political agency.<sup>1</sup> On the one hand, inclusion plays out as a powerful political tool, as people are believed to gain access to forms of recognition granting legal protection and social visibility. On the other hand, however, my claim is that most models of political inclusion require people's adhering to fixed policy matrixes that do not allow the articulation of forms of life falling short of the standards that these matrixes incorporate. The following analysis will be devoted to foregrounding the limits of inclusion and to advancing an alternative model that revitalizes political agency by valuing practices carried out in smaller social networks of solidarity – ones that entail some sort of normativity but are characterized by fluidity and proximity. On this alternative account, inclusion comes to be reframed as a web of relations and relocated within the subject's reach. Whether in a vertical or in a horizontal exchange, the subject becomes part of a collective that is not configured as a mainstream group or a majority, nor does it saturate the subject's life. In this perspective, inclusive processes appear as sectional moments of renegotiation and re-articulation of one's subjectivity exposed to the constant flux of daily interactions.

### **1. Inclusive politics: three models**

To understand why inclusive politics often fails to address discrimination, it will be of help to delineate three ways in which inclusion can be politically configured. Generally speaking, policies can aim at including people through granting a formal equality among citizens, through a redistribution of opportunities to achieve personal goals or, finally, through the legitimation of non-traditional identities or ways of living.<sup>2</sup>

The first strategy is oriented at promoting political participation. It comprises a set of inclusive policies working on the assumption that political enfranchisement is the best way

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<sup>1</sup> Political discrimination is a wide phenomenon that can be generally described as the discrepancy between political opportunities offered in democratic contexts and their effective social impact. Discrimination, then, takes the form of social injustice (Bufacchi 2012) or of a discrete marginalization (Venditti 2019, in print), one that targets single segments of a subject's life. This complex phenomenon is described by Iris Marion Young ((1990: 48-63) as a multi-layered condition which often emerges in the co-presence of factors such as oppression, powerlessness, violence and cultural imperialism.

<sup>2</sup> In what follow, I will present three general normative frameworks that typically inform inclusive intervention and policy measures aimed at fighting discrimination. In this sense, the models I refer to are specific political conducts that follow from the application of theoretical lines. I delve into the analysis of these models in Venditti 2019, in print.

to tackle social and political discrimination. These policies are meant to prompt people to play an active part within political institutions, by strengthening connections between citizens and institutions and promoting public engagement. The development of a political awareness and the invitation to the broadest participation to public procedures are believed to gather different voices from disparate positions within society and to give them political visibility. In this sense, public engagement is claimed to prevent the formation of enclaves of marginalization, as it grants every citizen (without any distinction based on “personal features” such as sex, class, colour, religion) access to the public forum, as well as the possibility of expressing their interests and affecting the outcomes of political procedures. One of the main problems of this model of inclusive policies lies in the structure that originates from the ambiguous bifurcation of the concept of political equality they support (see e.g. MacKinnon 1987). For they incorporate a basic distinction between *private* and *public* domains and address politically only the latter. The perpetration of such a division produces a fracture in the social realm, one that imposes a naturalized division of roles, based on the recognition of a normal, neutral, non-specific position in relation to which other positions come to be identified. In doing so, this type of policies promotes a model of the political citizen *par excellence* (the adult, able, respectable citizen) serving as the basic standard for a variegated group of “others”, who might variously be identified as different because of their sex, gender, skin colour, ethnicity, religion and so on. Interestingly, the creation of a difference-blind political sphere neither flattens nor harmonizes divergences, but instead relegates the tensions they bring about in the private realm, where primary effects of discrimination often originate and reproduce.

In sum, the main problem besetting this way of conceiving inclusion is that the very perpetration of a disentanglement between the private and the public (which is alleged to empower the subject *as a citizen*) ratifies roles and hierarchies in the private sphere. For policies of this sort pay exclusive heed to the political-public side of one’s life and remain mostly blind to those (private) differences that are the primary source of discrimination and marginalization. The private/public divide and the consequent elision of the private as a fundamental space marks those strategies that are only concerned with granting access to public procedures as unable to tackle the roots of discrimination (see e.g. Young 1990; 2000). Even worse, the divide they create reinforces existing social hierarchies and disadvantages insofar as the public display of good intentions on the part of state institutions belittles the need to cut deeper into the subtlest causes of inequalities that are based on “private” deficiencies (see Fricker 2006; Langton 1993).

The second strategy is based on the idea of defeating inclusion by means of an improvement of private lives. In this sense, this approach is somehow opposite to the one I considered above. Emphasis here is placed on private life, something which inheres in people’s basic and potential skills to attain an actual and effective political participation. Apparently, then, these policies work as a felicitous correction of the first strategy. The advocates of these models, in particular Martha Nussbaum (2011) and Amartya Sen (2010), offer a theoretical structure that aims at indicating where and when state institutions should intervene to redress circumstances of marginalization and discrimination. For these authors, the key to fighting discrimination is associate with individuals’ actual needs and inclinations. My argument against this perspective is that the supporters of this policy model, to identify spheres of intervention, need to postulate, whether explicitly or implicitly, the existence of a *basic human nature*. As illustrated by Disability Studies and Crip Theory scholars (see Shakespeare 2006; McRuer 2006), relying on an allegedly homogeneous humanity not only neglects physical aspects of marginalization, but actually *constitutes* some realities as permanently and inescapably inhuman. Examples of policies that seek to promote the integration of people

with disabilities reveals the tendency to implement activities that could help those people cope with the allegedly neutral environment within which everyday life unfolds. This model places the burden of inclusion (that is, of being included, of proving capable of being included) entirely on the impaired subject, denying the role of an organization (material, socio-spatial and temporal) structured around (and for) healthy and able-bodied individuals (see Kafer 2013). Political paradigms pivoted on capabilities tend to take for granted widespread features of a majority of the population as *hallmarks of a shared humanity*, which therefore work as a threshold and as a system of measurement.

Finally, the third general model of inclusion is concerned with the visibility of non-traditional forms of living and the legitimation of marginalized categories. Contrary to the two types of policies described so far, this kind of strategies aims at securing inclusion indirectly, that is, either through the discouragement of behaviours that are deemed to be detrimental to individuals and groups that are discriminated against, or through the recognition of rights based on individuals' being members of marginalized groups. Therefore, an approach oriented at protecting certain categories shifts focus from the improvement of the life conditions of single individuals to the definition of the *strands of the population* that deserve to be protected and recognized by the law. Accordingly, the main target of laws and policy measures becomes the conducts that foster discrimination and the practices of minority group in need of legal recognition. This does not only eventuate in the production of laws that prohibit discriminatory behaviours or extend rights, but also in the implementation of symbolically compensative measures for the "victims" of discriminatory behaviours. In this latter case, protection and recognition play out as an enablement, a sort of liberation through legitimation.

The limit of this strategy is that the practice of addressing someone as a member of a protected category (say, "gay" or "lesbian", or a "gipsy", a "refugee", a "sex worker", and so on) postulates the existence of a *basic link* between one's belonging to a social group and her sexual preferences, or ethnic and/or religious affiliations, or, generally speaking, particular ways of living. Indeed, there are specific kinds of traits on whose grounds a given identity can be attributed to a given subject. On this account, individuals are first and foremost members of a category and, because of that, are constantly assimilated to a pre-defined role. This entails that subjects can acquire a place in the social world only through the endorsement and the re-enactment of standardized identity features. Categories that emerge out of this legal regulation of the social world draw the perimeter of intelligibility within which a given way of living is made visible and can be recognised. Such a mechanism is so powerful that behavioural standards, habits, and a whole range of personal features tend to disguise their social constructedness and to be perceived as inborn in the very nature of the categories to which they are ascribed.

Although these models appear to be different in some central regards, the third approach helps discover an important *trait of commonality* among the three strategies I analyzed. In effect, policies aimed at protecting categories seem far away from the former two because of an explicit categorial filter, which is set in motion for them to address specific policy targets. And yet, this way of functioning is archetypal and can be observed as being at work in the other two models when we look at them not only as policies, but as alternative systems that contribute to the production of a substantive and formative symbolic core. In this sense, the third political strategy illustrates as how, by claiming to be redeeming the situation of discriminated subjects, policies at the same time *constitute* these subjects, or better contribute to the semantic construction of the social situation that people recognize as affecting their life. In short, this last model of policies casts light on how inclusive policy measures in general construct and introduce categories to address someone as a member of a group (e.g., as gay

or lesbian, gipsy, potential terrorist or prostitute), and by doing so, postulate the existence of a basic link between one's belonging to a social group and some traits that are believed to qualify their identity as social beings. Subjects are taken to be members of categories that the law not only legitimates, but constructs to make these people legally speakable.

So far, I have discussed various political effects of three general political approaches to inclusion. The outcomes of narrow inclusive scheme affect the actual life of discriminated groups by determining the conditions of their social experience as well as the conditions for verbalizing them. At a symbolic level, processes of marginalization and inclusion are subjected to the same linguistic making-up: the very account of what marginalization is and who discriminated people are is deeply connected with available accounts and practices codified by policy measures (Hacking, 1999; Haslanger, 2012). Policies constantly refer to a semantic repertoire that allows to frame unfamiliar situations by relying on already accepted meanings. This mechanism of "translation" hampers the perception of alternative forms of living, which are displayed as always consistent with hegemonic standards. From women equality to disability-friendly accommodations, up to LGBT families and new kinship formations, the logic of the "in and out" cannot but following assimilating procedures of normalization. To put it differently, inclusive discourses draw on a language that reconfirms and reproduces a definite (contingent and partial) matrix that erases differences in the name of the indefinite extension of legal patterns of recognition.<sup>3</sup>

But how to reframe inclusion, then? How to tackle marginalization without resorting to the standardized set of patterns that allows to understand the social realm as an ordinate, non-problematic, homogeneous field? And, above all, can we imagine a way to *empower* marginalized subjects instead of just endowing them with political recognition?

If we look back to the policy models I analyzed so far, it is possible to unpack the outcomes of the flaws of these inclusive strategies: if, on the one hand, they always rely on a system that *depends on* exclusion, on the other, they produce a subject that is politically "passive". A subject that embraces a position in order to be legitimated, but that, at the same time, cannot interact or negotiate in order to *embody* a political alternative to already-recognized forms of living. Political interventions are deemed to safeguard people and their good lives, instead of creating the conditions for subjects to emerge out of a situation of disadvantage. In this sense, political strategies withdraw from a task of constituting a lively political context, to offer a range of political ready-made solutions. These solutions will always displace the problem of marginalization from one category to another. Take the example of same sex marriage: legal ratification of same sex couples allows a new strand of the population to enjoy marital and familial rights. However, this form of recognition only interests those who embrace a specific type of relation, one that should be stable, monogamous but – above all – based on coupledness. To extend marriage to non-heterosexual couples still not accounts for the variety of other forms of affective relationships that might ask for legal protection: from the ones that entail more than two people, to the ones that are not based on sexual bonds (see Croce 2018). Apart from this constant displacement, however, the most problematic result of this kind of inclusion concerns the political value of this legitimation: subjects are always recognized "from above", placed in a political matrix that reinforces accepted meanings and conventional ways of living.<sup>4</sup>

## 2. For a contextual re-politicization of agency

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3 I cannot delve here on a thorough analysis of normalization and its relation to institutional language, the jargon of rights and the symbolic power of common sense. On this issue see Bourdieu 1991 and the by now classic Warner 2000  
4 Indeed, I am not making the case *against* same-sex marriage or any form of traditional institution. Legal legitimation



A more promising strategy for revitalizing political agency is the enactment of alternative practices in micro-political contexts. To this end, it is possible to think re-politicization as a set of different *contextual* processes that take political action as a “range of tasks, from denaturalizing the status quo to stimulating and educating the imagination, promoting a desire for change, demonstrating the limits of what can be thought of, and performing textually and experimentally the political struggles that change invokes” (Cooper 2013: 44). On this view, such practical activities give life to concrete alternative political scenarios, though small and segmental. This model of inclusiveness is totally embedded in the contexts where practices are performed. Scholars who study those contexts focus on imaginative sites where ordinary social practices are actualized in unconventional ways. Their focus is especially directed to restricted communities where people operate a re-articulation of the categories and concepts at play in mainstream political arrangements. The radical embeddedness of such enacted practices and, at the same time, their disjunction from mainstream routines is what lead scholars to identify them as “everyday utopias” (Cooper 2013; on “contemporary” utopias see also Levitas 2007; Lewis and Neal 2005; Wegner 2002).

A word on “utopia” is needed. Far from retaining its traditional, value-laden, ideal and perfectionist meaning (observable in the double characterization of utopia both as “ou-topia” and as “eu-topia” – respectively no-place and good place – see Willemsen 1997 in Schönplflug 2008, p. 7), everyday utopias are (spatially and temporarily) accessible sites in which “counterintuitive ways” (Cooper 2013, p. 27) of coping with ordinary situations are imagined, designed and practiced. Examples of everyday utopias are small communities in which common practices are performed in different and innovative ways, for instance – as Cooper (2013) indicates – trading groups that work with local currency or more generally without money (as in the case of time banking); schools adopting methods and ideals of democratic nature (such as Summerhill School in the UK or schools that adopt the Reggio Emilia Approach).

The concreteness of the examples provided above shows that everyday utopias do not shape up imaginary places of perfect politics, nor do they indicate a modality for leaving behind mainstream social interactions in order to enter a temporary space of ideality (Wegner 2002, pp. 17-39). Rather, they lay the foundations for a re-attunement to the political based on *concrete daily interactions*. The utopia of a better world is not the production of an all-encompassing, totalizing political project, but the shared performance of more viable and satisfying social dynamics. On this view, re-politicization is both fragmented (in the sense that it cannot be brought about by institutional measures “from above”) and pragmatic (in the sense it centres concerns and anxieties that are part and parcels of people’s quotidian experience). At the same time, it is never totalizing, as it emerges out as a series of collective practices that target very *specific segments of people’s lives* (e.g. sexual intercourses, money, education, sociability) with the aim of producing a viable alternative to mainstream inflections of everyday situations. It is important to remark that none of these practical realities pursues change for its own sake, as at the core of such communities lies an interest in responding to prosaic, concrete, quotidian needs and difficulties by exploring other ways of coping with particular moment of their members’ everyday life. In summary, the utopian element does not reside in the idyllic imagining of a better world in a fictional, fictitious dimension, but in the daily and micro-contextual actualization and re-elaboration of meanings, concepts and

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of same-sex couples under the form of marriage is desirable and must be pursued as an aim and a goal. However, the *prominence* of traditional forms of living conceals and hampers the articulation of different ways of living. On this see Swennen and Croce 2015.

arrangements that are commonly taken for granted. Here, the taken-for-grantedness that silences discriminated subjects is interrogated and questioned, eventually overturned in the pursuit of alternative ways of doing things.

At the same time, these imaginative practices are inherently transformative but never oppositional. The re-formulation of political agency that utopias allow and encourage is not contingent on the mainstream imaginings and conceptual schemes, since it opposes (most often indirectly) what exists through a *critical engagement* that however does not neglect (nor try to annihilate) it. The operation of *displacement* undertaken in these minor-stream contexts eventuates neither in the creation of insulated counter-communities in which ordinary practices are distorted and reshaped in service of partial, particular projects or programs, nor in the reproduction of mainstream modes, that is, in the arrangement of monolithic counter-communities that aim at substituting the “normal” one. Rather, everyday utopias are oriented towards destabilizing the apparently fixed status quo of mainstream social reality by imagining and enacting an immanent rethinking of existing social connections (such as sexual pleasure, trading, hierarchical structures, the relation with the environment, and others). The fact that the actualization of “better” ways of living starts on a small-scale basis and is configured as a non-totalizing way of living (that is, the reduced space and the limited temporality of everyday utopias) constitutes the kernel of a polymorph, dynamic re-articulation of the political. In effect, the fragmented nature of minor-stream groups and/or organizations, as well as their proximity (both physical, as they are not *elsewhere*, and practical, as they touch upon commonplace concerns) to mainstream institutions lead to the articulation of innovative practices which intersect and interact with traditional ones. Moreover, this articulation takes the concrete path of material interactions where new meanings are produced precisely in virtue of their potential clash with dominant signifiers and grids of meanings that however does not intend to replace them. Given this orthogonal relation to mainstream society, Cooper (2013) describes everyday sites as displaying high pervasiveness and permeability, in which “a focus on the everyday extends into utopia” and where “prosaic dimensions of regular life – sex, trading, teaching, politics, public appearance, and speech – are performed in innovative and socially ambitious ways that, by challenging, simultaneously *unveil* prevailing norms, ideologies, and practices” (p. 6).

Portraying the re-politicization of agency as the collective actualization of alternative imaginaries spotlights the strong link among political concepts, symbolical structures and material arrangements. Everyday utopias become sites of political reformulation at the very moment in which they cease to be self-excluding manifestations of discomfort and begin to set in motion a series of “epistemologies of the margin” (Cooper 2013; hook 1991). These are not only the expression of a critique of dominant ways of living, but are above all the structuration of (physical, symbolic and political) sites where it is possible to experience “what other kinds of forms [of living] could be like” (Cooper 2013, p. 32). The experience of these alternatives might be both active (as enacted and achievable) and passive (as witnessed and observable), since the openness of these sites allows participant to go to and fro, but also to become the mediators between such non-conforming practices and the mainstream context. In this sense, *flexibility* and *proximity* are two of the most important features of this re-politicization of political agency.

On the one hand, the flexible variety of participants brings about an ever-changing oscillation between the moment of actualization and the moment of imagination of alternative good spaces. Participants’ differences in needs and desires, ideals and longings subject minor-stream communities to the continuous and incessant reformulation of the utopic imaginary (which, for this reason, are unlikely to turn into an ideology, in which a fixed status quo has to be sustained – see Levitas 2007) and, consequently, to a reassessment and reevaluation of

practices themselves. However, conflicts and failures to which these sites, because of their inherent uncertainty, are exposed should not be seen as pitfalls or flaws. The articulation of a desire of more livable contexts is actually contingent on the provisionality of these practices. For it is exactly by virtue of a dynamic articulation of premises and fundamental assumptions of the practice that the risk of dehistoricization and naturalization of the political and symbolic concepts produced can be avoided (see Levitas 2007).

On the other hand, the proximity (or even promiscuity) of these sites and mainstream social reality is an invitation to the reflexive game of comparison. The ostensive, though tentative, exhibition of alternatives paves the way for a renewed articulation of one's own situation. In this sense, as I pointed out above, the core of everyday utopias is not about dismantling or destabilizing the existing order, as they rather aspire to unsettle this order through the arrangement of non-competitive alternative forms of living. The non-totalizing tendency of these practices permits them to interact *concretely* with the hegemonic structure, without being forced to prove an ideal, inherent consistence. It is in their transience that everyday utopias fulfill the task of reinvigorating political agency.

It is my claim that the contextual re-politicization enacted by these site does not lapse back into the assimilatory dynamic that besets the other inclusive policies. Everyday utopias might be taken as instances of political modes of re-collocating symbolic resources at the margins. Thanks to their limitedness in space and time, they are able to challenge the hegemonic order without engaging in a dangerous tug-of-war against it. At the same time, their inherent variety and their ineffability contribute to make them sites of creation of a transformative politics: utopias emphasize the importance of transformed social existence to thinking differently. [...] It is not simply about the creation of worlds or ways of living that will better meet people's interests *as they currently are*. Utopia is also centrally concerned with those changing interests, desires, identifications, and forms of embodiment that happen as people (and other forms of life) experience other ways of living (Cooper 2013, p. 34).

In conclusion, contextual re-politicization is not a recipe to the re-establishment of a thick state, nor is it the remedy to the mismatch between political procedures and legal techniques.<sup>5</sup> The current state of affairs is such that social actors will predictably continue to seize on the rapid upsurge of inclusive measures as an effective, albeit normalizing, political tool. However, the opening up of micro-dynamics where people can experience the day-to-day organization of practices in subversive but ordinary ways (where subversion does not target "the system" as a whole, but the widespread understanding of how certain ordinary things have to be carried out) is likely to mine interstices where people can really regard themselves as 'affected agents' – which is to say, people called upon to think up the alternative. In these interstices, the political gets back its original sense of *re-imagining the social and performatively affecting it*, where imaginings and actualization can and often do diverge, but this divergence serves as a symbolic prism through which we can grasp reality's inevitable character of constructedness and artificiality, and thus, its amenability to revision. Contextual re-politicization, of which everyday utopias are an important instance, is thus a small-scale but ambitious project (or dozens of micro-projects) where subjects, at least transitorily (not all their life, not all their

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<sup>5</sup> I delve into the issue of re-politicization in Venditti 2018a and 2018b. Micro-practices have the power of re-configuring individual relationships and constituting webs of interactions that held a political virtue. Micro-practices constitute (or even re-constitute) what is lost in a political dimension saturated by rights intended as privileges ascribed to certain identities. In this sense, everyday utopias place subjects in the condition of developing a new political stance, a presence in the world which transcends mere socialization to delineate spaces and sites informed by a *political rationality*. See in particular Cooper 2013.

time) become political subjects who get dirty hands to make decisions on how to do things in the here and the now, who dare to take responsibility for these decisions, who take the risk of making mistakes. In these contexts, the rights and benefits typical of other inclusive models are already and always political, because they display at once their face of choice, duty and responsibility; in these contexts, the marginal has always something to say to the mainstream, and the unspeakable is systematically brought to bear on the speakable as the ever-present incongruity between what we hoped and what we failed to achieve.

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SECTION

2

# SECTION 2

## POLITICAL AGENCY AND MIGRATION

*Silvia Mocchi*

Citizenship and political agency. A focus on forms of participation for immigrants at local level

*Gaetano Marco Latronico*

From “Nobodies” to “Somebodies”: Immigrants’ Struggle between Surviving and Political Agency in Times of Crisis Governance

*Francesca Pongiglione, Roberta Sala*

Vulnerability, responsibilities and migration

*Elettra Repetto*

The Metamorphosis of Aliens into Political Agents

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# CITIZENSHIP AND POLITICAL AGENCY. A FOCUS ON FORMS OF PARTICIPATION FOR IMMIGRANTS AT THE LOCAL LEVEL

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## *abstract*

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*Immigrants' political agency is undermined by political marginalization and disenfranchisement. Standardly citizenship acquisition is considered the key to improve immigrant's exercise of political agency. By contrast, I propose, following Bauböck (2015), a "system of differentiated membership rights" that complements citizenship acquisition with the right to vote in local councils (based on a ius domicilii principle) and with law-making procedures based on a proportionality principle (Brighthouse & Fleurbay, 2010). Distribution of power should hence be determined in proportion to people's stakes in the decision under consideration and any time specific issues related to immigrant's life arise, they should be provided with special tools (such as veto power) to stop any abuse from the majority.*

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## *keywords*

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*citizenship, political agency, participation, enfranchisement, immigration*



**Introduction** Everywhere in Europe immigrants suffer discrimination and political marginalization (Osce, 2017). In some countries (Italy for example) political marginalization also takes the form of disenfranchisement since non-EU immigrants can't vote for the Parliament nor for the local councils. Disenfranchisement, on the other hand, undermines the possibility for immigrants to exercise their political agency. Standardly citizenship acquisition is considered the key to fill the juridical gap with the autochthonous citizens (Vink, 2013) and to improve immigrants' exercise of political participation (Cohen, 1992; Brubaker, 1992; Marshal, 1964; Pocock, 1995; Tilly, 1995).

However, focusing merely on citizenship acquisition overshadowed political participation of immigrants at the local level, that is, in those towns and neighborhoods where they permanently live. Instead of focusing exclusively on citizenship acquisition, I propose, following Bauböck (2015) "a multilevel architecture of enfranchisement" (p.821) that highlights the necessity to expand participation in local institutions. Even if a framework of rights and participation at the national level is fundamental, I argue that participation should be granted through giving differentiated membership rights: enfranchisement should be determined in a different way at the national and local level because different types of democratic polities correspond to different but equally important systems of membership. Accordingly, the general normative principles for inclusion both in the citizenry and in the *demos* must be specified for each type of polity and membership regime (Bauböck, 2015). First, laws on citizenship should be as inclusive as possible, through, for example, mitigating *ius sanguinis* provisions, especially for those countries that attract immigrants. Second, after the national level, it is important to focus on the local level. Non-citizen residents should be granted the right to vote where their basic interests are affected most (Abizadeh, 2008). However, this argument still seems insufficient to ensure self-government for minority groups that, even at the municipal level, can again be easily outnumbered. This is particularly true in towns and neighborhoods where conflicts between majority and minority take place. The focus on the local level is important because "the local authority is always the pivot upon which everything moves" (Rath *et al.* 2001, p.193) and it is in the local sphere where the principles and ideas enshrined in constitutions need to be translated into a set of specific, coherent, and worked-out policies.

In order to adjust unbalanced systems of power it is necessary to give minorities a greater weight at the local level whenever their rights are at stake. Law-making procedures at the local level should hence be based on what the scholars Brighouse and Fleurbaey (2010) call

the proportionality principle. They argue that instead of using a pure democratic principle, it is necessary to distribute power in proportion to people's stakes in the decision under consideration. This principle would mitigate the tension between democracy (majority rule) and social justice (protection of minority interests).

In order to analyze the topic, I will first of all introduce the issue of the *demos* and its "borders". Secondly, I will focus on participation rights at the local level for non-citizens. Third, I will introduce the proportionality principle and its potential for increasing immigrants' political agency. Lastly, I will consider the case of Muslim political marginalization in order to test the "system of enfranchisement".

The issue of the *demos* is part of a broader debate about the legal and political status of immigrants: their disenfranchisement results in a lack of political agency and unjust laws. As also stressed by some political and legal scholars – such as Raskin (1993), Song (2009) and Walzer (1983) – the presence of a large portion of residents in a territory without rights of participation creates a problem of democratic legitimacy. In order to avoid fairness and legitimacy being called into question, the *demos* for making laws and policies – especially those related to immigration – should be expanded to include immigrants (Miller, 2009; Abizadeh, 2008).

Bauböck (2015) defines the *demos* as that group of citizens who "enjoy full political rights". The exclusion of adults of immigrant origins from the complete set of full political rights is not justifiable because individuals who are under the authority of the State must be given "an ultimate and equal say in what the authority does" (Walzer, 1983, p.60). In light of this consideration, I argue that the borders of the *demos* should be porous in order to let long-term immigrants enter. Consequently, it is necessary to improve the opportunities that exist for resident non-citizens to acquire citizenship, which is intrinsically linked to rights and responsibilities (Song, 2009). The franchise marks the difference between those who are part of the *demos* and those who are excluded. This distinction is fundamental to forming a specific political community (Abizadeh, 2008), and indeed a certain degree of closure is necessary because democratic representation requires accountability to a specific people (Benhabib, 2004).

However, even if a distinction is necessary, what must be discussed and challenged is "where" to position the outer limits of the *demos* and which kind of justification is provided for its placement.<sup>1</sup> Certainly, as Abizadeh points out, the act of drawing borders is always an exercise of power over both insiders and outsiders, nevertheless "a democratic theory of popular sovereignty requires that the coercive exercise of political power be democratically justified to all those over whom it is exercised, that is, justification is owed to all those subject to state coercion" (2008, p.45), that is members and non members. The *demos* should be as widely inclusive as possible because excluding a large part of the immigrants results in a lack of political legitimacy.

However, I wish to stress that "expanding the circle of citizenship" (Song, 2009, p.611) also has a broader effect than merely granting voting rights and enhancing political participation. In particular, such an enlargement may have a positive effect on a marginalized community because, as Shklar (1991) (as cited in Song, 2009) argues, only the fact of having the right to

## **1. The issue of the *demos*. Who should get in?**

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1 The fact that the *demos* must be enlarged does not mean that temporary residents should be awarded full political rights, but long-term resident noncitizens should be enfranchised (Song, 2012, 40) because they have built their lives in the country where they currently live (and not in their countries of origin). In particular, they work and pay taxes, they attend local schools and hospitals. Moreover, it is inevitable that residing in a place will cause people to develop feelings of belonging towards the place where they live.

vote confers social standing and dignity on people, and this is particularly true if it happens in a context where citizenship rights have been denied to a broad portion of the population. In addition, granting citizenship to newcomers can help to spread the idea among autochthonous citizens, especially those reluctant to accept immigrants on an equal basis, that newcomers are part of the community. Hence, expanding citizenship rights can contribute to the collapse of barriers among ethnic groups and, ultimately, helps to foster solidarity among them.<sup>2</sup> Even if it is true that solidarity is fed by common culture and history – as Miller (2009) asserts – I think that it can also be underpinned by a common sense of loyalty towards fellow citizens and a sense of sharing a common set of values and principles or a shared commitment to understand the history of the community (Taylor, 1993; Song, 2012). It is certainly true that religions or cultures shape the ways in which people conceive (and build) solidarity, but solidarity can also be strengthened by *ad hoc* policies put into practice by institutions. If the inclusion of newcomers can foster solidarity, exclusion, by contrast, can feed feelings of resentment and alienation that consequently prevent the creation of solidarity bonds. Citizenship and solidarity are of paramount importance because they integrate minorities into the national polity but unfortunately they are not enough to ensure minorities rights and the exercise of political agency. Indeed, minorities can easily be outnumbered, and consequently it is necessary to think about devices tailored to minority needs that could help to safeguard specific minorities' rights.

### **2. Voting rights at the local level. Shaping the community through participation**

The full protection of minorities' rights is hence indispensable at the local level where conflicts about accommodation of minority's habits take place. Standardly, issues perceived as difficult to accommodate are related to the display of religious symbols in public spaces, dietary requirements in cafeterias (such as halal or kosher food), wearing of "burquinis" in the swimming pool etc. As these examples show, towns and neighborhoods constitute an arena where conflicts happen but, at the same time, municipalities have a certain degree of administrative and political autonomy to govern these issues. Municipalities, hence, become the second level (after the national one) of what can be called "architecture of enfranchisement".

As just shown, the expansion of the *demos* at the national level should be completed with the expansion of participation at the local level, which means granting the right to vote for the local council (and to be elected to it) to newcomers. It is thus necessary to establish a formal status of local citizenship based on residence and separate from nationality (Bauböck, 2003). Municipalities, indeed, are fractions of the national territory but their existence is not only due to technical reasons, but also to the fact that self-government rights must be granted to residents. Through elections, inhabitants select their representatives for local councils, which enjoy "autonomous decision making power" in relation to local issues (Bauböck, 2015, p. 826). Self-governing is justified at a normative level because the imposition on *all* local issues of decisions taken at the national level by national majorities would amount to domination of local citizens because in any case national majorities would not have enough stake in the local polity.

However, municipalities are a type of "democratic polity" (Bauböck, 2015, p.826) that can be distinguished from the superior level of polity thanks to a specific property: the centrality of local issues that directly concern people's lives. Because of this prerogative, the "all residents

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2 Against this, Miller (2009) is skeptical about the possibility of expanding citizenship because he claims that it could result in the fall of a society by undermining its basis. That is, it could undermine the bonds of solidarity as a consequence of the cultural diversity of the newcomers, who are difficult to integrate.

and residents only” concept (Bauböck, 2015, p.828) should be at the basis of the rules that determine who to include in the *demos*: only those who are affected by the decisions taken by the council. Local institutions are in fact more committed than national ones to solving practical problems and to improving people’s lives and are concerned with providing essential and universal services. As the Treaty of Maastricht states, the local level is a “*locus of decision*” for the provision of service and through local elections voters “determine the character of municipal government” (Eisenberg, 2015, pp.140-141). Nevertheless, in all EU countries the local *demos* includes autochthonous citizens and EU residents (citizens of other member states), and in only 12 countries<sup>3</sup> resident third-country nationals are not included (Bauböck, 2015).

However, restricting the local franchise to national citizens or EU citizens (or to citizens of those countries that grant a reciprocal franchise) is unjustifiable because it introduces conditions that have nothing to do with (that is, they are external to) the powers and functions of local self-government (Bauböck, 2015), which concerns practical issues. Consequently, restrictions – especially those that are very harsh as in the case of Italy where migrants are excluded from the franchise even at the local level – raise issues of legitimacy and fairness concerning the treatment of the disenfranchised group and the quality of democracy. Democratic and liberal institutions should hence aim at emancipating cities as much as possible, because political communities can accomplish this goal through giving full local citizenship to the residents of the jurisdiction without exceptions (Bauböck, 2003). Let us now examine in greater depth the reasons that underpin the argument for granting full political rights at the local level.

Restricting the local *demos* on a national basis could be a form of domination because it *excludes immigrants* who, in any case, are affected by the outcomes of decisions taken by the municipalities. It also means excluding them from the opportunity to express their opinion about the services provided by municipalities. This restriction is unjustifiable because cities should differentiate themselves from the rules that regulate membership at the national level: cities are political communities but different from states and they should grant “full local citizenship to all residents within their jurisdiction” (Bauböck, 2003, p.150).

Even if at the national level some restraints to voting rights can make sense (as already underlined in the previous paragraph) grounding the franchise at local level on the status of individuals is unfair because in towns the status of immigrants is not different from that of national or EU expatriates. In other words, the exclusion cannot be justified from the perspective of local democracy and consequently the franchise must be extended to non-citizens who are in any case affected by local councils’ decisions.

Enfranchisement of immigrants would make them accountable towards institutions. If immigrants were to be granted the right to vote, municipalities would most probably be unable to ignore their needs. Instead, voting rights for non-citizens would contribute towards making local democracy fair and just because it would also grant further protection to immigrants against mistreatment. The ability to vote would thus reinforce the idea that immigrants are fully part of the community and it would instill a sense of identity and belonging in the community (Eisenberg, 2015: 141).

Although the franchise at the national level is fundamental because only (national) parliaments are allowed to create and amend immigration laws and policies, it is only at

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3 The following EU states have instituted electoral rights for third country nationals with stable residence: Belgium, Ireland, Luxembourg, Netherlands, Denmark, Sweden, Finland, Estonia, Lithuania, Hungary, Slovakia and Slovenia (Bauböck *et al.*, 2013).

local level that people have a direct opportunity to participate and shape the community (Eisenberg, 2015, p.148). In addition, enfranchisement would make newcomers more aware that, *qua* full members of the community, they are expected to use their rights of participation. On the other hand, autochthonous citizens would become aware that they share a common membership at the local level with the immigrant part of the population (Bauböck, 2003). Enfranchisement, hence, plays another determinant role: that is, it contributes to making all members of society equals. Even if “civic” participation (that is, participation in associations, organizations, trade unions etc.) is important, only the right to vote makes people equal at the political level.

Nevertheless, often a consistent part of the local population is disenfranchised. While at the national level democratic states that receive immigrants ought to shape the citizenship law around the concept of *ius soli*, at the local level another kind of criteria for determining the local citizenry is necessary (Bauböck, 2003). The local citizenry, in fact, should be determined through what might be called *ius domicili*. Put in another way, voting rights should be determined through *residence*, because this would allow the discrepancy between citizenry and *demos* to be overcome. This is particularly true in those areas, especially towns, where there is a large concentration of disenfranchised immigrants and so the democratic legitimacy of local government is jeopardized (Bauböck, 2015). Since decisions taken by local councils affect all the members of the community without distinction—especially between aliens and autochthonous citizens—all the residents should therefore take part in local elections. Enfranchisement at the local level would give immigrants the chance to take part in the decision-making process and would make it possible for them to avoid those laws and policies that discriminate against them. Through participation, immigrants would become not only recipients but also authors of laws that regulate their lives. If these principles were applied, immigrants in European towns would be able to participate at the political level on an equal footing with the majority and hence express their views, especially on those issues that affect their lives, such as issues related to building places of worship or, more generally, accommodation of their needs.

The second layer of the architecture of enfranchisement, as already pointed out, is not self-sustainable but instead complements the enlargement of the *demos* at the national level. In addition, I argue that, even enlarging the *demos* at the local level is not sufficient to empower migrants. Even if minority members can vote, they can easily be outnumbered by the very fact of being a minority. The democratic principle of majority rule thus clashes with the principle of justice (which implies inclusion of minorities in the law-making process).

In the next paragraph this tension will be addressed and the third and last level of the architecture of enfranchisement will be presented. Indeed, in my view the democratic principle of majority rule must be counterbalanced at the local level with a proportionality principle (Brighouse and Fleurbaey, 2010). Relying on a proportionality principle in the decision-making process means that at the local level (and only at the local level) minorities should have a stronger voice every time issues that strictly concern their life arise.

**3. A counter-democratic argument: the proportionality principle at the local level**

The architecture of enfranchisement, comprising voting rights for immigrants through the expansion of the *demos* at the national level and through voting rights for migrants at the local level, must be completed by a third layer of rights based on the *proportionality principle*. That is, at the local level minorities should have a stronger voice every time their rights are at stake. This is important because democracy *tout court* (which in any case is not my goal to dismiss) cannot always provide all the tools that minorities demand for the accommodation of their needs. In political theory democracy is commonly understood in terms of equality of power among the relevant population (Saunders, 2010). Nevertheless, this conception of democracy is

subject to certain difficulties. One of the problematic aspects of democracy – relevant to the issue of the enfranchisement of immigrants – concerns the fact that majorities may oppress minorities and crush their liberal rights (Brighthouse and Fleurbaey, 2010) through the application of majority rule. Majority rule, indeed, is unobjectionable in many contexts but in some cases it has some negative side effects and can lead to unjust outcomes, as in the event of a permanent exclusion of certain minorities (Saunders, 2010).

The problem, in particular, is that the mere use of democracy does not solve the unequal distribution of power. Marginalization of the minority can result in an exclusion from the decision-making process in which they can easily be outnumbered. This is especially true when laws that regulate their lives are at stake. Nevertheless, decisions that do not take minorities' opinions into consideration are affected by unfairness and inconsistency because a decision-making process based exclusively on majority rule can produce a situation in which the majority of individuals with little or no stakes in a precise issue “impose a great loss on a minority” (Brighthouse and Fleurbaey, 2010). In the case of a law restricting a (lawful) minority's way of living, the unequal distribution of power is reflected in the decision-making process where the majority alone promulgates a law that operates to the detriment *only* of the minority. So, the legitimacy of majority rule in such cases is questionable because the stakes are unequal, in contrast to the equal weight given to each of the voters (Brighthouse and Fleurbaey, 2010).

In order to limit the “brutal force” of the majority, it would be useful to give more attention to the minorities' interests in the arena of the decision-making process by applying a counter-democratic principle, the proportionality principle. As explained by Brighthouse and Fleurbaey (2010), power should be distributed in proportion to people's stakes in the decision under consideration. Stakes, here, measure how people's interests are affected by the options available in the decision and are understood in terms of the ability of humans to flourish rather than in narrow financial terms. Someone could contest this device and consider it a sort of privilege given to the minority that can work to the detriment of the majority. Actually, this objection is without a solid ground because giving more power to the minority is necessary to improve the minority's status.

According to Brighthouse and Fleurbaey (2010, p.150) “all individuals should have their interests effectively represented in proportion to their stakes”. It is important to point out that the proportionality principle should not be considered as a universal key that can solve any problem but in a specific context it can underpin laws and policies that aim at finding a greater compatibility between justice and democracy. In addition, the proportionality principle is relevant because it substantiates a fair participation in the decision-making process by giving an adequate space to decide to minorities. So, equal respect is a right but also an obligation of institutions that, in order to be democratic, should give equal considerations to minorities' interests. At this point, it is hence necessary to investigate to which extent the proportionality principle can be put in practice and how.

I propose a system in which the representatives of the minority (-ies) (democratically elected inside the communities) have a seat in local councils. Since they still remain a minority, they must be granted “direct access to certain decisions” (Brighthouse and Fleurbaey, 2010, p.147) in case they contribute to a sufficiently large group to counterbalance the power of the majority. However, if the representative cannot in any case influence the majority's decisions, then the minority representative should be granted a right of veto. The veto right can effectively protect the autonomy of the minority by blocking any attempts coming from the majority to eliminate or reduce it (Lijphart, 2007).

Local councils, which have a more direct relationship with people, can give greater attention to the dialogue between conflicting groups or interests. Hence, giving attention to minorities

is not only necessary but is more feasible. Even if scholars such as Brighthouse and Fleurbaey (2010) assert that even the Parliament should likewise be based on this principle, I contend that the application of this principle at the parliamentary level would be unfeasible but easier to apply at the local level through the election of special representatives.

In addition to representatives, I propose to establish “advisory bodies” for local councils. These bodies would provide members of minority communities the possibility to gather and discuss their needs. These bodies, that do not substitute any other institutions, would work alongside the council, especially on those questions that affect the minority, in order to provide suggestions and non-binding advice, by drafting for example guidelines and policy briefs. The activity of these advisory bodies would be in any case limited to issues relating to the accommodation of the specific needs of the minority that fall within the scope of the municipal jurisdiction (the shape of the minority’s places of worship, the display of religious symbols in public space, etc.). Through these devices it would be easier for the minority members to exchange information and to suggest different choices that are better attuned to meeting the needs of the various groups and sectors of the community (Brighthouse and Fleurbaey, 2010).

These devices could also contribute to giving substance to dialogue between different and conflicting groups: it is in small groups that individual representatives are much more efficient. In addition, these bodies should, for example, organize conferences, roundtables and more in general opportunities to exchange ideas about controversial issues. Through these initiatives, these devices should also give space to people who are skeptical or hostile to integration and multicultural policies because it is important that everyone can express his/her idea freely without being *a priori* labeled.

#### **4. The case of Muslims and places of worship**

A system that improves the participation of immigrants and increases the legitimacy of decisions about the lives of minorities has been introduced. At this stage, in order to empirically ground my claims, I would like to present the case of the Muslim minority in Italy who is mainly composed by immigrants: they are mainly disenfranchised and hence suffer a lack of political agency.

Many accommodation issues feed the wrong perception the public that Muslims are difficult to integrate. Among all the issues related to minority communities, it is important to recall the building of mosques is the issue that hit every country in Europe<sup>4</sup> in the last decades (Allievi, 2009). Particularly interesting is the case of the Italian Region Lombardy that, in 2015 promulgated a law<sup>5</sup> to ban the construction of Muslim places of worship in the regional territory by imposing undue restrictions and arbitrary procedures.<sup>6</sup> The requirements to fulfill are oppressive and impossible to meet<sup>7</sup> (Chiodelli and Moroni, 2017).

This case shows that despite a *corpus* of national anti -discrimination laws, municipalities tend to not accommodate those claims that come from a stigmatized minority unpopular among the majority. At the national level there are no obstacles to the construction of places of worship since freedom of religion and worship are recognized without exception by the

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4 As Cesari (2004: 131) rightly highlights: “The mosque transforms Islam from being invisible to being unwanted.”

5 For further information about the Lombardy law see Chiodelli and Moroni (2017). The text of the law is available here: Lombardy Region (Regione Lombardia): <http://www.regione.lombardia.it/wps/portal/istituzionale>

6 Muslims in Lombardy and in Italy in general have mostly an immigrant background and hence do not have the citizenship and are disenfranchised.

7 Among them: a CCTV system to control every door, a parking space twice as large as the building, the building must be in line with the Lombard landscape etc.

Italian Constitution<sup>8</sup> (art. 3, 7, 8, 19 and 20) (Chiodelli and Moroni, 2017). However, the Region of Lombardy can easily ignore Muslims since, *qua* immigrants, are excluded *de jure* from the possibility to take part in any deliberation process: they are disenfranchised at the national, regional and local levels. The impossibility to have a say in the deliberation process sheds a light on a further unfair aspect of Lombardy's law: the law that regulates an aspect of their life was simply imposed upon them.

What happens to the Lombardy issue if the system of enfranchisement presented above is applied? If we examine the Lombardy context, it is possible to argue first of all that the *demos* should be expanded both at the national level and at the local level. In the case of the Lombardy anti-mosque law, for example, the expansion of the *demos* is fundamental to give voting rights at the national level because "it would confer social standing and dignity" (Song, 2009, p. 607) to Muslims and it would also raise the issue of lack of places of worship to the national level. Nevertheless, it would be of little help in providing a concrete solution to the issue where it is deeply rooted: that is at the local level. For this reason, even at local level immigrants should be granted the right to vote.

However, as already stated, this would not have a direct impact on the particular issues related to the accommodation of minority needs. So, municipalities should give as much space as possible to the minority in order to let them self-govern. In this case, therefore, local councils should give the minority the ability to elect a representative to the local council who can exercise a veto right *only* on those issues that concern exclusively the Muslim community. Muslims' opinions should hence carry more weight on those specific topics that affect their lives, such as building mosques. To meet this goal, I argue, it is necessary to elect to local councils one or more representatives for each of the minorities whose vote needs to carry greater weight on specific issues; and who could even exercise a veto power. Obviously this power can be exercised *only* on issues *specific* for the minority. In addition, if respect has also a dialogical dimension (Bagnoli, 2007), then it can be given substance by the establishment of advisory bodies where believers (not necessarily experts or professionals) can express their claims, propose solutions and give advice to the local council of their town.

Immigrants in Europe generally experience lack of political participation and they cannot exercise their political agency, especially those communities that are considered with suspicion by the majority and hence suffer of marginalization both at the social and political level.

Political agency for minorities, I argued, can be enhanced through a system of enfranchisement designed to improve the participation rights of outsiders, specifically migrants, who in many countries are disenfranchised or marginalized at the political level. So, political rights determine the first layer of this system for immigrants at the national level where the enlargement of the *demos* is necessary. In many cases, as in Italy, this requires modifying restrictive citizenship laws that are based on a restrictive interpretation of the *ius soli* principle.

Even if some restrictions are justifiable (Miller, 2009), it is necessary to avoid excessively strict citizenship laws that arbitrarily exclude a large part of the immigrant population from citizenship rights. Along with more inclusive citizenship laws, it is also important to focus on the *demos* at the local level: the second layer of this system of enfranchisement. At this level the only criteria that therefore makes sense for including people in the *demos* is residency. So, the *demos* at the local level should be enlarged in line with the principle of *ius domicilii*.

## Conclusion

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<sup>8</sup> Italian Constitution in English: [https://www.senato.it/documenti/repository/istituzione/costituzione\\_inglese.pdf](https://www.senato.it/documenti/repository/istituzione/costituzione_inglese.pdf)



However, the second layer of the system of enfranchisement is still not enough to grant self-legislation to a minority. Indeed, even if it is included in the *demos*, by the very fact that it is a minority it can easily be outnumbered. In this case, democratic principles of majority decision-making still put at risk the rights of minorities to self-govern. On top of the enfranchisement system must therefore be a third layer of participation rights that is based on a proportionality principle instead of democratic principles (namely majority rule).

Participation rights must thus be completed (only at the local level) with specific participation rights for minorities, that is the ability to elect a representative who can exercise a veto right on those issues that affect the minority exclusively. In addition, in order to give substance to the dialogical aspect of respect, it is necessary to establish advisory bodies that cooperate with the local council by giving advice on issues related to relationship between majority and minority. These devices are merely consultative but they could provide an opportunity to give voice to members of the minority and to improve dialogue between different groups.

The case of Muslims in Europe highlights the fact that laws, severely limiting minorities' practices generally disliked by the majority, can lead to a further marginalization of the minority and to an exacerbation of the prejudices against them. By contrast, laws about accommodation of minority's customs should produce not only outcomes that are respectful of the minority's will but they should also be based on *procedures* that grant the largest space possible to the recipients of the law to express their opinion and even reject it in case the majority abuses its power. A fair law for the regulation of minorities' traditions should aim at giving real substance to the principle of respect and this can be done through improving the political participation of the marginalized minority and also through a dialogue between different components of society and *ad hoc* institutions.

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# FROM “NOBODIES” TO “SOMEBODIES”: IMMIGRANTS’ STRUGGLE BETWEEN SURVIVING AND POLITICAL AGENCY IN TIMES OF CRISIS GOVERNANCE

abstract

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*Immigration has become one of the most discussed issues in global political agendas and presents several criticalities. Such criticalities span from immigration management by local, national and transnational institutions, to the enormous flow of people moving across the globe without any certitude about their situation, and the repercussion of this phenomenon on each State’s both internal and foreign policies. All of the above-mentioned crucial situations pose questions which cannot be avoided, yet, don’t have any simple answers. However, for political-philosophical discourses, immigration also exposes in a very critical way what appears to be the inner limits of political analysis, which doesn’t take the complexity of such phenomenon into account. This complexity is not something conjunctural, as various rhetoric of “crisis” would suggest, but it is rather structurally part of the system itself in which it manifests: the contemporary immigration form is namely one of the many faces of what is known as “globalization”, which is essentially connected with the so called “Neo-liberalism” in politics and “Advanced Capitalism” in economy. In a general framework, impersonal dynamics seem to rule the world by the exercise of global governance that appears to put into question the same political capacity of classically conceived “National States” as primary political actors. Here, uncountable flows of human beings are put in extreme conditions that, on one hand, urge politics itself to elaborate new strategies and, on the other hand, make visible the inner political attitude of these people, who in most of the cases resist, refuse to die, and claim for a decent life.*

keywords

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*crisis, governance, immigration, security, political agency*

\* Although it would be very hard to give an exhaustive definition of “Neo-liberalism”, given the still controversial nature of this phenomenon, it would be useful here to refer to Michel Foucault’s definition. See: Foucault M. *The Birth of Biopolitics: Lectures at the Collège de France, 1978–1979*. Palgrave Macmillan. 2008, pp. 131–132: “Neo-liberalism is not Adam Smith; neo-liberalism is not market society; neo-liberalism is not the Gulag on the insidious scale of capitalism. So, what is this neo-liberalism?... The problem of neo-liberalism was not how to cut out or contrive a free space of the market within an already given political society, as in the liberalism of Adam Smith and the eighteenth century. The problem of neo-liberalism is rather how the overall exercise of political power can be modeled on the principles of a market economy. So it is not a question of freeing an empty space, but of taking the formal principles of a market economy and referring and relating them to, of projecting them on to a general art of government. (...) Neoliberalism should not therefore be identified with *laissez-faire*, but rather with permanent vigilance, activity, and intervention.” See also: Harvey D. *A Brief History of Neoliberalism*, Oxford University Press, Oxford, 2007.

**Introduction** Immigration, and labor immigration in particular, is certainly not a new phenomenon, especially if it is contextualized in the broader dynamic of human mobility through history. Nevertheless, each case of those flows of mobility has always presented certain specificities, derived from the specific historical, geographical, social, economic and political context where they show up. Abstracting from these latter extremely important conditions, what looks like a sort of invariable constant is the ambiguous fact that migration flows usually seem to have their origin from situation of “crises”, that in turn often seem also to be originated by them. The latter is based on such complex factors which nature is always more often difficult to decode, due to the inner multiplicity of conditions in which it takes roots. Nowadays, political and socio-economic crises may spark basically everywhere in the world (even if, obviously, on totally different terms and by different start-points) due to the globalization process. Such globalization process is currently at the same time advanced and perennially *in fieri*, which first characteristic is the total lack of certitudes, that is from time to time exploited by both politics and financial markets in terms of a ceaseless “risk”<sup>2</sup>. However, while markets usually assume this term as synonymous of “bet”, politics understand it under the meaning of “danger”. Therefore, if “risk” is the permanent form of what for financial capitalism can be an “occasion” in first place, the sense of incertitude that is co-essential to his own mechanism spreads a certain anxiety through societies, and especially through the so-called “advanced” society, that finds her immediate counterpart, and her apparent antidote, in a global request for more safeness. Furthermore, such safeness is translated in political terms in a demand for more “security”<sup>3</sup>, which leads automatically a consistent part of the mainstream political discourse to focus on searching a way to “exorcise” this widespread sense of anxiety by identifying a “scapegoat” in certain social categories. Migrant people are one of the latter. While the phenomena of the “enemy-identification”<sup>4</sup> is

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1 For a very masterly analysis and genealogy of the term, see: Koselleck R. *Krise*, In: Brunner O., & Conze C., & Koselleck R. *Geschichtliche Grundbegriffe*, Klett-Cotta, Stuttgart, 1972-1997. Italian Translation: Koselleck R. *Crisi. Per un lessico della modernità*. Ombre Corte, Verona, 2012.

2 Chignola S. *In the Shadow of the State. Governance, Governamentalità, Governo*. In: Fiaschi G. *Governance: oltre lo Stato?*, Soveria Mannelli, Rubbettino, 2008, p. 13.

3 Chignola S., & Mezzadra S. *Fuori dalla pura politica. Laboratori globali della soggettività*. In: *Filosofia Politica*, Il Mulino, Bologna, 2012, p. 18-19.

4 See: Schmitt C. *Der Begriff des Politischen*. Dunker & Humblot, Berlin, 1932. English Translation: Schmitt C. *The Concept*

nothing new in political history, what seems to be new is the fact that this global incertitude and the following anxiety appear to be a structural essential component of the so called neo-liberal and advanced capitalistic economic and financial system. At the same time, the political claim for security seems to be structurally connected with this anxiety, and in turn immigration is a factual result of the same dynamics of neo-liberal capitalistic system consisting of land-grabbing, massive soil exploitation, relocation of firms on low-taxation sites, request of low-cost labor, as well as financial debt, and therefore proliferation on private financial interest in each sector of production.<sup>5</sup> These latter are just few of the many factors, together with climate change and war (which are notwithstanding respectively strictly connected with what just mentioned above, war in particular)<sup>6</sup>, that lead, if not most, surely a considerable part of world people to migrate in search for a better, if not “bare life”<sup>7</sup>. Thus, the connection between “risk”, “incertitude”, “anxiety” and demand for “security” on one side, and immigration on the other, appears to be essential and strictly related with neo-liberalism and advanced capitalism in itself. This relation leads to inscribe each of those terms in a sort of “vicious circle”, from which there seems to be no way out. And these terms are in turn just the more evident distinctive marks of a global “crisis”<sup>8</sup>, which is made upon several crises, each with its own specificity, showing the necessity to be “governed”.

If “Crisis” is the unavoidable and essential mark of contemporary globalized and advanced capitalist society, “Security” is his co-essential and immediate political counterpart. Starting from this point, it is essential for politics to govern such crises by means that notwithstanding don’t belong exclusively to a not quite thinkable *pure politics*<sup>9</sup>. In this sense, States and respective governments need to continuously confront themselves with other decision instances that come from other “parts in question”, each of them in a certain way takes part in the extremely complex mechanisms that advanced capitalism puts unceasingly on the move through societies.<sup>10</sup> States have to confront themselves with supranational and transnational entities, some of which have specifically political and administrative competences (like United Nations, EU, etc.) and others which have economic and financial competencies, but somewhat indirectly also very political influence (like IMF, WTO, Central Banks and even rating agencies). These latter are joined also by multinational corporations, lobbies and so by private financial capital.<sup>11</sup> In this context, political decision-making processes are necessary influenced by each part’s own interest. For a long time, *government*, in its classic political sense, had to open the path to *Governance*. Such practice indicates a structural multi-level decision-making mechanism, which assumes a “plural connection” (and often competition) of interests as its proper field of action, naively, like something given, that is in turn steadily crossed by a restless movement

## 1. Crisis and Governance

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of *Political. Translation, Introduction and Notes* by George Schwab With Comments on Schmitt’s Essay by Leo Strauss. Rutgers University Press, New Jersey, 1976.

5 Sassen S. *A Massive Loss of Habitat. New Drivers for Migration*. *Sociology of Development*, Vol. 2, Number 2, University of California, 2016, pp. 205-210.

6 Sassen S. *A Massive Loss of Habitat. New Drivers for Migration*. *Sociology of Development*, Vol. 2, Number 2, University of California, 2016, pp. 223-224.

7 Ivi

8 See above.

9 See: Chignola S., & Mezzadra S. *Fuori dalla pura politica. Laboratori globali della soggettività*. In: *Filosofia Politica*, Il Mulino, Bologna, 2012, pp. 18-19.

10 Chignola S. *In the Shadow of the State. Governance, Governamentalità, Governo*. In: Fiaschi G. *Governance: oltre lo Stato?*, Soveria Mannelli, Rubbettino, 2008, pp. 1-6. See also: Chignola S., & Mezzadra S. *Fuori dalla pura politica. Laboratori globali della soggettività*. In: *Filosofia Politica*, Il Mulino, Bologna, 2012, pp. 66-67.

11 Ivi. See also: Sassen S. *Regulating Immigration in a Global Age: A New Policy Landscape*. Parallax, Rutledge, Taylor and Francis Group Ltd, 2005.

composed by countless flows of capitals, goods and, of course, people. The “vertical” process of decision-making, that was typical of the old National States’ logic and political praxis has been replaced. Before, the decision-making process was articulated on the double binary movement between “government” and “governed”, in terms of a more or less explicit “popular-electoral warrant” from the “governed” in order to justify the executive decision taken by the “government”, made upon the classical juristic “contractual fiction”, whose other side was the obligation, for the latter, to obey to the former. Today, the governance assumes instead the structural “ungovernability” of individual and collective subjects who should be governed, which is the main character of contemporary neo-liberal democracies. In fact, if neo-liberal capitalistic system needs a “free-subjectivity” field in order to make possible a free game of action for free agents, from which derives the necessity of a free capital and human mobility, democracy, which is political other-side, needs in turn to assume the always current and immanent possibility of resistance by whom should be governed.<sup>12</sup> Neo-liberal Democracy assumes structurally this “risk”, so that it makes use of governance as a technique in order to shift the decision-making axis from the vertical to the horizontal and elliptical level, within which the same decision is made-up on a perennial negotiation between parts and “stakeholders”<sup>13</sup>, each of them, then, contributes to it.

The above mentioned shift implies also a direct consequence, in terms of relevance, from politics as the field of decision-making based on sovereignty of the traditional State to policy, which, instead of being a mere instrument of the first, becomes so the extremely relevant element of the frame. In fact, “policies” in neo-liberal democracies have to be built on that aforementioned continuous negotiation; a negotiation that is grounded essentially on the capacity, from each part-in-question, to ensure efficiency<sup>14</sup>, i.e. on their credibility: on the trust and the credit they inspire to their partnerships.<sup>15</sup>

In short, Neo-liberalism inner logic, which innervate the same weave of contemporary western liberal democracies, produces a significant shift from politics as the field of the rule of Sovereignty to policy as the field of the rule of the management, or - as it was - from the *Herrschaft* to the *Verwaltung*.<sup>16</sup> This latter assumes as structural the “unavailability” of subjects as mark of their essential “ungovernability”, exactly because they are, as they shall be, free-subjects.<sup>17</sup> Yet, “free-subjectivity” is not something given for this political, economic and policy-maker power. Inasmuch it needs it to its mechanism’s functioning, it also has to produce it. Or better, this latter is assumed by the aforementioned “management” as something given, i.e., it works so that it could always be available for its punctual, actual exercise.<sup>18</sup> Free human mobility pertains exactly to this logic. But, if in principle all human being are, or should be,

12 Cfr. Chignola S., & Mezzadra S. *Fuori dalla pura politica. Laboratori globali della soggettività*. In: *Filosofia Politica*, Il Mulino, Bologna, 2012, pp. 68-69.

13 Cfr. Chignola S. *In the Shadow of the State. Governance, Governamentalità, Governo*. in Fiaschi G. *Governance: oltre lo Stato?*, Soveria Mannelli, Rubbettino, 2008, pp. 11-12.

14 Cfr. Chignola S. *In the Shadow of the State. Governance, Governamentalità, Governo*. in Fiaschi G. *Governance: oltre lo Stato?*, Soveria Mannelli, Rubbettino, 2008, p. 10.

15 About a very interesting semantic analysis of terms like “trust” and “credit” in relation to the financial market, see: Derrida J. *Du sans prix, ou le juste prix de la transaction*. In: *Comment penser L’ARGENT*, de Roger-Pol Droit, Le Monde Editions, Paris, 1992. German Translation: Derrida J. *Über das Preislose. Oder the price ist right in der Transaktion*. B-Books, Berlin, 1999.

16 Cfr. Chignola S. *In the Shadow of the State. Governance, Governamentalità, Governo*. in Fiaschi G. *Governance: oltre lo Stato?*, Soveria Mannelli, Rubbettino, 2008, pp. 4-6.

17 Cfr. Chignola S. *In the Shadow of the State. Governance, Governamentalità, Governo*. in Fiaschi G. *Governance: oltre lo Stato?*, Soveria Mannelli, Rubbettino, 2008, pp. 16-18.

18 Cfr. Chignola S. *In the Shadow of the State. Governance, Governamentalità, Governo*. in Fiaschi G. *Governance: oltre lo Stato?*, Soveria Mannelli, Rubbettino, 2008, p. 17.

able to move free across the globe, in concrete it doesn't happen as they can't be assumed as all equal, particularly in connection to the necessity, from the side of the aforementioned "management", to make them able to act as free and as productive, i.e., to put them to work.<sup>19</sup>

Among different migration flows across the world, a significant diversification through the most recent sociological studies has been noticed, in particular for what concerns labor migration and immigration to western countries or in general to advanced-capitalistic countries. It has been observed first of all a difference between flows of people moving outside their countries of origin in order to reach better economic-employment conditions and people leaving to escape extreme life conditions, in order to survive.<sup>20</sup> Another differentiation overwrites itself yet to this latter: most of the people in search for a better employment or a better education are those considered, statistically speaking, "high-skilled" or "high-educated" people. Instead, most of the people escaping from extreme conditions would be included in a "low-skilled" or "low-educated" level ensemble.<sup>21</sup> This without any regard to the fact that many of these latter could have had a good educational level or a high-level employment before being forced to leave their countries. According to these data, it seems that the aforementioned neo-liberal political multi-level governance operates through a "management of migrant subjects", a skimming between those subjects who can efficiently be put to work, according to market's needs, and those subjects who instead cannot be put efficiently to work, according to the same criteria. This differentiation has as its immediate result that of a re-inscription, in terms of job-eligibility, of classic canons concerning racialization and gender-discrimination in first place, translating them in the very same time in a class-discrimination logic.<sup>22</sup> In accordance with this very logic, these people would do unconditionally most of the — considered as such — degrading jobs, or —at least — would probably be unemployed in arrival countries. This further social degradation would then probably lead them to crime and/or radicalization, making them a potential "danger" for society. The aforementioned structural "anxiety" of neo-liberal societies would be "exorcised" by making those people a "scapegoat" for political claims of "security", which are just very "popular" in today's *populist* political discourse.<sup>23</sup> In order to respond to this demand, the policy-making governance would make space also to a *police-making* governance.<sup>24</sup> This is translated immediately in another form of "anxiety", i.e. that of "control", which probably is the wellspring of the proliferation across the world of discourses, and of course practices, about more or less new boundaries and *borders*. Paradoxically enough, the globalized global-society, field of action for the contemporary neo-liberal advanced capitalism, which needs essentially, as mentioned above, an at least theoretically "universal freedom of movement", is nowadays prey of a fresh outbreak regarding a rhetoric about borders. Here, the multi-level governance looks like making space for national States in order to define a security policy, according to which each State could -or at least acting like they could - carve out his margin of action.<sup>25</sup> But also in this last case, the

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19 Cfr. Chignola S., & Sacchetto D. *Le reti del valore. Migrazioni, produzione e governo della crisi*. DeriveApprodi, 2017. pp. 5-11.

20 Sassen S. *A Massive Loss of Habitat. New Drivers for Migration*. Sociology of Development, Vol. 2, Number 2, University of California, 2016, pp. 223-224.

21 Chignola S., & Sacchetto D. *Le reti del valore. Migrazioni, produzione e governo della crisi*. DeriveApprodi, 2017 pp. 7-10.

22 Ivi

23 See: V.V. A.A. *Il pretesto populista. Appunti del lavoro seminariale svolto dal collettivo di redazione dell'Archivio Luciano Ferrari Bravo*. <http://www.archiviolfb.eu/>

24 Cfr. Chignola S. *In the Shadow of the State. Governance, Governamentalità, Governo*. in Fiaschi G. *Governance: oltre lo Stato?*, Soveria Mannelli, Rubbettino, 2008 ,p. 70.

25 Cfr. Chignola S. *In the Shadow of the State. Governance, Governamentalità, Governo*. in Fiaschi G. *Governance: oltre lo Stato?*,



ambiguity is rather evident: in spite of this widespread rhetorical outbreak, the global policy-making governance defines anyway its spaces, cutting out them even inside of the so called “natural” National States’ borders. In fact, it creates rather new spaces with new borders inside which it tries to govern also migration phenomena by inscribing it in sorts of “free zones” or even “enclaves” inside States’ borders, in which the absence, or better the suspension of the mainstream policy-making, especially concerning human rights, makes space for a very concrete *police*-making, under the claim of the “emergency”.<sup>26</sup> National States obviously, and especially for what concerns possible exceptional measures justified by “emergency-cases”, are not simply abdicating to their demand for sovereignty. They are rather trying to re- inscribe this latter in these new governance-logics, again by constantly negotiating their spaces for action with that aforementioned plurality of partners/competitors.<sup>27</sup> In that sense, by a broader understanding of the global governance-phenomenon, they act both as receptacles for global-policies and as the most important “performers” about these latter.<sup>28</sup> From this point of view, National States are very far from being simply expropriated of their decision capacity.

**3. Conclusion:  
beyond Security**

Apart from these considerations about neo-liberal policy — and *police* — making governance, but essentially belonging to its very logic, is the aforementioned question about whom, beyond what, should be in this way governed. Governing global risk, global anxiety and global demand of security means immediately governing also the “scared” people, and the “scary” people. Due to several reasons, immigrants are perceived as the latter from the first group. As underlined above, they are currently “scapegoats”<sup>29</sup> on which fear and request for security are projected on. But apart from this, or rather, maybe just for this, they represent quintessentially the *ungovernable*<sup>30</sup> that neo-liberal democracies assume as structurally inherent their field of action, for they essentially and constantly exceed their inner logic. Starting from their own *bodies*, and the disciplining of their bodies that the government of their lives, inside the broader frame government of emergence and fear, requires, they embody exactly that absolute resistance to the act of governing.<sup>31</sup> Discourses and practices of *subjection*, to which they’re restlessly exposed to, produce immediately a resistance to them that takes the form of an absolute act of *subjectivation*.<sup>32</sup> They are not rude available material for policies and polices, nor for political rhetoric; they are essentially what is unavailable to them: they *act* and *live* like *living bodies*.<sup>33</sup> The recent facts from Cona Temporary Stay Center, just as an example, show unequivocally this pure fact: i.e. a group of immigrants has taken a voice, has marched through Padua and Venice and has confronted directly, basically without any mediation, with local and national institutions.<sup>34</sup> By the sole act of free-willingly

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Soveria Mannelli, Rubbettino, 2008, 9-10. See also: Sassen S. *Regulating Immigration in a Global Age: A New Policy Landscape*. Parallax, Routledge, Taylor and Francis Group Ltd, 2005. pp. 37-39, and, Chignola S., & Mezzadra S. *Fuori dalla pura politica. Laboratori globali della soggettività*. In: *Filosofia Politica*, Il Mulino, Bologna, 2012, pp. 79-81.

<sup>26</sup> Ivi

<sup>27</sup> See above.

<sup>28</sup> See above, and in particular footnote 25.

<sup>29</sup> See above.

<sup>30</sup> See above.

<sup>31</sup> See above. For a very interesting analysis about *Body and Resistance*, see, among several others: Onfray M. *Politique du rebelle*. Grasset, Paris, 2017. Italian Translation: Onfray M. *La politica del ribelle*. Fazi, 2008.

<sup>32</sup> Cfr. Chignola S. *In the Shadow of the State. Governance, Governamentalità, Governo*. In: Fiaschi G. *Governance: oltre lo Stato?*, Soveria Mannelli, Rubbettino, 2008, pp. 14-19. About the topic, among Michel Foucault’s endless production, see in particular: Foucault M. *Il faut défendre la société*. Hautes Etudes, Seuil-Gallimard, Paris, 1997. Italian Translation: Foucault M. *Bisogna difendere la società*. Feltrinelli, Milano, 2010.

<sup>33</sup> Cfr. Onfray M. *Politique du rebelle*. Grasset, Paris, 2017. Italian Translation: Onfray M. *La politica del ribelle*. Fazi, 2008.

<sup>34</sup> Cfr. Della Rosa A., & Tabar O. F. *Cronache da una fuga costituente. Ovvero come cinquanta richiedenti protezione*

moving and speaking out loud, those people have ripped the weave of both pure politics and governance.<sup>35</sup> This is not only the evidence about their absolute resistance, it is also the signal of what they primary want: not only survive, but *act like human beings*, and so they demand directly for *political agency*.

Beyond security, there is what security-policies cannot for a long time hide, i.e. the basic fact that human beings as such are essentially unavailable to be simply governed. Two facts are indeed clear, that people ask increasingly for a more direct participation in what concerns their primary interest, their *lives*, and that the demarcation line between governing rulers and governed is never net, and cannot so be taken as something given and obvious.<sup>36</sup>

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<sup>35</sup> Cfr. Chignola S. *In the Shadow of the State. Governance, Governamentalità, Governo*. In Fiaschi G. *Governance: oltre lo Stato?*, Soveria Mannelli, Rubbettino, 2008, pp. 20-21. See also: Chignola S., & Mezzadra S. *Fuori dalla pura politica. Laboratori globali della soggettività*. In: *Filosofia Politica*, Il Mulino, Bologna, 2012, pp. 68-71.

<sup>36</sup> Ivi.



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# VULNERABILITY, RESPONSIBILITIES, AND MIGRATION

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## *abstract*

*Vulnerability is commonly considered as a feature of human beings on which our duties towards each other are grounded: we ought to help the vulnerable in virtue of their being such. Our duties seem rather clear when those in need are close to us, both physically and culturally, but less so when they are distant in either of the two senses. In this essay we wish to investigate the strength of our duties towards migrants, who are often either culturally or physically distant, yet vulnerable by definition – fleeing from wars, dictatorships, poverty, climate change, or other calamities. The view we aim to defend, is that our duties towards them, unlike what has been suggested by David Miller, are duties of justice, not of beneficence, and involve duties to host. This, we claim, is owed to migrants' very vulnerability, which is not due to some kind of misfortune, but, eventually, to some form of injustice. We will also claim that taking into account migrants' own responsibility, either as individuals or as members of a collectivity, is of no practical use when establishing our duties to host them.*

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## *keywords*

*vulnerability, responsibility, migration, justice*

### 1. The concept of vulnerability

In his almost universally acclaimed *The Concept of Law*, philosopher of law Herbert Hart investigates, among other things, what law and morals have in common, that he calls “the minimum content of natural law”. He grounds such content on some very fundamental human characters, the first of which, Hart claims, is human vulnerability. Law and morality share one main goal: the protection of human life, attainable through the mandatory restriction of the use of violence, since, in the words of Hart, “men are both occasionally prone to, and normally vulnerable to, bodily attack” (Hart, 1961, pp. 193-194). Without this general rule, no other would make any sense. This is why the first and most important norm, of both law and morals, is the one that prescribes not to kill.

Human beings are vulnerable, and such vulnerability requires protection. Vulnerability is not only physical though. Violence, hunger and diseases might threaten bodily integrity, but there are other evils, as Simone Weil notice, that can do just as much damage. Humans are also *morally* vulnerable, she claims, and there are forms of cruelty that can damage human life just as much as physical violence do. Moral and physical vulnerability is, to Weil, what grounds our duties – duties that she describes as eternal, unconditioned by culture or social customs, and not grounded on special conventions (Weil, 1990, p. 3). To Weil, protecting people acknowledging this double form of vulnerability is a duty that we all have towards each other. According to sociologist Bryan Turner, vulnerability, being a universal and undeniable feature of human beings, is also what grounds human rights. People in the world have different cultures, religions, concepts of happiness, “but misery is common and uniform” (Turner, 2008, p. 9). Vulnerability makes humans dependent upon each other, as no one can respond to her vulnerability in isolation (Turner, 2008, p. 10); reducing vulnerability and attaining security is the reason why social institutions are created (Turner, 2008, p. 28). And the list of thinkers who have reasoned on human vulnerability and its implications could go on and on, and back in the centuries as well (just to mention one: Shachar, 2000).

From what has been said so far, we can argue that the aim of both law and rights is to some extent to protect individuals, especially with regard to their vulnerability, and that such vulnerability implies duties, for both institutions and individuals. Practically all moral theorists, whether deontologists, consequentialists or virtue ethicists would agree that we have duties towards each other, and that we have such duties when we can make a difference on their suffering; when we are not sure whether we actually can; and in some occasions even when we cannot (much has been written of such topics: see Parfit, 1984 as one of many). The extent of such duties is what needs to be examined.

When we see someone suffering or someone at risk of harm, we have some sort of duty towards her. Such duty is not supererogatory, but rather mandatory, and we have strong moral intuitions about the strength of it. We can recollect multiple examples made by philosophers recently and less recently: think of Peter Singer's child at risk of drowning in a pond (Singer, 1972); or Peter Unger's multiple examples of people in need that can be rescued by our intervention (Unger, 1996), just to mention a few.

The fact of "seeing" someone suffering and to perceive directly her harm, it will be said, adds a particular strength on our duty, if we happen to be there. However, we must acknowledge that, if we change significantly the contextual variables, the perception of our duties changes accordingly; and perhaps not only the perception of them, but our duties as well. We could, for example, not directly see, but learn to know about not one, but a hundred people at risk of harm. Assuming we can help them anyway, the cost for us may be significant, even if not comparable to their suffering. People can be very distant from us, not only physically, but also culturally, for example embracing some political ideals, or religious beliefs we do not share at all. Does this change our duties towards them? (on duties related to distance: see R. Miller, 2004)

In this paper we wish to investigate our duties towards those vulnerable people who are "distant" - and not necessarily physically. Those are people to whom, traditionally, we think we owe less, in so far as they are not our fellow citizens (on the special responsibility towards the members of our community: see D. Miller, 2007; Wellman, 2005; Walzer, 1983; Hart, 1955); they are often culturally different from us (sometimes not even sharing some of our basic democratic beliefs, such as gender equality or freedom of religion); and in so far as we are not the primary duty-bearers of their human rights (at least for what concerns "positive rights", following most theories of human rights' related duties - see for example O'Neill 1996; 2005). We wish, in brief, to establish the extent of our duties towards migrants.

Since we claim that we have duties towards migrants in so far as they are vulnerable, we need to analyze in depth some characteristic of the condition of migrants themselves, as to be sure that they can be defined vulnerable in a sense that demands the help of others not as a matter of beneficence, but rather as a matter of justice. To do so, we need to clear the field from the claim that migrants' own responsibility in their urge to migrate influences, and in some cases weakens, our duties towards them (a point made by David Miller in the name of collective responsibility). We will argue, instead, that in the case of migrations, it is too difficult, if not impossible, to isolate injustice (whether present or past) from migrants' responsibility in causing the state of affairs that lead them to leave their countries. Even if the idea of taking into account migrants' own responsibility is indeed appealing, as it seems as a fair criterion on which duties towards migrants can be assigned, we claim that in the case of migration it is of practically no use.

In the introduction of his book *National Responsibility and Global Justice*, Miller, reflecting upon the suffering of the victims of famines in Africa, of war in the Middle East and of migrants trying to reach Europe, makes an interesting point. On the one hand, he observes, we are inclined to see them as victims, as vulnerable human beings who have suffered harm, therefore in need of help we have obligations to provide. On the other, we also see them as agents, thus responsible for their actions and their lives, who should, as we all do, enjoy the benefits deriving upon their success, and bear the burdens of eventual failure without imposing its costs on others. If we wish to defend the position that we hold duties out of justice considerations, we cannot avoid regarding people (even suffering people) not only as victims, but also as agents. Such people might have had, for example, the chance to improve their condition and not have caught it, or might have not made good use of their opportunities, or

## **2. Miller's account on (migrants') responsibility**

acted in a way that was supposed to damage others and ended up in self-damage as well. What does (global) justice require us to do in these cases? The answer is, according to Miller, less than obvious, and requires some further thinking (Miller, 2007, pp. 5-6).

Miller argues that everyone is *outcome responsible* for her own situation when her current condition is produced by her own agency, and no other major factor or previous state of affairs can be blamed (or praised) for it. Outcome responsibility is different from causal responsibility, which considers individual agency as one of, possibly, many other causes, and which include also non-intentional actions performed by the subject. It is also different from moral responsibility, which is concerned with the moral intentions of the subject rather than with the state of affairs produced (Miller, 2007, pp. 86-96).

*Remedial responsibility* begins, instead, once the state of affairs has already been produced and needs remedy. Remedial responsibility is what we will appeal to for motivating our duties to help the vulnerable or the suffering; leaving momentarily aside whether those in need are outcome responsible for their own situation, Miller claims that there is remedial responsibility to help victims of accidents, famines, wars, natural disasters, and so on. Such responsibilities need to be allocated through some reasonable criterion that identifies someone who holds some special role in the situation, otherwise, and especially when multiple agents are in the position to intervene, their needs risk to be unmet (Miller, 2007, pp. 98-99).

What if, though, agents are in fact themselves outcome responsible for their being in need? Miller argues that, together with individual responsibility, also collective responsibility must be considered. As members of a society, people are responsible of the decisions of the government they voted for, therefore can be held collectively (outcome) responsible for the wrong choices taken by their own governments (Miller refers to this as *national responsibility* - the whole chapter 5 is dedicated to defend this view). This means that if citizens of a state are in need because of their government's disastrous policy, remedial responsibility of other countries to provide help fall in the domain of beneficence. When we need to allocate remedial responsibilities towards the world's poor, indeed, we cannot simply and by default assign such responsibility to rich countries, claims Miller. If poor countries are outcome responsible for their own condition, then rich countries will still have duties towards them, as Miller does not discuss the fact that we do owe something to who is suffering. But such duties will not be duties of justice, they will rather be *humanitarian* duties: less strong, implying a more careful reasoning on the costs it implies for those who help (Miller, 2007, pp. 247-248). It seems obvious that such duties will not include a duty to host migrants, as hospitality implies very high costs on host-countries, and according to Miller is to be reserved to special cases (Miller, 2007, pp. 214-221).

**3. The controversial notion of "national responsibility" and its implications**

We will sketch two different arguments to challenge Miller's position. First, we will show that Miller's concept of national responsibility, conceived as a form of collective responsibility of all individuals belonging to a country, ends up attributing a too heavy burden on them. This has, as a consequence, an unjust allocation of remedial responsibilities. Secondly, we will claim that *injustice* is in most cases involved, when it comes to the world's worst off countries: it is practically impossible to exclude rich countries from outcome responsibility. Therefore, when it comes to (remedial) responsibility towards migrants, the idea that in some cases only humanitarian duties are owed, is at least controversial.

As concerns the first point: Miller's claim about national responsibility is that "people who make up a nation may sometimes properly be held liable for what their nation has done" (Miller, 2007, p. 113). For proving that, Miller shows i) how collective groups can be held responsible for what they do, in such a way that individual members of the collectivity are responsible; ii) how nations' features allow to apply to them the general analysis of

collective responsibility (*ibidem*). Collectivities might be like-minded, and thus share a group responsibility for what the group, together, does: a mob might take place and cause several damages to cars, streets, houses. Single individuals taking part in it may have caused different kinds of damages, or no damage at all: but they all shared a “general attitude”, and since individual responsibility may or may not be possibly allocated, they can be held responsible as a group (Miller, 2007, p. 115). Something similar can be said for people belonging to a community, such as American Southern whites: some of them might have disapproved racism, but shared with their community the responsibility for what was done to the blacks (Miller, 2007, p. 118).

The problems of collective responsibility, in the sense Miller intends it, arise, for his own admission, when we want to establish how members can escape from collective responsibility for what their group did. Inaction or voicing dissent are, to him, not enough. Miller has to admit that “it is difficult to say anything more precise than that he or she must take all reasonable steps to prevent the outcome occurring” (Miller, 2007, p. 121). An important element, though, belongs to individuals who take part in groups (even when they happen to dissent) and is part of the reason why we hold them collectively responsible: they *voluntarily* took part in such groups. This is a problem when Miller wants to make an analogy with people belonging to nations and, *as such*, consider them collectively responsible. Members of national state never chose to be part of it. But according to Miller, members of a same state share a common identity and a public culture, therefore are somewhat similar to like-minded groups (Miller, 2007, p. 127), and if the governments are democratic, there can be said to be collective responsibility falling on each individual member (Miller, 2007, p. 128). In case of autocracy, or elite-government, responsibilities of citizens for wrong or unjust governmental policies are more difficult to attribute: we can assume the duty to resist to an authoritarian sovereign, but even resistance has limits (of personal costs, feasibility, etc.). In such cases, Miller admits, the extent of individual responsibility for collective choice is controversial (Miller, 2007, p. 129). But in general, for democratic states, “we are not wrong to hold contemporary fellow-nationals responsible for actions performed in their name” (Miller, 2007, p. 134).

Miller’s arguments seem plausible, if one did not consider the implications they bring about in the case of migrants. It seems that individuals who belong to countries who are somewhat responsible for their own misfortune (such as poverty) are, individually, less entitled to receive help. Since there is no precise way to dissociate from membership, although Miller considers the right to associate and dissociate as a genuine human right (Miller, 2007, pp. 209-213), it does not seem right to infer that, in absence of such genuine right, people may be held responsible anyways for what a collectivity they might strongly disagree with is *outcome* responsible for. This is particularly apparent when considering would-be immigrants: it is impossible to allocate individuals’ role in the collectivity who is outcome responsible for the state of need that forced them to migrate.<sup>1</sup> Should we consider, then, all individuals equally responsible and deny them hospitality *in so far as* they are member of such nation?

One last point needs to be made on individual responsibility and its role in determining how much help, or in the case of migrants, hospitality one is entitled to, in order to clear some possible ambiguity. When individuals are guilty of some previous crimes, they are legitimately excluded from admission (Carens, 2013). This is valid for collective crimes too (such as being

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<sup>1</sup> We could still imagine border police investigating not only about immigrants’ electoral choices, but also on their level of political information, general education, ability to reasonably foresee the consequences of their vote, and after that establish if they be held outcome responsible and thus not entitled to admission. Even if this was possible (and we doubt it is), it would raise questions of fairness.



members of terroristic associations). Individual culpability can indeed – and justly – preclude the access to further rights. What we disagree with, instead, is to consider state membership a case of individual responsibility in a collective choice that brings about undesirable state of affairs. This looks particularly wrong when implying the preclusion of hospitality to migrants. And even if individuals indeed made wrong political choices and freely and willingly support corrupted governments who destroy their countries, their own responsibility is way too little (recall Parfit on individual responsibility for contribution to vote, Parfit, 1984), while what is denied to them is disproportionately important, and in many cases crucial for survival. Finally, as Raz has observed, vulnerability stems also from lack of political agency. People can be rightly considered autonomous when they can exercise their agency without coercion, having a sufficient number of alternatives among which to choose (Raz, 1986). What if such agency is compromised?

**4. Duties of beneficence vs. duties of justice**

As concerns the second point, we claim that what is owed to migrants is due to their condition of vulnerability, which is in turn due to some form of previous injustice, and that this is what grounds duties to host, and not some generic duties of beneficence.

In order to clear the field from possible doubts, we do not maintain that the right to migrate is somewhat connected to a maximalist interpretation of human rights such as one that would claim that all people are entitled to “the best option available” in terms of rights met (following O’Neill, 2005). First, as a matter of political realism, we acknowledge that there are serious issues of feasibility that need to be taken into account. Although we do not adopt Walzer’s view according to which special obligations towards our fellow citizens are of such strength that allow to deny admission to our own country (Walzer, 1983, pp. 34-35), we think, with Horton, that membership still creates one form of political obligation, that is to be balanced by other forms of obligation, such as moral obligations towards humankind (Horton, 1989, pp. 186-188). We have duties to help and host migrants, but there are duties towards fellow citizens as well, and when those duties happen to conflict, some sort of balance needs to be found.

When it comes to migrants, the kind of vulnerability that requires countries to host has to be defined carefully. Duties of justice require to help the worst off, but many authors would suggest that people can be better helped in their own country, through repatriation. And it is indeed true that helping people “at home” is a more sustainable strategy; and when possible it is preferable for both parts involved (rich democracies and migrants themselves, who do not need to leave their home). Furthermore, it is what contributes to permanently improve life conditions in a way that would allow people to live better lives without need to escape (see, among others, Nida-Rümelin, 2018). This has to be specified, in order to define who, instead, cannot be helped “at home” and needs to be hosted abroad.

We could accept therefore to restrict duties to host just to those whose situation cannot be successfully improved at home: those fleeing from wars, from governments who violate civil and political human rights (for which, unlike for social and economic rights, foreign intervention cannot do much), of course from all cases included in the *Geneva Refugee Convention* and in general from countries whose political situation is so deteriorated that people lack access to even very basic rights. This could be the case of countries such as Eritrea, whose political regime does not allow for any kind of individual freedom, and which is closed to any kind of foreign intervention (even NGOs, let alone UN organizations, are banned from it). And a special place ought to be reserved for climate migrants whose life conditions in their home countries are rapidly worsening, such that in a few decades human life could even not be possible anymore (this is the case of many Pacific islands, of some of the Maldives, etc.). In some cases there is still space for help “at home”: if the environmental risk is restricted, we

can suppose that, as far as a country is made more resilient through some external help, it can be able to avoid migration as adaptation measure to climate change. But where people's life is at stake and no help is possible, migration is the only available choice, and duties to host are therefore duties of justice. Furthermore, the case of climate migrants can help showing why it is inappropriate to frame duties of acceptance as based on individual or collective responsibilities: climate migrants are collectively responsible of climate change (as they are indeed part of those people who do enjoy to some extent the benefits of industrialization - as we all do). Do we owe them any less because of this co-responsibility? Certainly not: what we owe them, is due to other factors, such as their vulnerability (see Pongiglione, Sala, 2018). Furthermore, it has to be noted that repatriating people is in most cases an unfeasible, and extremely expensive, strategy, and is not equivalent to help people who have never left their own countries. Since we are talking about migrants, who are by definition those who have already left their home countries, our duties have to be thought of considering the fact that those people are already away from home (thus the option of helping them "at home" is not available). Once it is clear who are the migrants whose vulnerability requires international hospitality, we have to define according to which principles we have a duty of justice in this sense (and not just "humanitarian" duties, or mere beneficence).

As we have seen, being "innocent" in the sense of not being directly, indirectly or collectively outcome responsible for the state of affairs that led to migration is irrelevant in establishing why we have duties towards migrants. What is instead relevant, is that what makes forced migrants so vulnerable is in most cases not a simple "misfortune" for being born in the wrong part of the world, but also a previous history of injustice. And this because misfortune is not simply misfortune, if by it we mean that we cannot but resign to it, perhaps uncomfortably. Following Shklar (1990), we incline to see injustice rather than misfortune in such afflictions of vulnerable people. Helping them is not a matter of philanthropy, but it is a matter of justice. What is at stake is a sort of change in thinking: if we remember - Shklar suggests - that we are all potential victims, we should start seeing injustice as an independent experience, i.e. irreducible to a lack of justice. Injustice has indeed a specific moral status, that asks for a deeper investigation (Shklar, 1999, pp. 15-19). Moral foundations give strength to this psychological argument: suffice to remind of the Kantian lesson of the *Perpetual Peace* (Kant, 1795).

According to Kant, a stranger has a right not to be treated as an enemy when he arrives in the land of another. It is not a request for beneficence; on the contrary, it is properly a right. A stranger has a right of temporary sojourn, which all people have "by virtue of their common possession of the surface of the earth, where, as a globe, they cannot infinitely disperse and hence must finally tolerate the presence of each other" (Kant, 1795, Sec. 2, § 15). Of course, the Kantian thesis cannot naively be "translated" into a cosmopolitan outlook. We would correct the naiveties of the Kantian theory of global justice maybe by indicating how features of the lived experience of migrants may create new "associative" moral obligations within states; and explaining how the absence of "transnational" political rights exposes migrants to domination (see to this purpose Zavediuik, 2014, or Shachar, 2009).

Said that, let us emphasize the idea of misfortune as a face of injustice. In some case, misfortune must be called by its name, and this name is injustice. People are not ready to recognize injustice, and they prefer to call it misfortune in order not to assume their responsibility - at least co-responsibility for what happens to a lot of people. Be the victims responsible or not, it does not absolve us from our own responsibility to compensate histories of disadvantage or even exploitation. On the border between misfortune and injustice, we must deal with the victim as best we can, without insisting on which side her case falls (Shklar, 1990, p. 55).

In the end, we believe that a refusal to face up the injustice is neither realistic nor fair: it may be comfortable to elude the nature of injustice of many misfortunes and to see injustice as the

denial of justice as a theory may depict. This clear-cut way of reasoning may be of a comfort because we strongly need to believe in a just world (also in a just social order) in which people should get what they deserve. In a way, we feel sympathetic with what Krause writes about political theory: our judgements of good and bad, right and wrong, are also a function of feelings as much as intellectual understanding (Krause, 2008, p. 4). We should understand of course when those feelings may be incorporated into a deliberative process, how far such kind of concern should reach. But the core idea is that a deliberative process should include perceiving the original connections between our obligation and the things we care about both as citizens and as human beings (Krause, 2008, p. 158).

In appealing to feelings, we are not interested in challenging any theory of justice: we only want to take injustice seriously and focus on it as linked to vulnerability being a common human experience, caused by the moral arbitrariness of luck. Vulnerability is indeed a trait of being human: it depends on the contingencies of human life, in which nothing can be said to be certain or immutable (Nussbaum, 2007, p. 382). To capitulate to the inevitability of misfortune or to unpredictability of luck is the first and more severe way of treating others unfairly, as we are condemning them to a career of helpless victims.

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# THE METAMORPHOSIS OF ALIENS INTO POLITICAL AGENTS\*

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## *abstract*

*Considering being political not as a status, but rather as an act that demands both capacity and action as its necessary conditions, I see being a political agent not as a permanent condition, but rather in a twofold dimension of potentiality and actuality. Moreover, I contend that the right to vote is not a necessary, nor a sufficient condition for being a political actor, although such a right can enhance our possibilities of having a say, augmenting one's degree of political agency. This means that those individuals who are deprived of the right to vote, undocumented migrants in particular, can nonetheless be political agents in the polity. Indeed, notwithstanding the importance attached to the right to vote and to citizenship as fundamental for political participation, I claim that undocumented migrants are political although lacking the legal voting means of participation. Although much of the debate around migrants' political participation has centred around the extension of the right to vote to migrants, there are in fact other rights that require attention. Moreover, even if we consider the right to vote as essential to protect people from abuses granting them a say within the polity, the arguments that have been proposed fail when it comes to recognize the rights and the political agency of undocumented migrants. In my understanding, migrants become political agents by their very same acting in the city, deserving to be heard and let free to express themselves in voicing their claims as subjects of justice, autonomous individuals, final units of our moral concern.*

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## *keywords*

*migration, political participation, human rights, cosmopolitanism*

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Much of the philosophical debate on migrants' agency revolves around granting migrants political rights, intended, for the most part, as voting rights. Such a debate, I believe, starts from the assumption that being a full political agent is necessary to be considered as an equal participant to the polity and protected by the state, which, in turn, would require voting rights. On the contrary, what I want to argue in this paper is that the possibility of being political and so be recognized as a legitimate rights claimant, does not necessarily depend on having voting rights, but rather on a different set of rights and conditions. Considering being political not as a status, but as an act that demands both capacity and action as its necessary conditions, I see being a political agent not as a permanent status, but in a twofold dimension of potentiality and actuality. In such a framework, I contend that the right to vote is not a necessary, nor a sufficient condition for being a political actor, although such a right may enhance one's possibilities of having a say, augmenting one's *degree* of political agency.

What is fundamental is instead having been granted the right to public appearance and public speech, which implies that the state has to refrain from interfering with acts of public appearance even of those individuals who happen to be *sans-papiers*.

Indeed, notwithstanding the importance attached to the right to vote considered fundamental for political participation, often discussed in the broader context of the enlargement of citizenship, I claim that undocumented migrants ought to be recognized as political subjects although lacking the legal voting means of participation.

### 1. Being Political

The idea of the political derives from the polis as the locus where citizens raised their concerns and discussed issues pertaining the community. The polis was the city as the political, cultural and social centre, it was the physical arena of debate. Acting required debate, most importantly interaction with others, equally part of the decision-making assembly (Arendt, 1963) which had to decide about how to promote the common good and what counted as such. Those, whose knowledge or virtue rendered highly respectable were *primi inter pares*. Still, only some could participate, those who were actually citizens, women and foreigners were excluded from the debate and treated as objects as opposed to subjects of justice. Given the above we can then wonder what it means to be political today, so to better understand who can be political and how to be political.

I do believe that being political implies having both the capacity to act *and* exercise such a capacity by actively participating in the political life of the community one lives in. Generally

speaking, to have a capacity to act means to have the intellectual means to grasp simple and basic concepts, being able to distinguish right from wrong, to have a sense of justice (cf. Rawls, 1999) and understand one's plan of life in the broader context of the community one lives in. Agency in its *political* dimension, requires the capacity and possibility to appear in the public space, exercising the capacity to communicate with others, promoting a particular vision of society, engaging in debates about the public good where one is capable of giving reasons that can be understood by the counterparts. Acting politically entails questioning the power structure and the organisation of the polis and the kind of distributions of resources and rights that happen in it. Political agency as exercise thus implies taking part in those processes that constitute decision-making moments or that set the future debate, triggering questions, doubts and criticisms with regard to how certain resources – goods and rights – are to be shared. In particular, political deliberation concerns how and when state intervention is required, which ones, of the obligations individuals have to each other, have to be backed by legal decisions. The question at the core of the political debate is what the state owes to us and vice-versa, what we owe to the state. A political action or discourse, to be political, has to question the permissibility of certain actions, the rights and duties we have towards the state as the intermediary between us and the others, and the limits of state actions themselves. This requires having access to spaces of debate and be part of a community whose interests are taken into consideration. The act to debate such political matters might include, but is not restricted to, voting, organising public debates and Q&A with government representatives, organising petitions and so on. A note worth mentioning is that although a political act requires a reference to the common interest, not all political actions have to be collective in their manifestation, so even standing in a square, alone, can become a politically loaded action<sup>1</sup>.

Having said so, I am aware of the fact that political agency is also understood in terms of status, when it is taken to be derived from the possession of certain voting rights coming from full membership to a political community, i.e. citizenship. To be a citizen, in this view, is ipso facto to be a political agent, as if citizenship and the voting right that comes along with it were the necessary and sufficient condition to exercise such a political agency. However, I believe this is not the case, not simply because there are other ways to influence political decisions, ways that can also be illegal, such as civil disobedience, but also because having certain rights per se is insufficient to be full political actors.

The way to grasp this is by resorting to the distinction between *potential* political agent and *actual* political agent. If we consider the act of voting in a country where voting is not compulsory, a person who is not exercising the right to vote and does not explicitly give a reason for her abstention, is a political agent only *in potentia*<sup>2</sup>. Here in particular it is important to distinguish between having the right to vote and actually going to vote. What I argue is that if we have the capacity and the right to act but fail to do so, with respect to voting or *any* other right we might have, what we retain is merely the potentiality of being political agents, but it is only if we act that we become actual, active – full – actors. The very same concept of agency cannot be understood if not in connection with the one of action. A caveat needs to be added here though<sup>3</sup>, given that non-voting can also be the manifestation of a principled reason which aims at communicating to those in power that the entire system is flawed. It is then important

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1 See the *standing man* in Istanbul (Taş & Taş, 2014).

2 Of course people might have principled reasons for not even presenting themselves to the polls, but unless they make their reasons explicit, through a communicative, public act, we cannot a priori assume that their abstention is a way to communicate dissent, especially considering the fact that people can cast a blank vote in sign of protest.

3 I thank the anonymous reviewer who highlighted this point.



to highlight that non voting per se does not lessen one's degree of political agency, if the reasons for the abstention are morally justified in public. That is, if the choice one would make by going to vote is replaced by another communicative act aimed at questioning the political system, non voting becomes a political act. Otherwise, if non voting is performed without being accompanied by an explicit manifestation of reasons, it is not.

At the same time, if we vote, but limit ourselves to vote and then we do not participate to the life of the community until new elections come, the period in between such elections, we cannot be considered full political agents, but only potential ones. In other words, while a person retains her capacity-agency regardless of her acting, what she loses while not acting, is her exercise-agency.

Things are different in countries where voting is compulsory, of course. In such a context, given the mandatory nature of voting, not going to vote can actually have an even stronger political significance than going to the polls, but again, to consider the abstention as a political act of civil disobedience, its reasons should be communicated. So, not going to the polls per se does not make a person a potential rather than an actual agent if such a person has chosen to abstain for principled reasons she manifests. However, if this is not the case, and she also does not act in *any* other political way, then her lack of exercise deprives her of *actual* agency.

Notwithstanding this last point, having the right to vote can enhance one's exercise-agency<sup>4</sup> to be political, giving to a person another venue where to express herself, but it is not a sufficient, nor a necessary condition for political agency. In other words, being endowed with voting rights does not make one a political agent, tout court: if a person has a right to vote and never exercises it, without giving public reasons of the motive that pushed her not to go and vote, *and* she does not exercise her agency in other ways, she cannot be said to be an active agent at all. At the same time, if a person does not hold the right to vote, this does not mean she is not legitimized and cannot influence the political process in other ways. What I want to point out is that being a citizen endowed with voting rights does not equate, ipso facto, with being political and so capable of influence the way the community regulates itself. In other words, the simple fact of having the status of citizen does not grant one political agency. At the same time, not being a citizen does not mean not to have a right to a political say. Ergo, the concept of political agency as a permanent status, linked to a legal voting right, is here dismissed, to be replaced by a concept of political agency as capacity and exercise, act, and so performance.

Surely, it could be said that having the right to vote provides people with an opportunity to have a more direct impact on the political process. Furthermore, it could be added that such a right enables individuals to be active at the highest possible degree, but it is not a necessary nor a sufficient condition for this. So, especially in counties where such a right is not intended as a compulsory act, if a person can vote *and* votes, she exercises her political agency at a greater level than one who does not enjoy such a right. Indeed, the best way to think about how to be a political agent is not simply by distinguishing between potential and actual, but also in terms of *degrees*. In general, if a person enjoys a wider set of rights of political participation, she will have a higher degree of potential political agency than a person that does not but who would still retain a certain degree of political agency nonetheless, e.g. demonstrating and participating in other ways<sup>5</sup>.

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4 Even in countries where voting is compulsory, the very same act of voting can have the effect of giving more voice to those disenfranchised groups that would not vote otherwise. See in particular L. Hill, 2015.

5 Or, it could also be said that voting per se does not even enhance one's degree of political agency in affecting change, although other political rights do indeed enhance the degree of political agency. It is quite an established fact that even when a person votes, her single vote has such an infinitesimal impact on the final result (Downs, 1957) that it cannot really be taken as being necessarily more significant than other ways of participating, unless her vote is

To conclude this part, I contend that whenever a *person* expresses herself in the public forum, in a legal or in an illegal way, addressing the incumbents or the other residents, participating in setting the agenda of what should matter for the community and discussing how institutions should implement the obligations individuals have towards each other, she expresses herself in a political way.

As I have tried to outline in the previous section, being political does not require voting rights. However, a great part of the literature on migrants' political participation has quite the opposite focused on such a topic.

As Song highlighted: "...it is hard to deny that the lack of voting rights translates into greater vulnerability to injustice. Because noncitizens lack voting rights, it is easy for political parties, candidates, and elected officials to ignore them". (Song, 2009, p. 614)

To be sure, notwithstanding what has been said in the previous section, to be a voter remains a direct way to hold accountable those in power given the important relation existing between voters and elected and this explains why a great part of the debate around migrants' participation has centred on granting them voting rights. However, even if we consider voting rights as being important to transform individuals into full political agents, i.e. empowered and so free from their subservient and objectified position within society, the theories I will present below miss their point, at least with regard to undocumented migrants.

The all subjected principle, in the formulation given by Dahl<sup>6</sup> applies to whoever is naturally subjected to the laws of a country. The underlying idea is that a person is entitled to vote on how the law comes about, *because* she is subjected to this very same law<sup>7</sup>. However, although such an argument proves to be quite a strong one to extend the right to vote to legal residents, it seems more problematic when it comes to undocumented individuals. The question is indeed why, from a subjection they put themselves in, illegally crossing a border, should derive a right to participate in the political life of the community<sup>8</sup>. Of course, this question becomes easier to answer once we interpret the set of migration laws as laws that already subject to the power of the state those who are excluded. In this sense the all subjected principle addresses migrants as well, exactly in their being the precise target of a certain piece of legislation that aims to exclude them<sup>9</sup>. Still, this expansion appears problematic because it applies to everyone who is not a resident whether or not she has an interest in entering the community. In the end, the broadening of the concept deprives the very same principle of its function, i.e. if everyone is included in the group defined as the subjected one there is no need for a principle distinguishing between who is in and who is out.

A similar problem of inclusiveness is the one that poses the all affected interests: here the idea is that those whose interests are affected by a given decision should have a say in how this decision came about. The problem lies in identifying what counts as an affected interest and who are those affected<sup>10</sup>, given that, in its broadest definition, this principle would grant the

## 2. From the alien to the member

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the vote that changes the results of the election. Generally speaking though, voting remains important as a collective action and in this sense having voting rights makes individuals those power-holders are most directly accountable to.

6 "Every adult subject to a government and its laws must be presumed to be qualified as, and has an unqualified right to be, a member of the demos" Dahl, 1989, p. 127.

7 A point to be kept in mind is that those I am advocating for are individuals who have an interest in remaining in a given territory for more than a couple of months: it would be unfair that temporary residents would have a say over matters that will affect the community over time, while they will not be there to bear the consequences of their decisions.

8 An interesting argument, that faces the same problem is the one put forward by R. Bauböck (2007).

9 For an argument that reaches the same conclusion, although different in its construction, see Abizadeh, 2008.

10 For a much more detailed discussion on the topic see (Goodin, 2007) and Owen (2011, 2012).

right to vote to people well beyond the borders and with no precise or lasting relationship with the territory they might end up voting for.

A third approach is the one based on reciprocity. This principle states that if a person contributes to the common venture we have come to know as society, she is entitled to have a say in it. So, the argument goes, given that migrants do contribute - the state itself, tacitly accepts irregular migrants as economic participants that sustain the market (De Genova, 1998) - they should also be allowed to participate. As McNevin reminds us, irregular migrants “are economically and socially integrated into locales which have developed a dependence upon their labour” (McNevin, 2006, p. 141) which justifies their right to have a voice in the agora where they de facto already belong (cf. De Genova, 1998). Drawing from Walzer, although he focused more precisely on guest-workers, we have to remember how political justice refuses the permanent status of alien, which implies that the moment a person contributes to the community she should have a right in deciding how goods are going to be distributed (Walzer, 1983). Somehow this argument echoes the one of “an already active everyday recognition” of those who formally do not belong, but de facto do, which precisely ground a de facto membership to rights of political participation (De Genova quoted in McNevin, 2006, p.664). Similarly, the social ties principle contends that migrants do have social ties and special bonds with host communities where they have spent a certain amount of time (Carens, 2005). I then ask to what extent immigrants should enjoy the same rights as citizens and on what terms they should have access to citizenship itself. They are not hermits, rather they create connections, develop deep interests connected with the community and its members, such that their own well-being and the one of the host community itself become dependent on their presence on the territory. Such connections, I contend, could be so strong and valuable for one person to outweigh their illegal entry, being fundamental for the development and growth of the individual herself. In this sense the relevance of social ties for one’s freedom of choice and development could ground the extension of rights even to undocumented migrants. However, a principle, as well as the reciprocity one, provides reasons to extend political participation only to those migrants who have already established certain connections and participated to the good of the community, not to those who have just arrived, crossing illegally the border. So, we are left with the argument put forward by the neo-Roman republicans. According to Pettit (2010), Sager (2014) and others, granting migrants voting rights is necessary, although it is not sufficient, to protect them from domination. Migrants “require protection from the state through their power to exercise political right” (Sager, 2014, p. 207). Still, his argument seems insufficient to address the objection that “the extension of the franchise might lead to the domination of long-term residents by transients”<sup>11</sup> (Sager, 2014, p. 207). In his answer he makes reference to the probability that migrants will not vote if not for serious matters, and to the empirical evidence that they will have a significant impact only if present in big numbers. These answers seem to me quite unsatisfactory from a moral point of view as a). it is not immediately plausible that migrants would vote differently than non-migrants and even if they voted only on what matters to them, this could overlap with what is also important for locals b). this argument, especially considering that “not all potential coercion triggers a right to political rights” (Sager, 2014, p. 207) can sustain at most an extension to the right to vote on specific, limited matters, those matters the ones in charge will establish as being the ones migrants might have important stakes in c). Sager’s answer could not be supported in cases migrants were a large number. Most importantly though, there is an even more serious point to raise. How is it even possible to vote with no papers? Identification is fundamental to exercise such a right and to prevent

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11 This objection is addressed by the stakeholder principle proposed by R. Bauböck (2007).

multiple voting and I strongly believe that given this limitation, not many people would present themselves to exercise such a right in the first place. Also, either you are unauthorized on the territory and so you cannot vote, or if you vote, then you must have a sort of authorization, a sort of document that states that you are legitimately exercising the right to vote which in turn implies that you can do so because you are rightfully on the territory.

All of the arguments above point in the direction of recognizing to undocumented migrants the right to vote. To be clear, in general this means advocating for migrants being transformed from immanent outsiders (McNevin, 2006) into legal members. Said so, and highlighting how the arguments provided above can, to a certain extent, be also used to justify the extension of the right to vote to undocumented migrants, what I want to focus on is how aliens can be political actors even lacking voting rights.

Indeed, although in general I do not want to disregard the importance of the right to vote, I believe voting is neither necessary nor sufficient for allowing people to speak and protect themselves from power-holders and I want to highlight how others can be the ways for people to gain their political dimension and be heard in their voicing their claims and requests, even if they not are – and may never be – part of the constituency.

The key point here lies in the dimension of communication and action, to go back to Arendt, which implies that not having political voting or membership rights does not mean being incapable of influencing decisions. The idea is to decouple the concept of political agency from the one of legal membership endowed with voting rights, or citizenship<sup>12</sup>. The political requires *actions*<sup>13</sup> to be performed in a public forum where grievances can be expressed and where dialogue and conflict become possible. In other words, it requires communication as one of its necessary elements, a communication that involves and regards the community as a whole. Such a dialogue necessitates a performance, an appearance, being impossible if not spoken in public as a form of mobilization undertaken to communicate with the decision-makers.

A political agent then is not simply a thinking animal, but rather a social animal living in the city and acting within it: to be considered politically active a person needs to actively exercise her mental capacity for action. Silence and invisibility, the distinctive features of alienation and inaction, manifest the social death of the person as a political agent. Framing the political in terms of action and manifestation renders evident how such a capacity to think and act is not a prerogative of citizens, quite the opposite, it pertains to individuals qua humans and it is then possible for everyone to exercise it (cf. Benhabib, 2004). As Cheneval claims the “deliberating demos extends to all being capable of reflexive judgment and it is based on fundamental rights of freedom of expression and press that are not acquired through citizenship” (Cheneval 2011, p. 58). In this sense Nyers (2010; 2012) argues that the very same requests of belonging to the polity made by the outsiders can be seen as the emergence of a political subjectivity.

If we share the idea that “being political provokes acts of speaking against injustice and vocalizing grievances as equal beings” (Isin, 2001, p.277), we can easily understand how the particular vulnerable situation migrants find themselves in, gives them even more reasons and opportunities to speak and ask for being empowered than citizens. Indeed, the political

### **3. Recognizing the political subjectivity of undocumented migrants**

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12 For an argument that tries to decouple “the concept of citizenship from the nation-state in prevailing political thought” see Bosniak (2000).

13 As Arendt reminds us even speaking is a form of action (Arendt, 1972, 1998).

manifests itself under certain conditions, it is an act through which invisible claims of justice become visible in order to be considered and be acted upon. The very same act of struggling to find one's voice is political before being institutionalized as such (cf. Isin, 2012). In the words of Isin, "becoming political is that moment when one constitutes oneself as being capable of judgment about just and unjust, takes responsibility for that judgement and associates oneself with or against others in fulfilling that responsibility" (Isin, 2001, p. 276).

In Arendtian terms, especially the migrants bring something new into the world, put the community before unpredicted outcomes, start a change, reshape the very same community. With their very same appearing in the streets, disclosing themselves and claiming the respect of certain rights, they exercise that right, to express themselves, which is denied to them. Indeed "the political arises from acting together since we always disclose ourselves in the presence of others. We share our words and deeds" (Isin, 2012, p. 116). Undocumented migrants then enact themselves as critical subjects (cf. Isin, 2012), presenting a new way of doing politics and belonging.

Migrants become then political in the ancient sense of the term, i.e. by acting physically in the city, being present and appearing in the polis – politically understood as a conjunction of economic and social elements. It is through actions that involve communication, be it demonstrations or sit-ins, that migrants enact rights of political participation they legally do not have. It is in this sense that conceiving the political as an act rather than as a status releases us from the necessary condition of being a citizen, although the political, in its dialogic and relational nature, requires that migrants are recognized in their humanity and vulnerability as individuals with needs and a plan of life worth respecting.

To act, so to publicly participate is a requirement to be an active, full, political agent, as I said, and so an individual should have the opportunity to act, to be considered an active agent, taking the streets, demonstrating, if it is not possible to communicate otherwise. This then implies that even undocumented migrants must be granted the space to express those grievances that give them even more pressing reasons to address the power-holders to start with. Regardless of whether or not the state agrees with their claims, the state should protect, by adopting legal measures, the expression of undocumented migrants as human beings and autonomous agents.

In the end, understanding political agency as an act rather than as a status has more than one implication. One is that individuals can be potential political agents or full, active political agent, while at the same time exhibiting different degrees of political agency. The other is that to be a political agent, one does not need to be recognized by others as a legal participant to the nation, through e.g. the granting of certain voting rights. What matters is the recognition, which requires legal protection, as a human being that one can demand by already enacting her right of participation.

Such a "claimed" recognition derives from one's moral right to be treated with dignity and respect as a person who has needs and a plan of life and as an agent capable of making moral judgments. In other words, individuals, even undocumented residents, deserve to be listened in order to honour fundamental rights and their autonomy as self-deciders, capable of forming deep moral beliefs to be expressed through public speeches, sit-in or other forms of public and associative appearance. The very same concept of autonomy jeopardizes the concepts of sovereignty and territory (Rajagopal, 2003), perfectly paving the way to participation for undocumented migrants. Certainly, autonomy is a particular important human interest (Griffin, 2008), and its recognition is vital for pursuing a worthwhile life, and to reinforce the social bases of self-respect. In addition, we already have, as human beings, certain legally recognized human rights which should constitute a ground to grant a right to participate – and so a reason to be listened to – even to those who are *de jure* excluded, at least in those

decisions which call these very same rights into question<sup>14</sup>. This, and the respect owed to their autonomy should be the ground to recognize these individuals as subjects of justice, political in their appearing in the polis, as human beings voicing their demands before a community. Recognizing to migrants the right to express themselves in public fora is what is required to treat them and recognize them as fellow human beings and not as mere objects of deportation. To respect them means to grant them a voice, regardless of their membership and regardless of future decisions about their permanence. All of this does not require voting rights, but it implies putting in place safeguards against violence and mistreatment, at the same time avoiding checking the legal status of those who convene in the public space to participate. What really matters is that the state secures the public space of appearance to undocumented migrants, leaving them free to express their grievances without using force against them. The state should stop to treat migrants as mere objects and starts engaging with them in a dialogue which expresses respect for their own agency and their righteous claims. By putting in place these measures the state will prove that it respects the human rights of these individuals and their moral status.

Migrants act, and by doing so they affirm they have a right to speak as human beings entitled to a certain treatment that involves giving them a voice to precisely claim their human rights. And, again borrowing from Arendt, by acting they become genuinely free, by acting they become full individuals in dialogue with others, they become *polites*. *Polites* are those who live in the city, who create links with others, who create and deliberate, social animals par excellence. For such a dialogue to set things into motion and be the beginning of something new, it has to have the occasion to occur in the first place. Institutions should then grant undocumented migrants the right to express themselves, to address issues that affect them *qua* individuals.

The locus of justice shifts: it is not anymore within the community defined by citizenship, but with individuals (cf. Naishtat, 2012). “Persons, not citizens, are the proper subjects of political morality” (Song, 2009, p.613), the very same idea of recognition “should be based on personhood”. Individuals are then the final unit of moral concern (Pogge, 1992). The metamorphosis is not the one from migrant to citizen, rather from being apolitical, to becoming an active, or even activist agent (Isin, 2012). By being political, they become political.

## Conclusion

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<sup>14</sup> On this, see also Bohman (2005).

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SECTION

3



# SECTION 3

## POLITICAL AGENCY AND EQUALITY

*Dragan Kuljanin*

Why Not a Philosopher King? and Other Objections to Epistocracy

*Federica Liveriero*

The Social Bases of self-respect. Political equality and Epistemic injustice

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# WHY NOT A PHILOSOPHER KING AND OTHER OBJECTIONS TO EPISTOCRACY\*

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## abstract

*In this paper I will examine epistocracy as a form of limiting the political agency of some citizens (by removing their political rights) and offer an internal critique of it. I will argue that epistocracy runs into a number of logical and epistemic problems in trying to define who should be the members of an epistocratic polity. Furthermore, I will argue that the argument for epistocracy cannot ignore unjust background conditions. I will also suggest that some of the problems epistocracy attempts to correct can be solved in a more just way, while preserving democracy.*

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## keywords

*epistocracy, democracy, voting; political rights*

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**1. Introduction** Epistocracy, as the idea that those who have a special epistemic position (the wise, the educated, the knowledgeable) should rule, has a long history. It has been around at least since Plato and his idea that the rule should be entrusted to wise philosopher kings, it saw a later reincarnation in the work of J.S. Mill, who suggested that political rights should be (nearly) universal, but not equal – educated and professionals should have more votes than uneducated or menial labourers.

Recently this ancient idea has been witnessing a revival. Contemporary proponents of epistocracy use an abundance of empirical evidence<sup>1</sup> produced by economists and political scientists to conclude that many or even most voters do not have the knowledge, rationality or the reasonableness to vote in the right way, and argue that we should limit franchise to those who have these qualities. In this way we are more likely to achieve goals (whatever they might be) (see for example Brennan, 2016). Indeed, having in mind a number of recent developments in many mature democracies it is easy to instinctively sympathize with this position.

The basic argument for epistocracy starts from two assumptions: (1) Equal political rights are not basic or fundamental rights (see for example Arneson, 2003; Wall, 2007)<sup>2</sup>. It is commonly accepted that basic rights enjoy special protection, i.e. they can be limited only by other basic rights (see for example Rawls, 1996). This means that basic liberties cannot be limited by appeal to better outcomes “even when those who benefit from the greater efficiency, or together share the greater sum of advantages, are the same persons whose liberties are limited or denied” (Rawls, 1996, p. 295). However, if assumption (1) is true, then equal political rights have no ‘special’ protection and can be defeated by other considerations. Any value equal political rights and democracy have is mainly in the fact that it tends to produce better outcomes than other political arrangements. And assumption (2) states that democracy does not have a privileged epistemic status (Brennan, 2016) i.e. there is nothing in the democratic procedure that makes it very likely to come up with correct answers to questions of politics. Epistocrats argue that, if we accept these assumptions, there is no reason to prefer democracy to other political systems which may produce even better outcomes. Additionally, equal

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1 Their interpretation of evidence is not uncontroversial (see Christiano, 2017), but I will not pursue that issue in this paper.

2 A purely instrumental view of the value of democracy is not exclusive to proponents of epistocracy. Wall or Arneson, for example, do not argue in favour of epistocracy.

political rights may signal the moral equality of citizens and they may provide some social basis for self-respect, but both of these can be achieved through other means. This means that, independent of outcomes, political rights may have some value, but they are not to be considered basic rights and can be defeated by other considerations.

Having these assumptions in mind, an argument for epistocracy as a political system in which only those with relevant knowledge have political rights can be summarised (following Estlund, 2008) in the following way:

1. *The truth tenet*: there are correct, procedure-independent answers to at least some political questions.
2. *The knowledge tenet*: some (relatively few) people know those answers better than others or are more likely to determine those answers.
3. *The authority tenet*: The political knowledge of those who know better is a warrant for their having political authority over others.

Jason Brennan (2016) replaces the *authority tenet* with the *antiauthority tenet* (while he agrees with the first two) which states that because some citizens are ignorant, irrational or unreasonable, they should not be permitted to exercise authority over others.

For the purpose of the argument in this paper, I will accept the argument for epistocracy and the underlying premises that political rights have no special status as basic rights, and that democracy does not have a privileged epistemic position. I will, however, assume that they do have some value (not too strong and defeasible) and that all other things being roughly equal, we should prefer democracy to other political regimes.

Before I proceed, some terminological clarifications are in order. In this paper I will use “democracy” simply to indicate a political system in which all competent adult citizens have equal political rights, which is to say that every adult citizen has at least one and no one has more than one vote and a right to run for elected offices. “Epistocracy” will refer to a political system in which only some citizens have political rights. Belonging to this group of citizens (epistocrats) is dependent on having a sufficient level of relevant knowledge. Relevant actual knowledge in this case remains rather vague and under-defined, but at very least it includes some level (to be determined) of knowledge (in the weak sense, i.e. true belief) of some socioeconomic laws and relevant information (e.g. the legal and constitutional structure of the country, state of economy (domestic and international), and such possible challenges as security, climate, migration, etc.)

Brennan (2016, 2018) identifies six possible forms of epistocracy. These are: (1) *Values-only voting*, in which citizens choose the ends (or aims) of government and not the means. It is originally proposed by Thomas Christiano (1996), although he does not consider it to be epistocracy. (2) *Epistocratic veto*, in which citizens elect legislature, but an epistemic body can overturn decisions of legislature. In essence, it is similar to a system with a constitutional court in constitutional democracies. (3) *Plural voting*, in which all citizens have one vote, but some citizens have more than one (based on knowledge, profession or education). (4) *Restricted suffrage*, in which only some citizens (those who pass the knowledge test, for example) have the right to vote. (5) *Enfranchisement lottery*, in which randomly selected citizens acquire the right to vote, provided that they pass some competence building exercises before elections. And (6) *Government by simulated oracle*, in which the choices of an uninformed electorate are statistically corrected, and policies implemented are those which would be chosen by a demographically identical but fully informed electorate.

However, in this paper, I am going to concentrate only on restricted suffrage (although

my arguments also apply to plural voting<sup>3</sup>). This version of epistocracy assigns political rights based on relevant actual knowledge. It also corresponds to the typical use of the term ‘epistocracy’. (I would go as far as to suggest that other forms identified by Brennan, apart from plural voting, cannot be rightly called epistocracy, but that is not a claim I am able to defend here.)

As indicated in the previous paragraph, when discussing epistocracy, I will concentrate mainly on the question of relevant knowledge and, for the main part, ignore rationality and reasonableness. Even though these are logically separate attributes, we can assume, following Brennan, that people with better knowledge will still be more likely to identify the correct answers even if they are not being completely reasonable and rational. One reason for this focus on knowledge is that reasonableness and rationality (even though they are important qualities for a responsible voter) are even more difficult to test, and it would be completely voluntary and extremely difficult to decide what is the threshold for a citizen to become a member of epistocracy. I believe that this does not weaken my argument. On the contrary, if my objections concerning knowledge hold, they hold just as much and probably more with regard to reasonableness and rationality.

Additionally, I will concentrate on practical or policy knowledge, even though I believe that all objections I put forward apply to questions of justice as well and they apply even more forcefully, as moral disagreement is even deeper and more intractable than disagreement on policy.

### **2. The level of knowledge dilemma**

If (in order to produce better outcomes of political process) we wish to assign political rights to some people and deny them to others based on the level of relevant knowledge, we need to determine (at least roughly) what the threshold level of knowledge is.

One option is to set the bar relatively low, say at the level of knowledge comparable to what one could gain by taking a single undergraduate course (Introduction to Economics, for example) and having the knowledge of widely available relevant information. This option presents supporters of epistocracy with the following problems.

First, this level of knowledge does not necessarily make one a competent voter. Issues confronting contemporary states are notoriously complicated and undergraduate-course level of knowledge can hardly make much of a difference. Success of any policy in the economic sphere, for example, depends on so many contingencies that even experts have trouble deciding what is the likely outcome. The US president Harry Truman reportedly asked for a one-handed economic adviser, one who could not say “on the other hand”.

Consider the following example: basic economics tells us that supply and demand depend on price - as price increases, demand will decrease while supply will increase. If there is a proposal to increase minimum wage, our Introduction-to-Economics epistocrat clearly knows that if we increase the minimum wage, unemployment will grow - there will be less demand for labour. So, she cannot support such a proposal in good conscience (we assume that she considers higher unemployment to be bad and she votes with the public good in mind). However, empirical research on this issue remains inconclusive and hotly contested, and a 2013 survey of prominent economists shows that experts are split down the middle on the issue (IGM Forum, 2013).

The problem illustrated by this example is not the problem of expert disagreement and how to navigate it as a non-expert (there exists voluminous literature on the topic (see for example

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<sup>3</sup> I believe that plural voting fails to satisfy the *authority tenet* (in both versions), as it gives some power to those who should not have it.

Goldman, 2001)), as any solutions available to epistocrats at this level of knowledge would be available to non-epistocrats as well. It is rather an illustration of the point that knowing some basic socioeconomic laws does not necessarily improve decision-making.

Additionally, such basic knowledge might even produce worse outcomes as it imbues people with a false sense of competence. Our Introduction-to-Economics epistocrat now has a state-issued confirmation that she has the relevant knowledge and may disregard any evidence or argument that contradicts her judgement based on the knowledge of Introduction to Economics.

Second, a more serious problem for epistocracy (on this lower level of knowledge) lies in the fact that relevant knowledge seems to strongly correlate with wealth and education (see Brennan 2016). So, if the required level of knowledge is relatively low, it seems that it would be possible to increase knowledge of all (or almost all) members of the polity through significantly more robust redistributive policies, better education at pre-university level, free university education, strong, competent and responsible public television, increasing standards of reporting in the private media, etc.

For example, research by Curran et al. (2009) which compares levels of public knowledge in the US, the UK, Denmark and Finland suggests that countries with strong public broadcasters, more regulation of private broadcasters, and less market driven media systems have significantly higher levels of public knowledge. Furthermore, countries that have the highest levels of public knowledge also show the least variation in knowledge between different socio-economic groups. Finally, we can observe (even though it is not part of the research) that countries with the best scores (Finland and Denmark) also have much less inequality than those with lower scores (the US and up to a level the UK).

Lowering inequality, a better media system, and better education as a solution for the problem of voter ignorance would be more desirable than epistocracy, as it would arguably create a more just society (irrespective of political system), and it would also preserve equal political rights (which are valuable, at least *pro tanto*).

It may be objected that this solution is not feasible, having in mind the actual political situation and people's preferences. That is very likely to be true but introducing epistocracy would most likely prove to be even less feasible, if not impossible.

The second option is to set the bar higher, so high that it cannot be achieved through better education and overall socioeconomic equality. It would require in-depth knowledge of relevant issues, let's say on a level roughly comparable to having at least a university degree in a given field. This option mostly avoids the previous objections but runs into a problem of its own. Namely, issues facing contemporary states are just as numerous as they are complex. It is completely unreasonable to expect that any number of people will have the sufficient knowledge in more than two or three policy areas. A person may be an expert in economics, have sufficient knowledge of political science, but it is not plausible to expect her to be at the required epistemic level when it comes to environment, healthcare, defence or agriculture. Thus, it seems that probably nobody has the required (high) level of knowledge to be a member of the epistocracy.

It is possible to try to deflect this objection by arguing that it is possible to create some form of multiple epistocracies, where people who have special knowledge on a particular issue form an epistocracy only when that issue is discussed (see Lippert-Rasmussen, 2012). However, this creates serious additional problems. Even if we could design such a system, we still do not have the answer on who would settle disagreements when different issues conflict. If security experts decide on security, they might want (and are likely to want) to adopt policies which privilege security over all other considerations, while privacy experts might decide on more privacy. These two are often mutually exclusive, but even where they are not, they would

still compete for resources. It is entirely unclear who would resolve the conflict between two epistocracies, having in mind that they are the ones who are most likely to know the best answer, therefore they have epistemic authority. Discussions on epistemic peers and peer disagreement do not help us resolve this issue as members of these multiple (sectoral or issue) epistocracies are not epistemic peers. Each is an expert in their own field (and epistemic peer to other members of that particular sectoral epistocracy), but a layperson in the other. Thus, it seems to me that the knowledge level of epistocracy either needs to be so low that it does not create substantially better decisions and the lack-of-knowledge issue can be resolved in other ways, or it needs to be so high that practically nobody qualifies to be a member of the epistocracy.

### 3. The epistemic problem

Let us assume that we have somehow resolved the issue of the level of knowledge and have settled on areas in which knowledge is necessary. Now a further problem arises: how are we to identify those who satisfy the requirements?

Brennan (2016) offers one possible solution. In his opinion, somewhat paradoxically, the criteria could be identified democratically. He argues that citizens by and large know what makes a good voter or a good politician, they just fail to live up to the standard. For example, I do not need to be a doctor to know the qualities I would want in one. So, in case of epistocrats, it is not too much to expect that citizens would agree that voters need to be knowledgeable, responsible, rational, reasonable, etc (as a matter of fact, these criteria might be quite similar to requirements for a good doctor, a good pilot or a good plumber).

This argument is good as far as it goes, but it does not go very far. While I certainly want my doctor to have relevant knowledge of medicine, to be reasonable, responsible etc., it does not mean that I, not being a doctor and lacking the relevant knowledge, can test it *ex ante*. In the same way, citizens at large cannot test the knowledge of those who should know more than they do.

Therefore, it seems that we would need someone, a person or a body (let us assume it is a body), to devise some sort of a test to measure relevant knowledge. Members of this body would (1) be fewer than members of the epistocratic class, and (2) would need to have at least somewhat greater relevant knowledge than the level required for political rights, to be able to competently create such a test. Let us call this body meta-epistocracy (as they are the ones who will have the power to decide what knowledge is necessary to become a member of the epistocracy, and membership of this body is, again, dependent on having relevant knowledge). However, a new problem arises. We need a way to identify members of the meta-epistocracy. This cannot be done democratically either. A logical solution seems to be some kind of knowledge test, but to devise such a test, we would need another body - a meta-meta-epistocracy. Members of this body would again (1) be fewer than members of the meta-epistocracy, and (2) would need to have at least somewhat greater relevant knowledge than the level required for membership in the meta-epistocracy to be able to competently create such a test.

Thus, it seems that the attempt to identify the members of the epistocracy ends up in an (almost) infinite regress, at least until we identify a person to create the first test. Of course, the question remains how would we identify such a person, as there is, by definition, nobody who knows more than that person.

One possible way to avoid this problem is to use some sort of proxy instead of a test for identifying putative epistocrats. The best possible candidate for this proxy seems to be education - for example, all citizens with university education, and only them, are to be granted political rights, while those without a degree would not have those rights. However, this method does not seem very reliable. It is highly likely that there are theoretical physicists

with a university degree, perfectly reasonable and rational who still do not know much (or anything) about political science, economics or any other field relevant for the realm of politics. On the other hand, it is equally likely that there are high-school graduates (or dropouts) who know quite a lot. Therefore, identifying epistocrats through education does not seem very accurate, as it would include a number of people who do not pass the epistemic threshold, while excluding a number of those who would, thus violating the *authority tenet* (its *antiauthority* version as well).

The previous section points us in the direction of the next question – why settle on epistocracy and not go all the way down to a philosopher king (or kings)?

Let us re-examine the argument for epistocracy:

*The truth tenet*: there are correct procedure-independent answers to at least some political questions.

*The knowledge tenet*: some (relatively few) people know those answers better than others or are more likely to determine those answers.

*The authority tenet*: the political knowledge of those who know better is a warrant for their having political authority over others.

Let us start with a polity P which is a democracy with universal suffrage. Following the above argument, we create a new polity P\* which is smaller than polity P. Now we can examine P\* and we will find that for P\* *the knowledge tenet* holds, we will also see that *the authority tenet* holds as well, therefore we create a new polity P\*\* which is again smaller than P\*. The same process is repeated with P\*\* and so on until we come to a polity P<sup>x</sup> which consists of one person (or a handful of persons because it is possible that there will come a point when the knowledge tenet does not apply anymore, but if it does happen, it is certain that the number of persons will be miniscule). We can see how the argument for epistocracy inevitably leads to a philosopher king. Strictly speaking, the philosopher king could be seen as a version of epistocracy with a polity of one. However, it does feel substantively different, and it is much more open to charges of authoritarianism and despotism (a charge Estlund (2008) levels against epistocracy in general). Furthermore, I am not sure that any of the supporters of epistocracy would be willing to endorse the rule of a philosopher king (Brenan (2016) envisages an epistocratic polity numbering thousands or even millions).

One possible objection would be that there is epistemic value in the diversity of perspectives, however, a philosopher king would presumably be aware of this fact and would look for different perspectives, take them in consideration and then make the decision alone.

Another possible objection is raised by Lippert-Rasmussen (2012), who proposes a change to the *knowledge tenet* and suggests that there could be a group of people smaller than the polity (or demos) which is *collectively* more likely to come up with the correct answer to the issue at hand, even though that group of individuals does not include any of those individuals who know the answers best *individually*. While this is logically possible, it remains entirely unclear how members of such a group would be identified *ex ante*.

It could be objected that this particular formulation of the argument for epistocracy leads to philosopher kings. Brennan, as we have seen, offers a different formulation of the *authority tenet* – the *antiauthority tenet*. In this formulation it is not that knowledge provides a basis for authority over others, but the lack of knowledge precludes one from having such an authority. Brennan argues that people should not be subjected to incompetent governments and that we should replace an incompetent government with a competent one. As democracies (in his view) tend to produce incompetent decisions, they should be replaced with epistocracies which are likely to produce competent decisions (2016). The obvious question would be: why stop at any threshold of knowledge lower than that of a philosopher king?

#### 4. Why not a philosopher king?



The key difficulty in discerning if the philosopher king objection applies to Brennan's variant of the argument lies in the vagueness of the use of the word "incompetent". Indeed, it would perhaps be possible to argue simply that if epistocracies produce competent decisions, they should not be replaced. However, I do not think that this interpretation is right or logically coherent. Competency seems to be a scalar property, not a binary one. Epistocracies, in Brennan's opinion, would likely produce *more* competent decisions than democracies. But then it is also true that democracies produce *more* competent decisions than absolute monarchies, yet the imperfection of democracies calls for their replacement by another system which will produce *more* competent results. Therefore, there is no reason not to replace epistocracy with a system which would produce even *more* competent decisions.

### 5. Demographic objection revisited

The demographic objection to epistocracy was originally proposed by David Estlund (2008) based on the fact that a putative epistocracy will be predominantly composed of members of the most advantaged socioeconomic groups in society. In the United States for example it would mean that the epistocratic polity would be significantly more wealthy, male and white than a democratic one. This, according to the demographic objection, makes epistocracy unjust (see also Brennan, 2018).

Brennan (2018) identifies two ways in which epistocracy might be unjust based on the demographic objection: (1) epistocracy is unjust because it is unfair (unfairness version); and (2) epistocracy is unjust because by giving political power to members of already advantaged groups, it is likely to disadvantage and harm those who are already disadvantaged (bad results version).

Brennan (2018) identifies several possible answers to the unfairness version of the demographic objection.

He argues that democracies are not fair either, and points out that small ideological or demographic groups have practically no chance of getting what they want unless they manage to form coalitions or unless the majority is sympathetic to them.

Secondly, he points out that in democracies not all people vote. The number of actual voters is smaller than the number of potential voters, and those who vote are more likely to belong to privileged demographics (i.e. white, rich and male). The same is true of elected officials. In his view this shows that democracies are not fair either. I would argue that this answer misses the point. Having a right and not using it is not the same as not having a right, even if we accept that political rights are not basic rights. If I decide not to get married, it is substantively different from not having the right to marry.

However, both of these replies miss what I take to be the main point of the fairness objection, which is not that unequal distribution of political rights is unfair in itself (if we accept epistocratic premises). It is unfair as it is a result of unjust background conditions.

Disenfranchised groups in actual contemporary societies would be disenfranchised because they lack the required knowledge, and they lack the required knowledge because they are poor, or because they are the 'wrong' gender or race (often all of those) i.e. because they are marginalised. Adopting the restricted suffrage version of epistocracy would mean that those who benefited and probably contributed (in one way or another) to existing injustices are rewarded by having more rights than those who suffered injustices.

It is not clear what weight unfairness should carry when compared with presumed better results of epistocracy, but it is certain that it has a weight and that it cannot be ignored.

When it comes to the bad outcomes version of the demographic objection, several possible answers are offered by Brennan (2018).

First, it is possible to argue that we do not have experience with epistocracy so far and that we are only able to speculate about its effectiveness. Brennan points out that at a certain point

in the past we did not have experience with democracy either, but it turned out to perform better than previous political regimes.

This answer is not entirely true. Throughout the 19<sup>th</sup> and early 20<sup>th</sup> century in England wealthier men in society had the right to vote (exact proportion and composition varied) yet it is hard to credibly claim that the lot of other demographic groups in society was better than under universal suffrage. Most rights and the improvement in the socioeconomic conditions of disenfranchised groups coincided with the introduction of equal political rights. It would, of course, be possible to claim that this system was not epistocracy. However, if epistocracy was introduced at that time, its members would have largely coincided with actual voters (the two sets would overlap). Even though the historical precedent is not exact (they very rarely are), it is indicative.

Second, Brennan argues that citizens may know what they want, but they do not know what policies will ensure that the desired outcome happens. In his example both Democrats and Republicans want high economic growth, but Democrats believe that higher taxes and more spending will achieve it, while Republicans believe in low taxes and low spending. Obviously, they cannot both be right. Restricting political rights to those who know would be more likely to produce the outcomes everyone wants. This may seem a valid argument against democracy, but it works just as well against epistocracy. It would be no less true if I said that while all economists want economic growth, some believe that it can be achieved through higher taxes and spending while others believe the opposite, and they cannot both be right (see also the earlier example of minimum wage and employment).

Finally, Brennan argues that people do not vote in their narrow self-interest but with the common good in mind. This is supported by a lot of empirical evidence. Based on this observation, he argues that the disenfranchised would not be harmed by living in an epistocratic political system. However, the problem is not whether those who vote vote for the common good, but how they form their conception of the common good. It is very likely that their conception of the common good will be heavily influenced by cognitive biases. How are they to know what the preferences of the disenfranchised are, or if a particular conception of the common good is working for others as well?

It could be argued that there would still be freedom of speech<sup>4</sup>, and the disenfranchised would have the opportunity to present their arguments. However, the question is why epistocrats should listen. This is not to imply that they are selfish or bad (for lack of a better word) it is just to say that now they definitely know that they are the ones who know. They may listen to other epistocrats, but what purpose is served by listening to the ignorant? Even if they do listen it is likely that the message will become distorted.

It is widely accepted that we all have cognitive biases, but it is almost certain that the official and legal designation of some individuals as knowers and others as ignorants (as that is what epistocracy does) would make those biases stronger. It would be likely to make epistocrats less open to opinions of non-epistocrats. When we consider that the great majority of epistocrats would belong to the same race and class (and up to a level gender), it is unlikely that anyone else's opinions would be given a fair hearing.

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<sup>4</sup> Interestingly enough, arguments similar to those presented for epistocracy and limited franchise could be put forward for limiting free speech. I cannot pursue the issue here in detail, but I would suggest that at least some forms of speech are purely instrumental in the same sense in which political rights are said to be. In this case speech would be limited not by its content, but by the level of knowledge of the speaker. So, for example only those who prove the appropriate level of knowledge in economics could write a newspaper comment or an article about economics. It stands to reason that the level of knowledge required for exercise of free speech would be even higher than the one required for voting.

Non-epistocrats are therefore likely to become victims of what Miranda Fricker (2007) calls “epistemic injustice”, more specifically victims of testimonial injustice. In Fricker’s words “testimonial injustice occurs when prejudice causes a hearer to give a deflated level of credibility to a speaker’s word” (2007, p. 1). Having in mind that testimonial injustices happen even when all citizens have at least nominally equal standing, officially designating some as ignorant will make such injustice much more likely and widespread. This additionally means that it is very likely that their interests would not be given the consideration they deserve.

**6. Conclusion** In this paper, I have shown that restricted suffrage epistocracy faces several serious, perhaps fatal problems. First, it faces the level of knowledge dilemma, where level of necessary knowledge is either so low that it is doubtful if it improves decisions (and can be achieved by more just socio-economic conditions) or it is so high that probably nobody can be an epistocrat. Second, it faces unsurmountable epistemic problems in identifying epistocrats. Third, it is logically unstable and unable to avoid sliding into a philosopher king rule. Finally, it is still vulnerable to the demographic objection. This paper is not intended to be a defence of democracy or of equal political rights, at least not a direct one. Nevertheless, I would suggest that the most promising way to solve, or at least minimise, the problem of an uninformed electorate lies in more equality (economic, social, gender and racial), better and more accessible education, public and publicly-spirited media, and not in abandoning democracy.

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# THE SOCIAL BASES OF SELF-RESPECT. POLITICAL EQUALITY AND EPISTEMIC INJUSTICE\*

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## abstract

*This paper investigates the limitations of the ideal of political equality under non-ideal circumstances and focuses specifically on the way in which structurally unjust social contexts endanger individuals' perception of their own worth. Starting from Rawls' definition of the social bases of self-respect as a primary good to be fairly distributed, the paper main goal is to provide normative arguments in favor of a power sensitive theory of political agency. A power sensitive theory, in fact, proves to be necessary as it sheds a light over the way in which power relationships affect the very possibility, for some members of the constituency, of fully enjoying the status of political reflexive agents. Against this background, in the paper I defend two main theses. First, I argue that the contemporary debate concerning the implementation of the ideal of equality within liberal democracies has been overlooking the epistemic dimension of the basis of political equality. Second, I claim that specifying the epistemic dimension of political equality has at least two important effects. a. It is important from the perspective of conceptual analysis, as it allows to properly distinguish between the normative job played by moral arguments on the one hand, and the epistemic aspects of political equality on the other hand. b. The specification of the epistemic aspects of political equality has at least on important normative upshot, namely the possibility to show that epistemic forms of injustice are detrimental to the very ideal of political equality as an essential feature of liberal conceptions of democracy.*

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## keywords

*self-respect, political equality, disagreement, epistemic injustice, non-ideal circumstances of politics*

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*No man is an island entire of itself; every man  
is a piece of the continent, a part of the main;  
if a clod be washed away by the sea, Europe  
is the less, as well as if a promontory were, as  
well as any manner of thy friends or of thine  
own were; any man's death diminishes me,  
because I am involved in mankind.  
And therefore never send to know for whom  
the bell tolls; it tolls for thee.*

(John Donne, Devotions Upon Emergent Occasions and Seuerall Steps in my Sicknes -  
Meditation XVII, 1624)

- 1. Introduction** Democracy is usually justified, as a valid form of government, referring either to instrumental or procedural arguments. According to the instrumental accounts of democracy, democratic procedures are justified in the light of the quality of the outcomes that these procedures achieve. Instrumentalists ground the validity of democracy appealing to different outcome-oriented arguments, such as the fact that democracy is a valid form of government because it grants the defense of fundamental interests of citizens or the fact that democratic decision-making procedures are the most reliable to establish good collective choices (Arneson, 1993; Landemore, 2013; Martì, 2017; Van Parijs, 1998). By contrast, proceduralist views hold that the value of democracy stems from the ideal of political equality incorporated by fair procedures. The non-instrumental value of equality that fair procedures mirror acts as a justification of democracy. More precisely, a proceduralist account claims that democratic processes of decision-making are legitimate in virtue of the equal consideration of the interests and preferences of all those involved in decision-making procedures (Beitz, 1989; Dahl, 1989; Habermas, 1996; Ottonelli, 2012; Rawls, 1993). Democracy — according to this view — incorporates substantive political values that democratic procedures should contribute realizing. For instance, for Saffon and Urbinati (2013), the significance of democracy, in its historical unfolding, lies upon protecting and enacting the principle of equal liberty. The historical purpose of democracy is also its normative goal: it is an intrinsic feature of democratic processes to be conducive to freedom and therefore no external criterion is required to assess the quality of such achievement.

This is the first feature of a normative version of proceduralism,<sup>1</sup> *procedural correctness*, which refers to the intrinsic fairness granted by pure proceduralism (Rawls, 1971, pp. 73-78). A second aspect of normative proceduralism hinges on a depiction of citizens as agents actively engaged in decision-making processes. The criterion of *responsiveness* plays an important normative role: outcomes of democratic decision-making procedures should address the demands of participants involved in the processes either by meeting their valid claims, or by offering a justification for rejecting them (Mackie, 2011).<sup>2</sup> It follows that democratic procedures should respect the agency of every member of the constituency and ensure everybody the possibility of impacting public choices. Finally, fair procedures are valuable inasmuch they contribute realizing an essential dimension of the ideal of political equality, i.e. the value of *equal respect*. In democracy, the value of equal respect is instantiated by the normative requirement of treating each agent on equal footing and of granting them the chances of pursuing the life-plans they reckon most meaningful.

Notwithstanding this large agreement on the value of equality as a political aim, the normative notion of political equality requires a more careful analysis. Holding that equality is intrinsically valuable does not imply that the discussion about the basis of equality is settled (Carter, 2011; Cupit, 2000; Waldron, 1999). Along these lines, the main goal of this paper is assessing the very possibility for democratic institutions to establish a social environment in which each and every citizen can be fully respected, notwithstanding the asymmetries of power and structural forms of injustice that characterize real-world democracies. Since justice is not always realized in real-world democracies even when procedures are designed to be fair, then it is fundamental to consider the limitations of the ideal of political equality under non-ideal circumstances. In section 2, I discuss the Rawlsian notion of self-respect. Then, section 3 is devoted to the introduction of the theme of epistemic injustice, showing how the asymmetrical relations of power affect not just the actual legitimacy of democratic decisions and institutions, but shape how members of disadvantaged groups understand themselves as political actors and develop epistemic and practical capacities. In section 4 I argue that the normative notion of political equality is twofold: being grounded on both moral and epistemic aspects. In conclusion, this paper does not offer a solution to the difficulties exposed. Rather, the main goal is to provide normative arguments in favor of a power sensitive theory of political agency. A power sensitive theory, in fact, proves to be necessary as it brings to light the epistemic dimension of political equality and problematizes the way in which power relationships affect the very possibility, for some members of the constituency, of fully enjoying the status of political reflexive agents.

The main research-question investigated in this paper was prompted by John Rawls's (1971) well-known thesis that the social bases of self-respect is one of the primary social goods that are to be distributed fairly in a just society. According to Rawls, self-respect is one of the necessary preconditions for developing citizens's awareness that their plans of life are worth

## 2. The Social Bases of Self-Respect

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1 Within the proceduralist tradition, we can distinguish between a minimalist view and a normative one. Minimalist accounts (Dahl, 1956; Riker, 1982) appeal to descriptive categories and provide a thin account of democracy, grounding its legitimacy in the existence of a set of rules of the games, rather than referring to some normative values promoted by procedures. The rationale behind the minimalist tactic rests on the acknowledgment of the fact of pluralism and of the difficulty in reaching a final agreement on relevant political matters avoiding any anti-democratic form of decision-making. By contrast, normative accounts of proceduralism claim that democracy incorporates substantive political values that democratic procedures should contribute to realise.

2 Saffon and Urbinati (2013: 20-22) include responsiveness among the important features of their account of procedural democracy along with uncertainty; openness and contestation; participation, emendation, and non-triviality.

carrying out. Rawls is clear in stating that the sense of one's worth is dependent upon the social environment in which one happens to live, therefore the mutual relationships among citizens (and among citizens and political institutions) are fundamental for granting the social bases of self-respect to each citizen. This intuition is extremely important, explaining in political-institutional terms, why "no man is an island", and why political societies are not just the aggregation of self-interested individuals, but something more complex and nuanced. The social bases of self-respect comprise both the attitude of others toward me, and the social environment where my identity is shaped. First and foremost, a social condition of self-respect depends upon the relationship of equal respect that should be established in a fair intersubjective context. Second, in order to pursue my conception of the good life in a meaningful way, it is probably necessary that in the society I live my identity, and/or my preferences, are not stigmatized or wrongfully misrecognized.<sup>3</sup>

Regarding the condition of enjoying the respect of others, in the recent years many authors have investigated the normative notion of equal respect, specifying the distinction, firstly introduced by Steven Darwall (1977), between recognition respect and appraisal respect. *Recognition-respect* is attributed in virtue of the recognition of others as persons, hence it is ascribed by default, being independent from the evaluation of actions, deliberative processes and characters of any particular individual. In this regard, recognition-respect is a priori and unconditional and it does not admit degrees. By contrast, *esteem-respect* expresses the positive consideration of the deeds, achievements, character of a person; hence it is a posteriori, conditional on actual conducts and comes in degrees (Carter, 2011; Galeotti, 2011). Probably Rawls has in mind a comprise of both these forms of respect when he stated that "our self-respect normally depends upon the respect of others. Unless we feel that our endeavors are respected by them, it is difficult if not impossible for us to maintain the conviction that our ends are worth advancing" (Rawls, 1971, pp. 155-156). I agree that both these forms of respect are probably necessary for agents to properly see their accomplishments acknowledged and for establishing a relational-sensitive awareness of agents' own value. However, I maintain that recognition-respect has a priority over esteem-respect when dealing with the social bases of self-respect. In fact, the liberal-democratic framework requires us to recognize the status of free and equal agent to any member of the constituency, independently from her personal achievements, characters flaws or rational abilities. In democracy, every citizen should be fully respected qua member of the constituency, referring to the status of person as such, regardless of their attitudes, preferences, ascriptive characteristics, intellectual capacities, conceptions of the good, merits, etc. According to this reading, the social aspects of self-respect are strictly related to the institutional framework that grants equal political powers and public recognition to each citizen. In fact, a state cannot provide self-respect directly, but only assuring the adequate social conditions for it to develop. It follows, that the first social condition of self-respect consists in a proper institutionalization of the normative notion of recognition-respect due to every member of the constituency.

The second social condition of self-respect is related to the social environment in which personal identities are formed and shaped. There is a sense in which our subjective identity is inescapably related to the perception of our identity in the social world. Many authors have highlighted the social aspects of personal identity (Alcoff, 2010; Butler, 1990; Connolly, 2002; Gilligan, 1993; Haslanger, 2012; Okin et al., 1999) and showed the effects that public

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<sup>3</sup> For further analyses concerning the concept of self-respect, see Bird, 2010; Hill, 1991; McKinnon, 2002; Schemmel, 2018 and Whitfield, 2017.

identity disempowerment, double standards and cultural domination have on agents' ability to perceive their worth (Cudd, 2006; Pateman & Mills, 2007; Young, 2000). Looking at real-world democracies, it is evident that many citizens have to fight for being recognized as first class citizens, given the instances in which some aspects of their identities are mistreated, or the burdens they have to endure in order to accommodate their identities to an historically and contextually shaped public space.

There are different circumstances of real-world democracies that affect the way in which people shape their identities and, consequently, impact on the likelihood that the social bases of self-respect are distributed equally and without imposing to some citizens unjustified burdens in order to "fit in". In this section I shall focus on three specific circumstances, namely pluralism, conflict and power. The analysis of these three circumstances of politics is important for understanding the structural aspects that impact the implementation of the ideal of political equality in actual circumstances.<sup>4</sup> Such structural (unequal) circumstances very often provoke a disempowerment of the members of disadvantaged groups and cause questioning regarding their ability to meet the standards (moral and epistemic) from which derives the public recognition of citizens as fully autonomous agents.

*Pluralism* is a fact of contemporary democracies. From a liberal perspective, it can actually be defined as "the normal result of the exercise of human reason within the framework of the free institutions of a constitutional democratic regime" (Rawls, 1993, p. xvi). This definition reflects the intuition that agents disagree not simply because some of them (or everyone) reason in a flawed way. Rather, the argument goes, pluralism is the most likely outcome of intersubjective deliberative processes. Many authors have investigated the epistemic circumstances that make pluralism an inescapable fact of contemporary democracies. First, the appraisal of evidence is always agent-mediated and agents tend to employ different epistemic norms. Second, agents start their reasoning from different and not reducible doxastic perspectives. Third, agents hold extremely different conceptions of life, ideologies and set of preferences, and they tend to trust their own opinion over the opinions of others (Christensen & Lackey, 2013; Enoch, 2011; Feldman & Warfield, 2010; Goldman, 2010; Peter, 2013a, 2013b; Sosa, 2010).

Granted that pluralism is a stable feature of democratic contexts, some accounts of democratic legitimacy have defined deep disagreement as the proper expression of citizens' freedom and willingness to state their own perspective publicly (Benhabib, 1994; Biale & Liveriero, 2017; Gaus, 1996; Peter, 2008; Rawls, 1993; Talisse, 2012). According to this view, democracy is a political system in which the equal worth of the members of the constituency is reflected in the equal right to have control over political decisions as well as the possibility of dissenting publicly and effectively from the decisions they do not agree with. Confrontation and disagreement legitimize democracy by distinguishing it from any other form of government. *Conflict* is a second fundamental feature of real-world democracies. Conflict can be positively described as the outcome of a functioning democracy, where the satisfaction of one essential criterion of democratic legitimacy, namely that no member of the constituency should be required to be epistemic deferent toward the majority decisions, is met consistently. But also,

### 3. Non-Ideal Circumstances of Politics and Political Agency

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<sup>4</sup> It is important to distinguish between structural and aggregate explanations (Haslanger, 2016). A structural explanation assumes that a social phenomenon can be properly explained as part of a larger phenomenon that sets constraints on the behavior of agents. According to this kind of explanations, the reference to structuring causes helps explaining patterns and shows how structure can impact agents' identity formation and deliberative processes. Since social structures are often hidden (or anyway not properly laid out), a critique of social structures and the impact they have on agents requires normative analysis.



conflict reflects the fact that citizens are committed to values that do not want, or cannot, easily change, revise, or abandon. Since agents tend to show epistemic trust in their own perspective more than others, they usually lack the motivation for finding a middle ground with others. Consequently, albeit conflict should not be depicted as detrimental to democratic goals,<sup>5</sup> it is indeed true that democratic procedures are required to at least manage conflicts in order to avoid indeterminacy over public choices (Gaus, 1996).

Finally, a third circumstance of real-world I want to concentrate on is *power*. In non-idealized political contexts, the access to political resources is distributed unequally among political actors. Moreover, the positional power for establishing and revising social norms and standards is often monopoly of members of historically established majorities (Galeotti, 2002; Liveriero, 2015b). If we look at the concept of public space, for example, it is quite intuitive to understand the role played by power asymmetries in shaping it. Public space, within liberal democracies, has been traditionally defined as a neutral and impartial space, where every identity can feel included and treated fairly, since such space, by definition, should not be partisan or hostage of one party. However, the so-called neutrality of the public space is actually infringed by the fact that groups that historically have been holding the almost totality of power shaped the public space in their image, unfairly favoring specific social standards and norms (Galeotti, 2017). Very often, when social movements or political actions demands a revision or a complete rebuke of unfair social norms they encounter harsh opposition from members of the majority. Members of established majorities usually raise concerns that are vulnerable to double standard fallacies. Indeed, the requests by disadvantaged and/or misrecognized groups are often perceived as unjustified pressures for obtaining special rights or undue privileges. In order to contrast these unfair – at yet rhetorically effective – oppositions to build a less power-sensitive public space (and consequently the political society overall) it is important, in my opinion, to relate the fight against power asymmetries with a specific definition of political agency that hinges upon the normative concept of equal respect. Indeed, the way in which the public space, being it symbolic (concerning social standards and the mainstream perception of differences) or involving the actual distribution of rights and opportunities, is shaped has a strong impact on the fair or unfair distribution of the social bases of self-respect.

One fundamental aspect to focus on for understanding the normative significance of the social bases of self-respect is the definition of political agency. Again, from a strictly theoretical perspective, each member of a political constituency, in a properly functioning democracy, should have an equal possibility of impacting public choices. However, looking at the non-idealized circumstances I just laid out, it appears that not every voice counts in the same way in the actual political processes. This descriptive conclusion raises more than one flag at the normative level. First, there are serious concerns relatively to the effective implementation of the duty of respecting the moral standing of each citizen and granting them recognition-respect. Second, the fact that structural power asymmetries strongly affect the way in which conflicts are solved (most often in favor of the group that holds more power) has a major impact on the democratic ideal of being responsive toward each citizen, recognizing the status of reflexive agent shared by every member of the constituency.

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<sup>5</sup> It is worth mentioning that the traditional paradigm of deliberative democracy was built around the goal of reaching stable consensus among citizens, rather than managing disagreements and conflicts (Estlund, 1993; Habermas, 1996; Nino, 1996). This consensualist approach to deliberative democracy has been lately criticized by pluralist democrats (Besson, 2005; Mansbridge, 2006; Waldron, 1999) who accused the consensualists of neglecting the value of pluralism, and by agonistic theorists (Laclau, 1990; Mouffe, 2000; Tully, 1995) that highlighted the fundamental role played by conflicts in politics.

This second concerns, in my opinion, can be better understood in relation with the debate on *epistemic injustice*. Members of disadvantaged minorities have to fight way harder to have their voice at least heard – and, of course, the fight for being able to actually impact political decisions is even more strenuous. And very often, their requests and preferences are ignored or treated as not as relevant or epistemically grounded as the requests of members of the non-disadvantaged groups. In this regard, members of disadvantaged minorities have been suffering unfair treatments that involve, among others, forms of epistemic wrongs. Any public attempt to silencing opinions or any instance in which disadvantaged citizens perspectives are misrecognized or diminished threatens a fundamental democratic value, namely that any individual should be afforded opportunities to express and defend their views in public forums, and to have those views heard respectfully. Consequently, members of minorities that endure epistemic injustice see their political reflexive agency constantly publicly questioned, as they end up lacking the standard entitlement to have their words heard. Also, they usually suffer from a lack of public responsiveness towards their structural disadvantages. I maintain that these instances of epistemic injustice are detrimental to the fair distribution of the social bases of self-respect, therefore making the case for a pressing need for redressing such forms of injustice, otherwise endangering the legitimacy of the democratic basic-structure in its entirety.

The conclusion I drew in the previous section has an important normative impact, showing that political institutions have a duty to contrast forms of epistemic injustice, because these injustices do not simply concern the horizontal interpersonal relationships among citizens but, rather, are detrimental to the enactment of the ideal of political equality in institutional contexts as well. In order to support this normative standpoint more effectively, in this section I introduce a specification of political agency that hinges upon both moral and epistemic features. Granted that the moral ground of political equality is not contested within a liberal-democratic paradigm (what is debated being the normative reasons in support of such moral ground), I shall analyze the specific epistemic aspects of political equality.

Starting from the procedural paradigm of democracy I introduced in the first section, and relating this general paradigm with the non-ideal circumstances of politics, an agency thesis can be drawn. *Agency thesis*: the proper exercise of political agency requires actors to politicize specific interests and ideals and to challenge the views of other fellow citizens (Biale & Liveriero, 2017). This general account of the agential capacities of citizens is compatible with the definition of disagreement as the proper expression of citizens' freedom and equality, rather than the outcome of an imperfect or defective decision-making procedure. It is possible to conclude, then, that it is exactly in virtue of the fact of disagreement that democracy is the best method for collective decisions. If consensus and unanimity were always available as stable solutions to political conflicts, in fact, democracy would not be as normatively relevant as a collective-choice method. Instead, the political circumstance of disagreement makes democratic procedures necessary for: i. overcoming indeterminacy; ii. establishing legitimate accountability processes; iii. granting political equality to each member of the constituency; iv. respecting the agential perspective of any member, notwithstanding the contextual history of social advantages and disadvantages.

In establishing democratic procedures that should prove to be responsive to any agent involved, consequently granting all citizens the possibility of impacting public decisions, epistemic deference need to be avoided. To understand such concept, it is important to distinguish between members of the party that got defeated in a political decision being able to still acknowledge the democratic authority of such decision, and the same party being compelled to surrender their opposing judgments to the political decision (Biale and Liveriero,

#### **4. Epistemic Aspects of Political Agency**

2017; Estlund, 2008; Gaus, 1996). The requirement of avoiding any form of epistemic deference appeals to the normative intuition that agents' doxastic perspective cannot be bracketed when dealing with the political practice of making collective decisions.<sup>6</sup> In this regard, public decisions should be either justified publicly or being sustained by reasons that are compatible with the agent-relative systems of beliefs.

When we couple the recognition of disagreement as a stable feature of contemporary political societies with the normative requirement of avoiding illegitimate forms of epistemic deference, it appears that disagreement can be solved referring to an external epistemic authority if and only if agents that disagree are at least agreeing in being ready to defer to an epistemic authority both parties acknowledge as legitimate. However, the possibility to solve instances of deep disagreement referring to external epistemic authorities is extremely unlikely when evaluative matters are at stake. The same goes for public battles concerning the monopoly of the positional power in establishing the social standards and in shaping the public image of a specific society.

When an appeal to an external epistemic authority is not available for solving deep disagreement, the conciliatory value of democratic institutions and public decision-making processes becomes even more relevant. My proposal here is to look at the *mutual accountability requirement* that democratic processes impose on citizens, namely the fact that they have sound normative reasons to recognize each other as equally fallible agents who are capable of reasoning and that they owe each other some sort of fair hearing and response.<sup>7</sup> This normative requirement of mutual accountability has important effects on the concept of democratic legitimacy. Democratic procedures are considered legitimate and preferable over other collective-choice procedures because they allow solving conflicts and avoiding indeterminacy, while respecting every agent that takes part in the deliberation.<sup>8</sup> Even when my preferences are not included in the final decision, if I had all the opportunities to have my voice heard and to impact the final decision, then I should have good reasons for acknowledging the legitimacy of the decision and respect the authority that follows from it. However, if some members of the constituency have not been properly addressed in the deliberative processes and have been treated as less-than-a-fully-autonomous-and-capable-agent, do they have normative reasons to consider political decisions legitimate? One of the main goals of this paper is to argue that members of political societies, that have seen their agential capacities diminished for their belonging to ascriptive groups, have a strong normative argument against the legitimacy of the democratic institutional setting *at large*. Whenever, in a political setting, members of the politics are disadvantaged, both as recipient of distributive collective procedures and as epistemic fully functioning agent, the overall legitimacy of the institutional setting should be put under scrutiny.

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<sup>6</sup> According to the *doxastic presupposition*, the epistemic role of justification is not exhausted by the introduction of a set of reasons *R* that provides a *propositional justification* (non-doxastic) for *p*. Since the epistemic value of a justification partly hinges on agents' deliberative performances, any comprehensive justification should involve a *doxastic analysis* that assesses whether agent *S* actually has grounded her belief that *p* on the reasons that propositionally justify it. For further analyses see Brink (1989); Feldman (2002); Turri (2010).

<sup>7</sup> A similar analysis is laid out by Fabienne Peter (2013a and 2013b). Analyzing the normative requirements imposed by the deliberative structure within a non-ideal setting, Peter observes that reasonable citizens have sound reasons for mutually acknowledge each other the status of epistemic peer. This mutual accountability among epistemic peers can then be described as the epistemic side of the normative requirement of reciprocity.

<sup>8</sup> Famously, Jeremy Waldron (1999) urged that, as long as neutrality is the leading criterion for justifying selecting procedures, tossing a coin and majority-rule would both be procedurally valid; therefore neutrality *per se* does not grant fairness. Normative proceduralists, pressed by this critique, have developed procedural models that also reflect the commitment of giving equal weight to each person's opinion, a feature that lacks in random selection.

Miranda Fricker (2007, p. 1) distinguishes between: i. *testimonial injustice* that “occurs when prejudice causes a hearer to give a deflated level of credibility to a speaker’s word” and ii. *hermeneutical injustice* that “occurs when a gap in in collective interpretive resources puts someone at an unfair disadvantage when it comes to making sense of their social experiences”.

I maintain that both these instances of epistemic wrongs are suffered by members of disadvantaged groups when they fight to achieve full recognition within a democratic society whose standards and norms have been established historically by powerful members of a contextually established majority. The lack of empowerment that follows from these chronic forms of epistemic wrongs strongly affect the self-perception of agents, that tend to internalize the power asymmetries as constitutive of their identities (Dotson, 2012, 2014; McConkey, 2004; McNay, 2014; Medina, 2012, 2013). In this way, asymmetries of power end up preventing an equal distribution of the social bases of self-respect as well as directly impacting the processes of self-identity formation of disadvantaged agents.

Naturally, this conclusion has deep effects on the assessment of the ability of real-world democracies to meet normative standards and to satisfy the requirement of granting equal respect to any member of the society, regardless of their personal specifications. Members of disadvantaged groups are not fully respected for at least two reasons. First, the practice of publicly exchanging reasons is legitimate if and only if each agent is treated on an equal footing. Second, the agency thesis requires that each citizen is treated and respected as a *putative epistemic authority*. This second normative request can be derived from the normative concept of equal respect (in the Darwall sense of recognition-respect) that grounds normative approaches to proceduralism. I have showed that democracy, for being a legitimate system for selecting publicly political decisions, should grant to everybody the default position of equal respect, without first requiring an assessment of the actual cognitive, moral, and practical abilities of each citizen. Hence, democratic procedures are legitimate if and only if they grant a normative ascription of reasoning powers and agential capacities to each member of the constituency, granted the satisfaction of minimal criteria.<sup>9</sup> This request relies upon the epistemic intuition that, within a collective-decision framework, when dealing with evaluative matters, agents possess no conclusive epistemic reasons for assuming that their belief is necessarily true and for dismissing the beliefs that other parties hold doxastically. And granted that with reference to evaluative disputes it is unlikely that conflicts could be solved appealing to an external, publicly recognized, authority; then citizens, have both moral and epistemic reasons for mutually recognizing each other as putative epistemic authorities – where such authority is strictly dependent on their different doxastic systems of beliefs (Liveriero, 2015a). According to this interpretation, the normative core of the concept of political equality within a democratic procedural paradigm involves two different aspects of equality: i. one is the proceduralist tenet that equality is a non-instrumental value that should be mirrored in political institutions that distribute the power of impacting political choices equally (practical authority); ii. the second aspect of equality is intrinsically epistemic and requires citizens to acknowledge each other the status of putative epistemic authorities, in order to avoid any forms of epistemic wrongs (that usually target the members of chronically disadvantaged groups). This twofold definition of political equality, if correctly put in practice, should get rid of any form of epistemic wrong that can be prevented institutionally.

In conclusion, I maintain that, in the practice of exchanging reasons to reach a public agreement over political matters, citizens should share practical and epistemic authority, both as co-authors

## 5. Conclusion

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<sup>9</sup> These minimal criteria can be envisioned in the term of the basic capacities required to be granted the right to vote.

of the political decisions and as fallible epistemic agents that disagree but have good reasons (normative and epistemic) for respecting each other as putative epistemic authorities. This twofold description of the normative concept of political authority hinges upon a definition of political equality that relies on both moral and epistemic features. Specifying this dualist account of political equality is extremely relevant for at least two reasons: i. it provides a fuller account of the normative ideal of political equality; ii. it helps developing a framework that defines epistemic forms of injustice as instances of social suffering that endanger the very possibility for agents to be granted the social bases of self-respect. According to my analysis, being disempowered epistemically has a harmful impact of the way in which members of disadvantaged groups understand themselves as political actors and consequently negatively affects how they develop their political agency. In conclusion, suffering structural injustices related to epistemic wrongs have constitutive detrimental effects on the ideal of ascribing full reflexive agency to every member of real-world democratic societies.

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# SECTION

# 4



# SECTION 4

## POLITICAL COLLECTIVE AGENCY

*Adélaïde de Lastic*

The Political Dimension of an Enterprise's Collective Agency

*Marco Di Feo*

Phenomenology of Social Integration and Social Exclusion. An Essential Task of Political Collective Agency

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# THE POLITICAL DIMENSION OF AN ENTERPRISE'S COLLECTIVE AGENCY

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## *abstract*

*What is the political dimension of an enterprise if it is taken as a collective agent? Referring to political collective agency, we can't ignore the case of enterprises. Indeed, they have a collective agency, as we firstly point out in this article. The collective agency of the enterprise impacts the world in different ways that we secondly consider in this article. Enterprises have an impact on states, on citizens, on health, on the environment. They have an impact on employment and on the economy. As such, they contribute to the life of society. In the same way, law impacts them, but also consumers' choices and local socio-economic context. In fact, enterprises must be concerned by corporate social responsibility, they have to care about human's commons and this is a political issue without borders: it is today a prominent political question of equity for the citizen of the world.*

*I offer an ontological account of political collective agency applied to the enterprise. According to this account, an enterprise is a specific kind of social object, which has several intrinsic properties. Put together these properties enable the enterprise to act as a group with a definite political significance.*

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## *keywords*

*enterprise, ontology, responsibility, collective agency, politic*

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**Introduction** Referring to political collective agency, we cannot ignore the case of enterprises. What is the political dimension of an enterprise if it is taken as a collective agent? In this paper, we would like to show first that enterprises have a collective agency. More precisely, with List and Pettit, we defend the logical possibility of the group-agent. Then, we analyse the type of responsibility of a corporate agent. In particular, we investigate the link between a company and its stakeholders. Finally, the enterprise's political role is analysed on the basis of the question of the commons.

**1. The enterprise's collective agency** What is an enterprise? In my article, I propose an ontological account of this question. According to this approach, an enterprise is a social object, which has several intrinsic properties. Regarding the political aspect, the most important one is its agency.

**1.1 The identity of the group-agent: a problem** Does the group have a specific identity or does it have the identity of its parts? The answer to this question is very important because it helps to understand the behaviour of firms and states as "corporate agents" in the political sphere. This issue is at the heart of legal and philosophical theories, and it is central regarding economic and social problems. Depending on the answer to this initial question, the responsibility of the enterprise is not considered in the same way. Several positions exist:

1) The individual / the part takes precedence over the whole.

The primacy of the individual over the entity is named a "methodological individualism". That means it is based on a paradigm of social sciences according to which collective phenomena can (and must) be described and explained from the properties and actions of individuals and their mutual interactions (bottom-up approach). Thus Coleman, for naming the group, speaks about "multi-agents" system. This multi-agent system leads to the tenet that the decision / action of the collectivity reflects (more or less clearly) the overall decisions / actions of individuals (Coleman, 1990).

Thus considered, the group can always be reduced to its parts. Peter French explains that the intentions of the company are always reducible to human intentions (French, 1977, paragraph 4). From an ethical point of view, this position suggests that collective responsibility is reduced to individual responsibility. This position amounts to consider that there is no responsibility of the group.

2) Singular identity of the group exists.

The second position is to consider that there is a singular identity of the group. It has a distinctive reality from the individuals that make up the group. This position leads to recognize that the group-agent responsibility and individual responsibilities are distinct. The position exposed here corresponds more to this second point of view, which gives a singular and autonomous place to the existence of the group. This position allows us to deal further with the company's responsibility as a group-agent. That being said, we wish to underline the idea that the group exists independently of its parts. However it is important to consider that within this entity the identity and individual responsibility exist as well. Finally, there are articulations and mutual influences between the group and the individuals. How to argue in favor of the singular existence of the group?

A second way to defend the existence of the group is to demonstrate the logical possibility of the group's existence. For this purpose we have to start from the intrinsic properties of the agency.

List and Pettit (List & Pettit, 2011) base the demonstration on a robot for determining the basic conditions of agency. So, to be an agent with basic agentive properties you need: to have representational states of the environment, to have a motivational state that specifies the things needed by the environment, to be able to rely on these two previous states (which correspond to an "intentional" state) to intervene properly on the environment.

Agentivity is limited by the physical potentials of the robot. However, the scope of the agency can be improved, in the case of humans or animals (or possibly a complex robot) and in this case, actions become less predictable. As far as the humans being are concerned, they do have a binary answer to what they perceive from the world. As a result, his beliefs and desires are nuanced. They have degrees of belief, satisfaction, and preference. The proposals and attitudes of humans are complex and humans can consider complex scenarii, conditional, variable contingencies and projects in the future. To interpret and anticipate the reactions of an agent, we must model not one or two hypotheses, but several. The precise definition of the agent helps to limit the assumptions.

There are four conditions to speak of a group where the intention is common to all the members: a shared goal, individual contributions to achieve the goal, interdependence (each one formulates its intentions partly because they believe that others share these intentions), and a common consciousness. The common intention allows joint action. But how a multi-member group can go from a multiplicity of dispositions (or "attitudes"), to a unique goal approved by the whole group members? To answer this question, List and Pettit introduce the concept of "aggregative function" which is a vector starting from individual dispositions toward the emergence of a group aim. The joint commitments formed required for the group's emergence is simple according to Margaret Gilbert :

How are joint commitments formed? To put it very generally, in a situation where there are no special background understandings, each person must express to the others that he is in a certain broadly speaking mental state, such that common knowledge among them that all have made the appropriate expressions suffices to create a joint commitment of them all. I refer to this state as "readiness" for joint commitment. As to common knowledge, suffice it to say that the expressions in question must be "out in the open" as far as the parties-to be are concerned (Gilbert, 2013, p. 80).

The reality of the group-agent, based on intrinsic conditions of agency and on the possibility of a single group's aim is demonstrated. This demonstration allows the consideration of the interaction with the entity, like criticism, accusation etc. For example, when BP is held responsible for an oil spill in the Mexico City gulf, it is because it is considered as an agent that

## **1.2 The logical possibility of the group-agent in List and Pettit's works**

it can be prosecuted. This position doesn't prevent recognizing of individual responsibilities. Each member of the group is individually morally responsible for the outcome of the joint action, but each is individually responsible jointly with the others (Miller & Makela, 2005, p.234). It exists a collective *and* an individual responsibility. They are linked but they are different.

**2. Corporate social responsibility**

Once it has been shown that the group is a full-agent in its own right, it can be held responsible for its actions.

**2.1 Founding the responsibility of a group-agent such as an enterprise**

How to found the responsibility of the group and consequently of the enterprise?

To answer this question, we propose a development in two stages:

- Firstly, show that the group is a responsible agent.
- Secondly, show that the group is a kind of person; a legal person (and not a natural person), but a person anyway, who can therefore assume a responsibility.

The first argument starts from the definition of the prerequisites of the responsibility in an agent to show that the group owns them as well. Thus, like List and Pettit, we propose to define what makes an agent responsible from the strictest point of view (List and Pettit 2011):

- 1) The normative capacity which means that the agent can face significant normative choices involving the possibility of doing something good or bad, correct or false.
- 2) The judgmental ability which implies that the agent has the understanding needed to make judgments about options.
- 3) The control necessary for choice between the options.

Therefore a group of agents must fulfil these three conditions. For the normative capacity (1) and judgment capacity (2), since it has been shown that a group is able to organize itself for acting according to the pursued collective desires and that it is able to choose between several proposals including the vote. There can be no doubt that the group of agents is also able to make a choice between options. The question of control (3) is more complicated for the collective agent because it implies to take into account the different levels of causality and the different levels of attribution of responsibility. In fact, the level of responsibility of a member in relation to the group is not the same depending on whether they work for the group, or they participate in the achievement of the group's objectives - and their level of participation. On this point, a distinction must be made between two levels. The first is the responsibility of the group that must control its own organization and assign to each member a task that makes sense to achieve the objectives of the organization. The second is the responsibility of each member to do what they have to do (List and Pettit 2011, p. 163). The group can therefore assume a responsibility because it is able to act in its own name. This responsibility can be named "shared responsibility" (Mellema, 1997).

The second argument is an argument of personification of the group, also pointed by List and Pettit (List and Pettit 2011). A theory exists (since 1246 with Pope Innocent IV) which states that a corporation, a group, may be considered responsible such as a person; a fictitious or artificial person, but nevertheless a person, able to assume responsibility, and who has rights. In our view, this is recognized in the legal framework by the term "legal person". They are interested by this theory because it gets along with the defence of the previous argument, namely, the group's responsibility as such a group. However, it is one thing to position the legal existence of the legal person from a performative point of view; it is another to affirm this personification as intrinsic, considering that the person must have a biological consistency. But, that being said, we have previously recognized that the agent-group may perform judgments and moral acts, it may enter into engagements with other agents, and it may be a source or target of requests. In addition, an agent-group is able to self-regulate. Now,

if a group of agents can do all that, then it has to be recognized as a person because it possesses the basic prerequisites for personality. This positioning raises the question of respect due to the person. The authors specify that the natural person has more rights and deserves a higher respect, related to the natural rights in particular, than the legal person. Thus, List and Pettit affirm that the group doesn't have the same importance, nor the same rights. In addition, the group must be controlled more than natural persons. Indeed, it has a greater power than the individual, including a power to interfere in the choices of individuals (coercion, influence, constraint).

Beyond simply recognizing the responsibility of the group, this conclusion leads to stress the importance of making it aware of its own responsibility (Lastic, 2015).

For natural person, the scope of their responsibility extends to themselves, and eventually to their children if they have any. A natural person is therefore, *a priori*, only responsible for one entity: himself. For the company, which is a legal person, the responsibility is multiple. If we talk about corporate responsibility, we talk about the responsibility of the group as a legal person. It is a collective responsibility. To better understand this responsibility and how it is distributed, we can analyze its stakeholders.

The issue of taking into account some stakeholders in governance quickly raises the question of corporate social responsibility (CSR). In fact, if external stakeholders, such as environment or the municipality in which the company operates, are associated with governance and are part of decision-making, then it seems that this company can be considered as being socially responsible because it conscientiously takes into account its social impact.

However, the problem of the respective place of firms and the state in relation to society does not have only one answer. Do companies have to be involved in the following problematics: housing, education, health, climate change, etc.? In other words, should enterprises act on the well being of individuals and society? The economist Milton Friedman (Friedman, 1970) is well known for defending the idea that the sole responsibility of the company is to maximize its profit and consequently the benefit for its shareholders. This position corresponds to a minimalist ethics or ethical egoism), which from a purely economical point of view, ensures that this maximization will lead to a general social welfare. In addition, Friedman argues that the company is not legitimate in the management of social issues because it would have a simple production function.

This position is contradicted by several parties who consider that the activities of the company generate outsourced costs on the community (pollution, accidents, unemployment...). The problem is then to determine who will assume those additive costs for the whole society. Some entities expect a social role from the company. We particularly remember Carroll's theory (Carroll, 1979, p. 500) which has the merit of clarifying the notion of responsibility by highlighting its different aspects. Carroll states that the various components of a global responsibility are distributed pyramidically inside the company. Economic responsibility forms the fundamentals of this pyramid and obliges the company to assume its objectives of producing goods and services sold with profit. Then comes the legal responsibility, which belongs to the law. Finally, the ethical responsibility expected by the community implies to respect the rights of stakeholders. This latest step covers what is generally meant by corporate social responsibility.

Thus, in the concept of CSR, responsibility is linked to the consideration of societal stakeholders. The extension of its responsibility includes without any doubt social and ecological concerns. The model of governance induced by the network of its stakeholders leaves room for a debate on the extension of its social responsibility. This debate is on the borderline between legal questioning, ethical questioning and, of course, political questioning:

### 2.2 Responsibility to stakeholders

Does the consideration of certain stakeholders (such as environment) come under the legal or the moral obligation? In any case, it seems to be a vision of equity.

### **3. Responsibility and political issue**

Collective agency implies an enterprise's responsibility of the firm considering its social, environmental and economic context - as far as the company, in its economical context, has a strong effect on humans and their environment.

#### **3.1 Responsibility and political aspects**

The concept of responsibility is based on both an axiological approach (values) and a political approach especially based on the common good's issue (Argandoña, 1998, p.1093). This specific case is as much ethical as economical. It would be misleading to look at either approaches in isolation and we are experiencing that it could be one of the causes of financial and social crisis. So, while it is essential to be aware of the moral theories underlying our practices and to distinguish them, it also seems important not to be locked in an ethical or political approach. As well as the exchanges of good practices between the CSR model and the governance model is possible, why deprive us of alliances that would prove beneficial to the model involved? Governance's ethicization and CSR's normalization are already beginning to exist. They aim not to choose between economic efficiency and social efficiency, but to combine them for sustainable value creation. Thus, even if the environmental, social, societal and health topics treated by CSR seem to be historically independent of the theoretical model of organization's governance, they have nonetheless an impact on the sustainable development's strategy. Indeed, these factors are both endogenous and exogenous: endogenous because they have a direct impact on the company's activity (for example, energy consumption for an industrial company), and exogenous because they have an impact on the local environment of the business (economic, social, environmental). The CSR model impacting the governance model makes it more global.

The question of mutual impact of socially responsible or non-socially responsible governance models arises in terms of the standardization of the one and ethicization of the other. Two different types of support for globalization by organizations can be distinguished: On the one hand, the model of CSR, necessarily including an environmental stakeholder, assuming responsibility for it, and thereby demonstrating its responsibility; a rather voluntary attitude echoing values and an ethical attitude. On the other hand, the model of governance, which does not require an environmental stakeholder, of which it does not necessarily recognize responsibility. Its normative approach is to respect the mandatory standards. That is why this model implies an approach that can be described as legal, political or economic rather than ethical. The gradual expansion of the company's responsibilities questions the legal definition of its role in public life (Even-Granboulan, 2000, ch. 7). It seems, however, that the responsibility assumed by the company, as a voluntary approach taken collectively and individually, leads to an "ethicization" of the models. In the legal world, ethics thus appears as a palliative to the normative vacuum. In the economic world, more and more voices are rising to proclaim the humanity of the *homo oeconomicus* who, in addition to being a moral and emotional being is a rational being who wishes to preserve his living conditions for future generations.

Thus, the standardization of certain voluntary practices, if it does not prevent the self-support of a responsibility, may be desirable. This analysis therefore leads to an ethical and political perspective of entrepreneurship.

#### **3.2 The question of the commons**

In the research for the common good, the commons have become an absolutely central point of world politics. The future of humanity depends on how they will be preserved and how they will be equitably used. In this context, the enterprise as a collective agent has a central role.

More impacting than an individual and, most of the time, more reactive and more effective than a state institution, company must today take its place as a collective agent having a political role because, in fact, it has an impact on the world: on the natural and socio-economic environment and on the evolution of societal practices. Therefore, it must optimize its impact to make it positive, and if this is not possible and its impact proves to be negative (pollutant, harmful to health, energetically deplorable, etc.), it has the duty to reduce as much as possible and, at worst, to compensate for it. The point that crystallizes the political scale of corporate agents is that of the commons. Garrett Hardin introduces this notion in an article entitled “The tragedy of the commons”:

“Therein is the tragedy. Each man is locked into a system that compels him to increase his herd without limit -- in a world that is limited. Ruin is the destination toward which all men rush, each pursuing his own best interest in a society that believes in the freedom of the commons. Freedom in a commons brings ruin to all. (...) When we use the word responsibility in the absence of substantial sanctions are we not trying to browbeat a free man in a commons into acting against his own interest? Responsibility is a verbal counterfeit for a substantial quid pro quo. It is an attempt to get something for nothing.” (Hardin, 1968, p. 1244)

The notion of responsibility or irresponsibility in relation to the commons is introduced and Hardin requests state sanctions to deal with them. Later, in “Governing the commons: the evolution of institutions for collective action”, Elinor Ostrom deals with the governance of the commons. Governance of natural resources is crucial from a political point of view, but currently neither the state nor the market, have been able to solve the problems related to common resources. The governance of the common resources could, according to Ostrom, be assured by voluntary organizations, by collectives able to take charge of the common goods in a wanted and collaborative way:

“Success in starting small-scale initial institutions enables a group of individuals to build on the social capital thus created to solve larger problems with larger and more complex institutional arrangements. Current theories of collective action do not stress the process of accretion of institutional capital. Thus, one problem in using them as foundations for policy analysis is that they do not focus on the incremental self-transformations that frequently are involved in the process of supplying institutions. Learning is an incremental, self-transforming process.” (Ostrom, 2010, p. 190)

The defence of the commons concerns companies as a group-agent but also individuals belonging to this group themselves. In this process, learning is central. For the agent-groups that are the companies this learning goes up to a duty to know, legally called “duty of vigilance”.

After having shown that the enterprise is a group whose agency needs to be recognized, we insisted that this agency brings it into the responsibility domain. This responsibility, commonly called “Corporate Social Responsibility”, involves a relationship with internal and external enterprise’s stakeholders whose natural, social and economical environments are parts. This aspect incurs a political role for the enterprise, in the sense that, as a human community’s agent, it must also seek the common good. In concrete terms, this position is reflected in the preservation of the common goods, called the “commons”.

## Conclusion

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# PHENOMENOLOGY OF SOCIAL INTEGRATION AND SOCIAL EXCLUSION. AN ESSENTIAL TASK OF POLITICAL COLLECTIVE AGENCY

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## *abstract*

*In this paper the author is going to talk about an essential task of political agency: social integration. He analyzes it from a phenomenological perspective, identifying its essential elements in order to achieve an eidetic view of it. The author roots the analysis of social integration in a stratified view of the social world that appears essentially composed of four different forms of social interaction: community interaction, characterized by solidarity relationships; territorial interaction, characterized by “conflicting” relationships (polemos); social interaction, based on standard models of behavior; and institutional interaction, based on laws that govern the public life. Social integration is stratified into these four forms of intersubjective life and is fully achieved only if it allows a real state of belonging and an actual participation in each of them. The policy plays a crucial role because integration is often a critical process that can cause social conflicts and that can not simply be left to the sensibility and will of those who live in the various contexts. Political agency should coordinate normative and cultural actions, so that norms are not simply imposed, but are assimilated by a citizenship aware of the social, ethical and political value of integration.*

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## *keywords*

*social integration, social phenomenology, community, territory, society, integration policy*

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## 1. Introduction

### 1.1 The Matter of Research

In this paper I am going to talk about “social integration”. This is an issue that covers many different situations and that can be investigated from various different points of view. I will focus on the situations in which single persons, or groups, need or desire to become part of a new social context, or a new wider group. So, not only the typical situation of foreign immigrants, but a general condition in which anyone might find themselves during the course of their life.<sup>1</sup>

My purpose is to answer the following questions:

1. Who are the subjects of integration?
2. What are the possible social contexts in which they can be integrated?
3. In what circumstances can we recognize a fully successful social integration?
4. What is the role played by political agency?

### 1.2 The Research Method

I will analyze social integration from a phenomenological perspective, identifying the essential elements and dynamics of this process in order to achieve an eidetic view of it, namely a general theory that goes beyond the multiplicity of contingent situations. The eidetic research is not a simple description of essential features. Indeed, if we take the essential features of social integration out, then we discover the essential conditions that make it what it is. From the phenomenological perspective, the eidetic level of the reality is intrinsically normative, because it shows the ontological constraints on an object, beyond which that object ceases to exist.<sup>2</sup> At the same time, eidetic understanding shows us what we should do to fully achieve social integration. Therefore, I develop my research in a radically different perspective from the current prevailing orientation that confines understanding to descriptive level and conceives social reality as a mere historical construction, which is the contingent result of conventional attributions of status.<sup>3</sup>

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1 The purpose of this paper is not to focus on why it is right, or otherwise, for a society to be open to contaminations and diversity. Rather, I focus on a social problem that, in spite of a policy that is more or less inclined towards hospitality, appears to be generalized (perhaps unavoidable), because there are many different kinds of integration processes that develop at different levels of intersubjective life.

2 “In its broadest sense, reason is the willingness to meet adequately the needs that reality shows us’. In this proposition is contained the phenomenological challenge to a conviction that is one of the most rooted in modern philosophy, from Hume to Kant to Weber to Kelsen and neopositivism: the mutual independence and irreducibility of descriptive and prescriptive, thesis and norm, theoretical and practical, reason and will”. (De Monticelli, 2018, p.118, my translation). On this point see also De Monticelli (2018, pp. 73-97).

3 I use the notion of “*status*” following the concept of Searle (2010). He maintains that the “things” of the social world

We can synthesize the multiplicity of possible subjects that can be socially integrated in two essential types:

- a. An individual subject.
- b. A group of individuals.

When we talk about social integration, we are speaking primarily about processes of personal change, in which the subjects involved have to find a way of living together. Along their path of integration, persons have to find a balance between safeguarding their identity and what the new context requires of them.

In the case of single persons several kinds of conflict may arise: between personal and collective values, individual and collective habits, etc. It is not the aim of this paper to develop a phenomenology of the possible forms of conflict, but it is at least necessary to highlight that the issue of social integration must not be reduced to the negative perspective of the problems. The term “integration” itself means a mutual enrichment of the parties and this perspective should guide political strategies.<sup>4</sup>

The social integration of a group within another collective is more complex because it entails also the meeting and comparison between the group constraints and the norms that have to be accepted in order to become part of the new collectivity.

We can recognize two essential cases:

- b.1 The partial integration of a group;
- b.2 The integration of whole group.

In the first, the integration of one or several members of a group within another group may give rise to conflict between the old and new collective, to the extent that the latter may impose constraints that are incompatible with the conditions of belonging to the previous one. In the second, the integration could raise conflict between the groups and their members, insofar as new joint commitments between groups may undermine the membership of their members.<sup>5</sup>

In general, *the actors of integration are intentional subjects that can freely decide to become part of a new context within the possible compatibility between their personal or collective identity and the collective bonds (norms, rules, duties) that define the conditions of belonging to new collectivity.*

A. Schütz (1944) identifies two essential levels of knowledge that guide social interaction. An explicit level of competences, which concern everything that a subject learns on the basis of his own interests, needs, desires, etc.<sup>6</sup> An implicit level of competences, which concern everything that a subject learns from others, seeing the sense of their social behaviors.<sup>7</sup> The first lets persons achieve their aims within a shared horizon of meanings. The second

## 2. The Subjects of Social Integration

### 2.1 Individuals and groups

### 2.2 Types of compatibility

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assume deontic powers because there is an intersubjective agreement to assign a Y function to an X object. Moreover, on the limits of a naturalistic approach to the social world see Husserl (1936); and on the flaws of historicism see De Monticelli, (2018, pp. 109-118).

<sup>4</sup> The term “integration” comes from the Latin term “*integratio*” that means: “to make whole, full, perfect, what is incomplete and insufficient to achieve a certain purpose, adding what is necessary or remedying the lack by means of appropriate instruments” (Encyclopaedia Treccani, 1995, my translation).

<sup>5</sup> About the fundamental role that joint commitment plays in order to assemble collective subjects, see Gilbert (2013).

<sup>6</sup> Schütz (2013, pp. 14-15).

<sup>7</sup> Schütz (2013, p.13, 17, 26).

makes them behave efficiently within a system of social interactions, which are based on stereotyped models of behaviors.

We can consider the first as the level of *social personality*, because it is the result of a growth path within which persons decide who they want to be in connection with the surrounding world. We can consider the second as the level of *social subjectivity*, because it is the result of a routine that is assimilated by the subjects in a manner that is mainly passive.

According to me, we can associate these levels of competences with two types of compatibility between persons and frameworks of integration: 1. The *intersubjective type*, which regards the compatibility between different stereotypical models of thinking and acting; 2. The *personal type*, which regards the compatibility between personal projects and social normativity. The degree of *intersubjective compatibility* is essentially connected to the *temporality* of the process: the longer we are inserted in a certain routine, the more our degree of compatibility can grow.

The degree of *personal compatibility* is instead essentially connected to the *flexibility* of the actors involved: the more we are willing to change our interests and our goals in connection with the new social context and the people who live there, the more our degree of personal compatibility can grow.

### 3. The Contexts of Social Integration

In an eidetic account, I propose to recognize at least four essential dimensions of intersubjectivity, which are characterized by four essential types of social interactions.

#### 1. Community.

A. Schütz (1932) divides the social world into two different types of social interaction: the living environment, which is the context of face-to-face relationships, and society, which is the context of relationships between subjects that live in the same social system, at the same time, without knowing each other. The first kind of social life, in which an intimate sharing is possible, is the place of interpersonal bonds and social feelings (i.e. solidarity).<sup>8</sup> In the second kind of social life, in which the subjects act according to collective patterns of behavior, the persons and their interpersonal relationships evaporate within stereotypical forms of joint action.

Following A. Schütz's account, I propose to use the expression "community" for every kind of intersubjective context that is characterized by interpersonal bonds: emotional, sentimental, friendly and existential. They are sources of solidarity interactions that create, in general, a climate of intimacy. I use the expression "existential bond" to define the type of bonds between persons who, by sharing the same values and cooperating in upholding them, develop a deep sense of mutual belonging.<sup>9</sup> Therefore, I do not propose to use the expression "community" only for families, or groups of friends, but also for every kind of collective subject in which the social relationships have a high degree of solidarity and intimacy.<sup>10</sup> For these same reasons, I consider wrong to use the term "community" with reference to wider collectives in which is not possible to create these conditions, as in the case of "European Community".

*"Community", in eidetic sense, is every collective whose identity is essentially characterized by solidarity relationships between its members, namely a collective in which each member is interested for*

<sup>8</sup> On the topic of face-to-face relationships and on the crucial role that the empathy plays in them, see: Scheler [1916, 1923-1925] and Stein [1925] Husserl [1921].

<sup>9</sup> In our tradition we have called some bonds of this kind "fraternity".

<sup>10</sup> On the topic of community see also: Tönnies [1887]; Scheler [1916] and Stein [1925].

the “sake” of others.<sup>11</sup> In a real community there is such a particular degree of intimacy that the well-being, suffering, success etc. of one, is the well-being, suffering, success etc. of the others.

## 2. Society.

Following A. Schütz’s account once again, I use the term “society” for every kind of social context within which several subjects can interact in meaningful and coordinated ways, without knowing each other.

This interaction is possible because each of us follow general models of behavior that are the same for all.<sup>12</sup> These models are the result of a long process of typification that, generation after generation, establishes what is a socially correct way of acting in a given situation. From an eidetic perspective, the actors of these stereotypical actions are not persons, but *typical subjects* that know how to act in different situations, knowing how each one has to act in them.<sup>13</sup> Every member of society learns these models by living in it, by means of the example and education of others.

As P.L. Berger and T. Luckmann (1966) highlight, they are the result of consolidated routines which are continually reinforced by the repetitiveness of joint actions that achieve their aims. For example, when a subject enters a post office, he does not go directly to the help desk, because he knows that *normally* there is an order of arrival that *has to be respected*. He equally expects that the others do the same. If nobody breaks the routine, then social life *flows* in such a satisfying way that this model of behavior becomes a more and more deeply-rooted way of acting within the collectivity.

The members of society are *typical subjects* to the extent in which they are involved in this flow of normality, reinforcing it.<sup>14</sup>

“Society”, in an eidetic sense, *is every intersubjective context driven by typical models of behavior that establish the regime of normality. The minimum condition for belonging to and participating in it is thinking, feeling and acting in typical ways, as typical subjects.*

## 3. Territory.

By sharing everyday life, persons and communities can establish habitual social contexts, in which it is possible to recognize a particular set of local customs and traditions. I call this defined social habitat “territory”.<sup>15</sup>

In general, we can conceive the territory as an intermediate social level between community and society. It is not a community because it is not essentially characterized by solidarity relationships between its members. It is not merely a part of society because the interpersonal relationships between social actors protects them against anonymity.

The places of territory are all those workplaces, public spaces and social events, in which each one of us meets the larger context of society without disappearing as personal being.

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<sup>11</sup> The term “sake” has various connotations: well-being, health, happiness, etc.

<sup>12</sup> On these fundamental level of social life, which I introduced into the paragraph 2.2, see: Schütz [1932]; Berger and Luckmann [1966].

<sup>13</sup> “Within the group, the member carefully examines normal situations [...] and immediately grasps the right prepackaged recipe for solving them. In those situations his actions shows all the signs of habituality, automatism and half-consciousness. This is possible because the cultural model provides typical solutions for typical problems, by means of recipes that are available to typical actors” (Schütz, 2013, p. 27; my translation).

<sup>14</sup> On the ideas of normality as flow see Schütz [1944]. The stranger is a subject who interrupts the fluidity of collective experience, because he comes from another system of social and cultural pertinences.

<sup>15</sup> This dimension of the social world is a new topic for philosophy and it is probably the principal news of my research. The territory is not only a geographical entity, namely a piece of land, but it is a complex entity, namely a social environment in which social interactions play a crucial role.

Territory is a common reference framework that puts together many persons and several communities.

The territorial identity, which is recognizable by means of a particular set of local customs and traditions, depends essentially on two factors: 1. The particular way in which the local collectivity transforms the reference framework; 2. The particular way in which the reference framework influences the lifestyle of local collectivities and their mutual interactions.

While society is essentially characterized by the rigidity of its models, in which there is no place for different ways of acting, the territory is a dynamic context, in which different persons and groups, with different perspective, can interact each other.<sup>16</sup> While the unity of the communities is essentially rooted in solidarity relationships, the unity of territory is rooted in a particular reference framework that attracts the interest of many.<sup>17</sup>

From my phenomenological perspective *polemos* is the essential feature of local interaction and may be essentially of two types:

- *Conflictual polemos*: a conflict between enemies that fight to prevail. In this case the winners occupy the territory, push out their enemies and take possession of resources.
- *Cooperative polemos*: a conflict between persons and communities that belong to and are equally interested in the same framework, but have different perspectives on territory management.<sup>18</sup>

Since the *cooperative polemos* ought also to be a characteristic feature of democratic policy, then we should reassess territories also from a political perspective. Indeed, people can mature a personal interest in a wider common good and make their concrete contribution to the *res publica*, just within the territorial interactions, which connect private and public interest. “*Territoriality*”, in eidetic sense, is the essential feature of every intersubjective context in which persons and communities become social actors, without being cancelled by the anonymity of stereotypical roles and rules. Territory is the geo-social framework in which the social players achieve networks of relationships in which a certain local tradition takes shape.

#### 4. State and Nation.

The last level of the social world is constituted by the institutions, namely the complex of laws that govern the life of persons, communities and territories.

In a democracy, the entire institutional system should maintain a state of public justice, security and order, in which all citizens are bearers of the same rights and duties. In this case, the institutional homogenization of persons is necessary in order to protect this equality. The classic expression “Everybody is equal before the law” exactly states this concept.<sup>19</sup>

“*Statality*”, in eidetic sense, is the essential features of every system of laws that is capable of governing a wide plurality of persons, communities and territories by means of a set of governance bodies.

Moreover, we normally use the expression “*nationality*” to indicate the ethnic union of every person born in the same state, regardless of her/his sense of belonging to the population and institutions. However, the expression “*nationality*”, in its most meaningful sense, ought to

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<sup>16</sup> The general model of normality does not determine the social interactions through and through. In everyday life, people play their roles and interact with each other in eccentric ways, deviating from the normality within the limits of a tolerability that itself is part of the routine.

<sup>17</sup> There are conflicting relationships even in communities and solidarity relationships in the territory, but in both cases they are not the essential element. If they become such, then the community is subject to an ontological dynamism that transforms it into something different, just as the territory ceases to be such, becoming a community.

<sup>18</sup> I use the term “*polemos*” in the sense that seems to emerge from the fragments of Heraclitus, in which the opposites appear as joined parts that equally contribute to the existence of the whole, just through their contrast.

<sup>19</sup> For a phenomenological study of the State see Stein [1917].

indicate *the collective identity of a wide plurality of subjects that participate in public life, feeling part of a population.*

According to Husserl, a whole is such if it can be isolated and distinguished from the surrounding entities and phenomena by means of evident criteria that must be constitutive of the same kind of wholes of which this whole is a sample.<sup>20</sup>

Since the social interaction between persons is the essential feature that allows us to distinguish and isolate the different layers of the social world, then each of these layers can be considered a whole. Communities are social wholes composed of persons who are joined by interpersonal bonds and solidarity interactions. Territories are social wholes composed of persons and communities that interact in the same reference framework. Society is a systemic whole composed of several models of behavior, a complex set of social roles and a traditional system of intersubjective rules. States are juridical wholes composed of complex sets of laws and governance bodies.

The State is the most complex form of social context, because it unifies the other types of social interaction in a system of bonds that stretches from the interpersonal bonds of community type to the collective bonds of institutional type.

In the absence of an institutional system, the most complex social context is a certain territory in which a smaller number of persons and communities interact with each other, fighting or cooperating within the same reference framework. Finally, in the absence of external subjects and communities, the social world is reduced to the community alone.

Communities, territories, society and states are “pregnant wholes”, namely entiresities composed of parts that are linked to each other by bonds of co-variation.<sup>21</sup>

Indeed, if the laws change, then there are also changes in the life of individuals, communities, territories and society; if a new custom or practice becomes a collective habitualness, then it can influence the life of people and become the content of new laws; finally, if several individuals, or communities, collectively act to change their lives within their territories, then their actions can influence both the set of social customs and practices and the system of laws. Moreover, the levels of the social world are not mutually independent dimensions. Each one of them is connected with the others and this mixture makes their bonds of co-variation even stronger. Again, I consider community, territory, society and institutions depending on and necessary parts of every complex social world, which would be otherwise impossible, without society and institutions, and inhuman, without communities and territories.

## 4. The Essential Interconnections of the Social World

### 4.1 The social world as whole

### 4.2 Bonds of co-variation

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20 On the whole-part relationship see Husserl [1900-1901].

21 On the concept of “co-variation”, F. De Vecchi (2017, p.8) explains: “According to Edmund Husserl eidetics is the “science of essences” [*Wesenswissenschaft*] (Husserl, 1913/1950, Introduction) and essences are the bonds which define the possibility of co-variation of the parts constituting any entity as a whole. The fundamental idea is that such bonds can be more or less binding and that any type of entity is specifically defined by the degrees to which its parts are bound-constrained: some of its parts can be varied to the point of being suppressed, while others of these parts cannot be varied because otherwise the entity would cease to exist”. In other words, there are necessary parts, which are characterized by the maximum degree of constraint and which must be necessarily bound together with other parts in order for a certain type of entity to exist”.

On the concept of “pregnant structure”, R. De Monticelli (2018) explains: “A pregnant structure is precisely an entity equipped with its intrinsic inner cohesion that is determined by dependency relationships, which are capable to distinguish it in a functional and substantial manner from all other elements that are contained in the same environment in which it is located. In a pregnant structure even every part of it is pregnant, since it plays a role that contributes to determine the nature or identity of the structure, its permanence, continuity and survival as a unit”. (p. 185, my translation). “The pregnant structures [...] are abstract structures, but they describe real dependency relationships like those that occur within an environmental niche” (p.191, my translation).



Since the social world is a whole composed by wholes that are bound each other by dependency bonds, then the social integration is fully accomplished if the persons are integrated in every parts and if this integration does not cause conflicts between them. *Since the social world is a stratified whole, then the social integration is a stratified process through which persons become members of communities, actors of a territory, subjects of a society, members of a nation and citizens of a state.*

Finally, I would like to stress the fundamental role of communities and territories both in order to assemble a social world and in order to achieve the social integration, because the persons learn to act together, in the collective horizon of “we”, just within them.

### 5. Belonging and Participation

If persons, or groups, are fully integrated in the social world, then they become full-fledged members of it.

A true membership has to have at least two essential characteristics:

1. An actual *state of belonging*, which bonds new members to the new social context.
2. An actual *participation* in collective actions. A new member is really integrated in a new social context if he/she can take part in its collective actions.

This membership is fulfilled if the individuals cease to develop only individual beliefs, assessments and decisions, and begin to mature stances that are motivated also by the beliefs, assessments and decisions of others. In this case the individuals can take part in collective convictions, assessments and decisions, which are the motivational sources of the collective actions. According to Husserl (1921), the communication that takes place in the course of shared experiences establishes “higher-order personal units”, in which the individuals become parts of collective subjects and actions, without ceasing to be the authors of independent stances.<sup>22</sup>

Belonging without participation would be suspect, because it generally characterizes kinds of collectivity in which persons are marginalized.

At the same time, without membership we cannot consider the actions of subjects as real forms of participation. Indeed, also external individuals may collaborate with a group, but their actions are not part of its collective agency.

Individuals, or groups, who are not fully integrated, can become vulnerable parts of the collectivity. A person is alone without community; he/she is socially isolated without being a recognized member of the territory; he/she is marginalized without social competences; he/she is vulnerable without institutional recognition. In eidetic sense, the exclusion from the *bonds of co-variation that characterize the status of member* is an essential feature of the social exclusion.

In summary: *persons and groups are fully integrated in a collective if, and only if, they are recognized parts of it. Collective approval makes the sense of belonging to possible and, consequently, enables new members to participate in collective agency.*

### 6. The Essential Levels of Social Integration

After having explained the essential reasons for which it seems phenomenologically reasonable to stratify the social world in four dimensions, we can now better understand also what are the essential conditions to be integrated in each one of them.

1. If interpersonal bonds of solidarity type are the essential conditions for belonging to and participating in community life, then community integration is fully achieved if new members are capable of binding themselves to the other members and vice versa, i.e. by means of friendly or sentimental relationships.

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<sup>22</sup> On this topic see also: Scheler [1916] and Schütz [1932].

2. If social competencies are the essential factor for acting within the society, then a fully achieved integration depends on the capacity to adopt a system of stereotypical behaviors.
3. If the territory is the place in which persons and groups become social players, who act in a social horizon that exceeds the delimited circle of the community, then territorial integration is fully achieved if new members are capable of interacting with the other local actors, giving their social, professional, etc., contribution.
4. Integration is finally completed when new members, having received the same rights and duties as every other citizen, can participate in public life, giving their political contribution to the common good.

In summary: *the new members are fully integrated only if all these conditions are satisfied. This is possible if, and only if, the political agency lets them live in legally recognized communities and territories within a state that gives them the sufficient resources (educational, economic, working) to take part in social and political life.*

Every path of integration has a political and collective relevance. Indeed, the failed integration of new subjects may have a deep negative impact on the life of communities, on the flow of social interactions and on the order of legality. Since the collectivity is not made up of isolated subjects and the intersubjective levels of the social world are all strictly interconnected, then acting against every form of social exclusion means acting in the interest of the whole collectivity. Therefore, the social integration must be always a priority of the political agenda. If we conceive political agency as referring to all types of actions that are motivated by the *res publica* and aimed at *res publica*, then we should consider the policy of integration as referring to all types of actions that are motivated by the interest in the social integration of persons and aimed at overcoming situations of social exclusion.

The policy plays a crucial role because integration is often a critical process that can cause social conflict. Since it cannot be fulfilled regardless of the sensibility and will of people that live in the various contexts, then the first step must be the promotion of a culture for integration within communities and territories by means of focused education and correct information.

According to me, there are at least three compelling reasons for considering social integration as a primary task of every democratic policy:

- The first is of a functional nature, because a society that is inhabited by foreign bodies (isolated individuals, marginalized groups, etc.) is more subject to social disorders;
- The second is of an ethical nature; because every marginalized subject is a problem of social justice as such;
- The third is of a political nature, because every subject that is not capable of finding a place in the collective life, although he wishes it, is the sign that current social and political order is not capable of being fully inclusive.

Considering the complexity of the processes, which entail structural relationships between different levels of intersubjectivity and interpersonal relationships between subjects that are bearers of different perspectives, aims, values, sensibilities, etc., the political agency for integration should have at least the following features:

1. It should not be merely a technical action, which is reduced to bureaucratic practices and imposed rules. It should be primarily a cultural action aimed at educating persons.
2. At the same time, cultural education paves the way for a normative action that should be directly addressed to the various different contexts of social life, in order to make them open and welcoming.
3. The policy should not be guided by bureaucracy and economy. This is possible only if we do everything possible to educate a class of public officials and politicians capable

## 7. The Central Role of Political Agency

of addressing complex situations, defending the person from an excessive bureaucratic rigidity and being independent of financial pressures. Otherwise, the individuals person disappear in the face of bureaucratic blindness, or in the reduction to economic models, becoming a generic subject, or a mere cost center, without history, existential goals and individual suffering.

4. Finally, policy should be cleansed of every form of populism and idealism, which blinds us to the complexity of social reality, namely to the stratification of dimensions, problems and values that characterize social interactions between human beings.

**8. Conclusion** Integration is the encounter of different identities and systems of behavior. Their compatibility is the result of a temporal process in which the flexibility of the parties plays an essential role. It is an articulated process that occurs at as many levels as the essential stratification of intersubjective life. The core of this process is the integration of persons within the community and territorial life, in which they find protection against loneliness and social isolation. Successful completion of this process occurs when persons mature a real sense of belonging to and become players in public life. The task of policy is to act on the cultural and normative level in order to realize all these conditions and prevent social integration from downgrading to a mere social-cultural homogenization. If political agency overcomes social exclusion by making a plurality of personal pathways possible, then the persons can find new opportunities for identity development and the integration contexts can benefit from their unique and unrepeatable contribution.

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