Tito Marci

FOR A "CONSTITUENT" CONCEPTION OF CITIZENSHIP AND "HOSTING RIGHT"

Abstract:

The notion of citizenship, as conventionally perceived of in Western tradition, seems to loose its ability today to function as a universal and shared value. We can get a sense of this change by looking at the different political conceptions that run through the critical approach of the "Subaltern Studies" collective, and through the investigation of Balibar and Rancière. From this point of view, democratic practices based on communitarian auto-regulation can be considered as laboratories of a variety of different tools of knowledge that exist beyond the traditional boundaries imposed by the political space of sovereignty (as conventionally understood in Western culture).

According to these perspectives, and also to Max Weber's insights on the "Western city", we have to acknowledge the notion of citizenship as dynamic and always in-the-making (let us call it "constituent"). In the light of this, the idea of social inclusion needs to be rethought as a "Right of Hospitality".

Keywords:

Citizenship, Hospitality, Social Inclusion, Cosmopolitanism, Rights.

1. *Introduction*

Today, the globalization and dislocation of the economic processes is seemingly questioning the rules of social inclusion/exclusion and of politi-

cal participation on which the universal values that function as the pillars of a hegemonic Western culture are built.

The notion of citizenship too, that from Kant to Habermas has been rethought in the wider prospective of cosmopolitism and of the «inclusion between foreigners», seems to loose its ability to function as a universal and shared value[1]. We can get a sense of this change if we look at the recent work of Partha Chatterjee (2004; 2011). His studies, retracing a path that goes from Gramsci to Foucault, analyse the concept of «political society» as well as of «governmentality». He suggests a critique of the traditional paradigm of «civil society» intended as a form historically connected to representative democracy and rights.

From this point of view, democratic practices based on communitarian auto-regulation – such as the forms of resistance (and opposition) that today prefigure the possibility of new conditions of political autonomy – can be considered as laboratories of diverse forms of knowledge located beyond the traditional boundaries defined by sovereignty (as we interpret it in Western culture). For instant, we can think about the different political conceptions that run through the critical approach of "Subaltern Studies" Collective, and through the work of Balibar and Rancière.

According to these perspectives, and going back, at the same time, to Max Weber and his studies dedicated to the «Western city», we can reconsider, in opposition to a static and "established" conception of citizenship, an idea of a dynamic and always in-the-making (let us call it "constituent") citizenship. Starting from this point we can also deeply rethink the idea of social inclusion as promoted by the concept of "Right of Hospitality", i.e.

1 It is not possible in this context to exhaustively reconstruct the whole current debate on citizenship in a postnational and postcolonial context and on cosmopolitanism in a globalized world. The literature on citizenship and cosmopolitanism is undoubtedly boundless, with its roots in the past as well as in the modern and post-modern thought. For the sake of simplification and brevity we can give only few suggestions. On citizenship, see above all the four volumes published by Pietro Costa (2000), Giuliano Crifò (2004), and the well-known book of T. H. Marshall (1950). For a review relatively update on the same issue, see the reader edit by Engin F. Isin and Bryan S. Turner (2002) and also Aihwa Ong (2003) and Niraja Gopal Jayal (2013) for the postcolonial context. For a review relatively update on cosmopolitanism see above all Jürgen Habermas (1998), Ulrich Beck (2004), Ulrich Beck – Edgar Grande (2004), Massimo Pendenza (2011), Vincenzo Cicchelli (2012).

of the right to receive and welcome the others, albeit in a space of conflicts and tensions[2].

Anyway, in this presentation I would like to share some reflections regarding the difficult and complex relationship that exists between the concept of citizenship and that of hospitality. The brief reflections that follow do not, therefore, claim to represent an exhaustive and systematic study of a topic that undoubtedly deserves a much broader and more serious treatment. Rather they constitute an attempt at identifying some of the central themes that appear to characterise the question of social inclusion from the point of view of Rights.

To make it short, after a brief discussion of Parta Chatterjee's critical analysis of the traditional ideal of citizenship (Paragraph 2), we will go back to Max Weber and his studies on the origin of the western modern concept of citizenship, as an autonomous and non-legitimate space (Paragraph 3). As we know Chatterjee essentially refers his examination of political space to Gramsci and Foucault. However, we argue that, at the same time, might be useful to relate his thought to Weber and, in particular, to his researches on the genesis of the Western city. What is of more interest to us, is that only through this perspective we can really proceed indeed towards a "constituent" concept of citizenship (Paragraph 4). From this point of view we will finally re-examine the ethical concept, and the juridical practice, of "hospitality" with regard to the problem of citizenship (Paragraphs 5, 6, 7, 8). This is particularly important today because of the growing magnitude of globalization and migration, phenomena that define the ways in which "outsiders" relate to each other in many contemporary societies. It is from this side that we will try to paradoxically rethink the problem of social inclusion of outsiders in terms of otherness (Paragraph 9).

2. *From «civil society» to «political society»*

Before addressing this problem, which no doubt can be subjected to varying, often mutually contradictory, interpretations, we believe that it can be of interest to re-examine one of the most relevant "Subaltern" critical approaches to the western idea of "citizenship". For the sake of sim-

2 There is a still open debate on the right reception and hospitality. About the current discussion on this subject see, for instance, Saskia Sassen (1999), Luce Irigaray (2013) or Abdelmalek Sayad (1999). Anyway, in this paper I especially referred my discourse to path of thought from Christian Wolff (1972), Emmanuel Kant (1995) to Lévinas (1990; 1991) and Derrida (1997; 1998; 2000; 2003).

plification and brevity, we shall focus our attention on Parta Chatterjee's re-thinking of the modes of traditional civil society that have been a basic feature of western rationalist thought. Such ideas, we suggest, have directly or indirectly offered an ideological basis for different ways of perceiving the notion/question of citizenship.

> In short, the classical idea of popular sovereignty, expressed in the legal-political facts of equal citizenship, produced the homogenous construct of the nation, whereas the activities of governmentality required multiple, cross-cutting and shifting classifications of the population as the targets of multiple policies, producing an necessarily heterogeneous construct of the social. Here, then, we have the antimony between the lofty political imaginary of popular sovereignty and the mundane administrative reality of governmentality: it is the antimony between the homogeneous national and the heterogeneous social (Chateerjee 2004, p. 36).

Using the example of colonial and postcolonial societies and their political evolution, particularly Indian communities, Chatterjee undermines the certainty of liberal democratic theory in favour of a realist view of its achievements and limitations. He argues that the theory now in evidence is not merely a record of the imperfections and immaturity of democracy in the non-Western world. On the contrary, it has devised concepts and analytical tools to understand the formation of new democratic practices.

His analysis of citizenship takes the first steps from the postcolonial India:

> In India – he writes –, the new republic was founded on a liberal democratic constitution, universal suffrage, and competitive electoral representation. But the space of politics became effectively split between a narrow domain of civil society where citizens related to the state through the mutual recognition of legally enforceable rights and a wider domain of political society where governmental agencies dealt not with citizens but with populations to deliver specific benefits or services through a process of political negotiation. I elsewhere described the anomalies that result in the application of the norm of equality of all citizens before the law and how those anomalies are sought to be resolved through the intervention of politics (Chatterjee 2011, pp. 13-14).

It is generally held that the promise of transforming a deeply hierarchical society into a civic community of equals has not been fulfilled. Chaterjee argues that only a minority of the people in India (all of whom are citizens in the "thin" sense of the term) are able to enjoy fully the rights and privileges of citizenship, and that only they are able to participate in civil

society. The majority is excluted from these rights because of their material circumstances, and because of the ways in which their relations with the state, and with each other through those relations, have evolved. They are often treated by the state as labelled "populations", with certain very specific entitlements – which often have the effect of marking them out as less than full citizens of the country.

Anyway with his works, Chatterjee has offered us precious insights into the possibilities and limits of democracy not only in India but also in the more extended postcolonial world. We are talking here mainly about *The Politics of the Governed*, a book published in 2004[3]. The book argues that the rise of ethnic or identity politics – particularly in the postcolonial world – is a consequence of new techniques of governmental administration (an idea taken from Foucault). Using contemporary examples from India, the book examines different forms of politics of the governed. Many of these operate outside of the traditionally defined arena of civil society and the formal legal institutions of the state. The book considers the global conditions within which such local forms of popular politics have appeared and shows how both community and global society have been transformed. Chatterjee's analysis explores the strategic as well as ethical dimensions of the new democratic politics of rights, claims, and entitlements of population groups and permits a new understanding of the dynamics of world politics both before and after the events of September 11, 2001.

Putting it in other worlds, Partha Chatterjee looks at the political mobilization of the governed in former colonies, where they lack access to the modes of traditional citizenship. He argues that these people are not power-

3 In *The Politics of the Governed*, Chatterjee intends to sign up to «the first phase of the subaltern studies project», where «the issue was the political split between the organized elite and the unorganized subaltern people» (Chatterjee 2004, p. 53). So it is on this basis that we can appreciate the particular contribution of this book, which introduces the Foucaultian problematic of governability into the understanding of democratic politics in the contemporary world. This problematic allows him to revisit the distinction between «civil society» and «political society», which was present in Gramsci's thinking. In a series of investigations, Foucault asserted that the modern western state owed its survival to its exercising «governmentality», which he defined as steering people. This requires the application of governmental techniques of power, starting with the use of objective empirical knowledge about the people, getting legitimacy from them less by actualizing ideals of civic equality and liberty than by committing to secure their security and welfare. From these basic elements, Chatterjee's reflection consists of thinking through the conflicting effects of superimposing governmental techniques onto the construction of a postcolonial nation.

less but rather that they engage in a kind of democratic politics that differs from the democracy of national sovereignty.

> These (community) claims are irreducibly political. They could only be made on a political terrain, where the rules may be bent or stretched, and not on the terrain of established law or administrative procedure. The success of these claims depends entirely on the ability of particular population groups to mobilize support to influence the implementation of governmental policy in their favour. But this success is necessarily temporary and contextual. The strategic balance of political forces could change and rule may no longer be bent as before. As I have pointed out, governmentality always operates on a heterogeneous social field, on multiple population groups, and with multiple strategies. Here there is no equal and uniform exercise of the rights of citizenship (Chatterjee 2004, p. 60).

Chatterjee estimates that «three quarters of the world's population» do not have enough forms of mediation in order to enjoy real citizenship. From this failure of real citizenship, should we conclude that there is an absence of democracy for all the governed who are not part of civil society?

Chatterjee explicitly rejects this conclusion. He argues that the governed is not necessarily reduced to powerlessness, and that in fact there is a different kind of democratic politics than that of national sovereignty within governmentality itself. The «politics of the governed» is a form of popular politics. It takes shape in within a context defined by governmental techniques aimed at administering a multiplicity of heterogeneous populations. Heterotopic in relation to civil society, the politics of the governed asserts itself as a «political society» grounded in «heterogeneous social policy». Like shantytown squatters or Calcutta street vendors, the leading characters of the «political society» occupy public spaces and work illegally. They take public transport without paying, and sometimes steal water and electricity. That is why for them it is impossible, both objectively as well as subjectively, to claim equal rights for the whole community through the institutional channels of civil society as this would be a violation of constitutionally guaranteed property rights. Nevertheless, they are capable of arranging agreements with governmental agencies (in the field of housing, regarding the use of water and electricity) who eventually recognize the existence of paralegal devices, and the application of governmental programs of social development (in health and education).

> [The] politics of the governed» does therefore not operate in the form of citizen claims as would be the case as in the battle for civil rights. It is compelled to develop a multitude of strategic responses related to the flexibility of the

political techniques of the elites. But one of the essential points is that during their mobilization the governed commit to «the community's moral content (Chatterjee 2004, p. 91)[4].

Political society manages to include the governed in a modern ideal of citizenship by means of a set of stabilized paralegal devices active within the moral community. In this way the politics of the governed does take on a politically democratic dimension. However, this happens through a series of exceptions to the conventional notions of civil legitimacy and national sovereignty, which most of the world recognizes as constitutive of democracy[5].

To a certain extent, from this point of view we can really consider the practice of citizenship as a constitutive moment beyond the boundaries of legitimate power.

3. *Going back to Max Weber*

After having shared Chatterjee's perspective, we can go back to Max Weber, in particular, to his studies on the genesis of the Western city. We address this as we are convinced that in those studies we can find the origin of the western modern concept of citizenship, as an autonomous and non-legitimate space, an exception to civil legitimacy. Through this we can find an idea of a constituent concept of citizenship as well.

As we know through Weber, the well-known saying «city air makes man free» originated in the central and north-European cities. The urban citi-

4 Chatterjee gives the example of a colony of squatters who describe their association not in terms of common interests but in those of the «family», «which however is not defined by any biological or even cultural affinity, but rather by the collective occupation of a piece of land» (Chatterjee 2004, p. 72). This is not at all a matter of community identification, but of the invention of a method of collective subjectification in the shared practice of a conflict. This aspect of the politics of the governed is extremely important, for in addition to foiling governmentality's attempts to reduce identities to objective categories of statistical science, it demonstrates the governed's unique capacity for collective agency, that is, for a movement of "internal transformation" by the process of politicization. So that, in the action of the governed, identities (including religious ones) can be shifted, and material conflicts coincide with conflicts for recognition.

5 The potential of the subaltern classes and their ideologies of discontent and resistance in reshaping the state have prevented the bourgeois in instituting its hegemony over civil society. The legitimacy of democracy no longer depends on the hegemony of the elites but on the politics of the governed.

zens exploited the right to break free from lordly law and this was the great innovation, the great revolution in the medieval cities of the West.

As Weber wrote, «the differences of status disappeared in the city – at least to the extent that they meant the ordinary differentiation between freedom and lack of freedom». The city was a space of liberty and autonomy precisely because it flourished in a particular moment in the development of the West. It emerged within a feudal context, one centred around the contract. Taking this further, the city established hence a contract between the citizens, who made up a community, also in terms of cultural meaning and of action. Its essence was the defence of the freedom shared by equals. While inserting itself in the fabric of the feudal world, the city managed however also to escape the logic of domination which characterized this context. The city marked hence an absolutely singular moment in the history of human kind: it established its autonomy vis-à-vis the ruling classes in the context of overall feudal social life, turning traditional domination into a non-legitimate phenomenon.

Weber sets two conditions for the existence of an urban community. They are:

- political and military autonomy, opportunities for an autonomous administration by authorities in the election (or selection) to which citizens have the right to participate;

- ability to defend this new democracy against feudal lords who may be opposing the cities and the peasantry. This is the field of autonomy.

The development of free labour and of communities of interest aimed at defending new associations against the feudal lords lead to the emergence of city "as" a community.

The city is a free association in which the individual participates in his/her personal right. This new political community, with its democratic forms of association, depended on the presence of a new class – the urban bourgeoisie. «The characteristic of the city in the political definition was the appearance of a distinct "bourgeois" estate» (Weber 1978, p. 1226).

Anyway, in his discussion of the emergence of the Western cities Weber focuses on the process of the development of rational-legal institutions occurring within cities that enabled the individual to be free from traditional groups, and develop his individuality.

Weber identifies the process of the formation of the corporation of burghers as the formal-legal power and their authorities as legitimately constituted. However, revolutionary usurpation of rights also occurs in most important cases. In a formal legal sense the corporation of the burghers and its authorities had their "legitimate" origin in (real or fictitious) privileges

granted by the political and at times by the manorial powers. It is true that to some extent the actual process corresponded to this formal pattern. But quite often, and especially in the most important cases, the real origin is to be found in what is from the formal legal point of view a revolutionary usurpation of rights.

A «derived» burgher association was formed through a contracted or legislated grant of more or less limited rights to autonomy and autocephaly, issued by the city founder or his successors.

4. *Towards a constituent concept of citizenship*

Despite the entire argumentation of Max Weber, I think that this perspective is valid to rethink an idea of citizenship, as *constituent* moment rather than as a constituted concept, and therefore , as an expression of the process of "not-legitimate" power. This is particularly important today, in times of globalization, given that Western institutions are losing their cultural, economic and political hegemony all over the world and when our conception of citizenship is criticized from different points of view (as we saw with Chatterjee). However, from the point of view of a Western multicultural society it may be useful to go back to Weber rethinking a spontaneous and autonomous bottom-up process of inclusion. Such process (which functions as the pillar on which citizenship today is funded) is however not based on the development of rational-legal rights and institutions; nor on the strength of an "excluding" military and politically power, that is one able to protect and separate citizens from outsiders; nor on the hegemony of the free market (and on the universal paradigm of exchange). Rather, it is based on the idea of a right of hosting, which is capable of including others while letting remain in a position of otherness. As we know, such a right cannot exist without conflicts and tensions. It is nevertheless only from this point of view that today we can try to imagine a constituent and dynamic process of citizenship.

5. *Hospitality*

Faced with this problem, it seems to us valid to bring into the argument the problematic principle of "hospitality", in that this idea, unlike that of economic exchange, defines an area of contact between "outsiders" which is based on social reciprocity. It is a principle, also, that despite its

ambivalent and paradoxical aspects, has long since belonged not only to the sphere of ethics, but also of law. Today it has become increasingly important to re-examine the concept and practice of "hospitality"' (as the area where "others" relate with one another), since it is especially today, with the spread of globalisation and migration across the entire planet, that the way in which "outsiders" relate to each other has become a decisive factor in our communal lives in society. A factor that increasingly involves multi-ethnic societies, exposing them to a double risk that prevalent political systems, even democratic ones, are finding difficult to avoid. In fact, if the confrontation between different cultures heightens the risks of conflict (whether ideological, ethnic or religious) between groups and individuals who are more and more confined within their different "identities"[6], policies of "multicultural" (even if stimulated by a serious attempt to plan adequate systems of selection and admission) run the risk of introducing and favouring processes of social exclusion or conformity which are liable to compromise and totally destroy the plurality of the kind of communal life that can only exist where there is viable diversity.

Every "inclusion" conceived of in this way always implies a sacrifice of difference, or rather, of that otherness that cannot be broken up by abstract and formal processes of assimilation. In the terms of this problem, hospitality can still be regarded as a valid analytical tool with which to re-examine a basic relation between outsiders who are able to acknowledge the permanent nature of their otherness, and able to reconcile themselves to their own alienness. An analytical tool which is above all capable of repudiating not only individualistic liberal viewpoints (which relegate the solution of cultural, political and social inclusion to the universalism of legal norms that are basically neutral compared to the various "private" ethical conceptions, without taking cultural diversity into account), but also which can overcome the current kind of communitarian notion that places the problem of social inclusion on the plane of differences in ethical values and collective cultural rights.

6. *The Right of Hospitality*

This is an outlook which undoubtedly has its difficulties, limitations and contradictions, but worth adopting if one holds that the domain of hospitality does not only lie within the realm of ethics, but also of politics (or "cosmo-

6 *The Clash of Civilisations*, by Samuel P. Huntington (1996), is representative in this regard.

politics") and law. It is in fact to law that we must turn, since as was the case in the ancient world (Greece, Rome and the middle ages), law can still call upon the rules of hospitality, or in other words, that dimension of acceptance that has always formed, controlled and guaranteed, paradoxically, the spaces where outsiders meet one another. Nearer to our own time, one need only think of that cosmopolitan western tradition which, following Christian Wolff (1972), reached its climax in the reflections of Emmanuel Kant (1995). Kant, by extending cosmopolitan right to the «conditions of a universal hospitality», observed how the question was not only one of ethics (and mere "philanthropy") but also of right, or at least a right that could guarantee that the outsider would not be treated as an enemy on the territory of a foreign state (Kant 1995, p. 301)[7].

We should therefore re-examine, in the light of the prospects that this right opens up, the basic concept of the *other* as it transcends the idea of identity. This change of viewpoint is essential, if we really wish to give shape to a cosmopolitan society no longer bound to identities that are culturally determined, closed within their own concrete form, but which is open to the idea of permanent otherness: the *universal* society of outsiders, of *others*, of those who universally share in their reciprocal alienness. Thus, instead of the myth of belonging to a community or an ethnic group or a nation, and against the rationalisation of individualistic, mercantile and equalitarian ideas, we need to reconsider, from a sociological point of view, the ethical and juridical question of hospitality: the acceptance of the other, the outsider, the one who does not belong, who cannot be assimilated. Above all, we must re-examine hospitality with regard to the problem of citizenship, since, in our opinion, hospitality cannot only be construed as a basic relationship in which to place the problem of the Other and alienation in general, but also in the wider sense of an existential and ethical sphere of action in which a social relationship can be created that is capable of integrating persons who are permanently in a state of absolute otherness.

Things however are not as simple as they might at first appear. Since the time the concept of hospitality was first given practical form, it has always been cursed with an irredeemable ambivalence. Greek mythology clearly showed how behind every show of hospitality there lurked an element of hostility, an inhospitable, sacrificial component (Detienne 2002, pp. 252-

7 It is curious that, two centuries later a sociologist like Habermas, going back to Kantian cosmopolitism (and thus to his *Perpetual Peace*), neglects to reformulate the question of hospitality from the point of view of ethics, and in fact says nothing about hospitality at all (Habermas 1998, pp. 177-215).

256)[8]; hospitality originated in its opposite, and exists alongside inhospitality. This is because hospitality, the Law of hospitality, is only really possible in relation to those who, even when accepted, remain nonetheless alien, the other, someone who cannot belong or be assimilated. It is also, illogically, only possible when the other, the outsider, disables his otherness, his potential hostility, by adjusting his difference in acknowledgement of the acceptance offered to him. Friedrich Nietzsche, an expert on the Greeks, in an aphorism of *Morgenröthe* (n. 319) in a book written in 1881, made this observation: «This is the meaning of the custom of hospitality: to paralyse any hostility there may be in the foreigner. Where the foreigner is no longer seen as an enemy, hospitality is less obvious; it flourishes as long as his evil intentions are assumed to exist» (Nietzsche 1984, p. 188)[9].

As is well known, the ancient world, especially that of Greece and Rome, had always seen hospitality in terms of the alternation of the two contrasting ideas of hostility and acceptance that modern rationalist thought, by separating them and polarising them in a strict dichotomy, has unhesitantly regarded as exact opposites and totally distinct one from the other, and added them to the political lexicon (see, among others Carl Schmitt, 1972) in terms of friendship and antagonism, alienness and belonging, otherness and sameness, hostility and alliance. A contrast that was already present in Latin with the hendiadys *hostis – hospes* (Benveniste 1976, p. 64): the figure of the hostile guest, the friend-enemy. It is clearly at this level that the institution of hospitality reveals itself in all its complexity: the guest is both *hospes* and *hostis*, a reassuring mirror image of ourselves and at the same time disturbingly alien. In the *hostis* who presents himself as *hospes* (the hospitable foreigner) we can accept our alienness, just as in the *hospes* who presents himself as *hostis* (the foreign enemy) we can cast off the burden of our sameness.

However, Kant was perhaps trying to resolve the social conflicts, the ambivalent antagonism involved in the tension between opposites that is typical of relations of hospitality between strangers, in the aftermath of the social changes (political, economic, technical and cultural) of modern civilisation when he formulated, in the definitive third article for perpetual peace (Kant 1995, p. 302), his idea of a «Right of Hospitality». In line

8 On this subject, see my *La Società e lo Straniero. Per un diritto ospitale nell'età della globalizzazione* (Society and the Stranger. Towards a right of hospitality in the age of globalisation) (Marci 2003).

9 Recently Jean Baudrillard said much the same thing: «The Other is the guest. He is not already equal in rights and different, he is a foreigner, an *extraneous*. And in his otherness, he must be exorcised» (1991, p. 154).

with the requirements of his cosmopolitism, Kant in fact re-examined the problem of hospitality by using the idea of a right which was able to acknowledge the free movement of goods (freedom of trade) and persons (freedom of access), but which nonetheless aimed at solving the problems posed by otherness by removing them completely, by creating a process of progressive cultural, juridical, political, economic and social homologation (and one could say, of "globalisation")[10].

7. *The unconditional hospitality*

This is why, in recent years cursed by planetary wars, inter-ethnic conflicts, a crisis in international relations and the precarious nature of multicultural relationships, a philosopher like Jacques Derrida, perusing the ideas of Emmanuel Lévinas[11], moved the ethical theme of hospitality away from the centre of Kantian cosmopolitism, or rather, outside of the juridical limits within which Kant had imposed it. If the creation of an effective social inclusion of outsiders does not follow from the technical divulgation of reason (from the development of its computation and its economy); if, in other words, the experience of freedom does not correspond to that of reason, and the "progress" of rationality does not coincide with that of peace, we must, beyond any philosophy of history, re-examine the hospitality relation in terms of a reformulation of an unconditional hospitality (not limited by rights, politics or economics) which can welcome the other with all his ambivalence and otherness. We need to reconsider hospitality in all its contradictions; a hospitality which remains a real hospitality only if it is entirely open to the possibility of its own negation, ready to welcome the inhospitable, that which pushes it irrevocably towards its own elimination.

We have to take another look at what Derrida called *unconditional hospitality*: an *impossible* hospitality, totally at variance with politics, law or even ethics, but not for this reason "unreal", in that it is nevertheless

10 For these issues see once more my *L'"altra" Persona* (Marci 2008), *La Società e lo straniero. Per un diritto ospitale nell'età della globalizzazione* (Marci 2003) and the previous essay *L'etica dell'ospitalità nell'era della globalizzazione* (Marci 2001).

11 As far as regards the ethical problem of hospitality, treated at length in all the works of Emmanuel Lévinas, see especially his *Totality and Infinity* of 1971 (Lévinas 1990) and *Otherwise than Being* of 1978 (Lévinas 1991). For the significance that the theme of the hospitality relation assumes in Heidegger's thought, see once more my *La Società e lo straniero* (Marci 2003, pp. 117-130).

prepared for something that could invariably come to pass[12]. This is a hospitality, therefore, which is completely open to the advent of the other, beyond any right (beyond a hospitality conditioned by the rights of asylum, of immigration or citizenship) or even the right of universal hospitality in Kantian terms, but that is still controlled by political and cosmopolitical right. The paradox lies in the fact that only this form of *unconditional hospitality*, completely exposed to what does condition it, can instil sense and practical reasoning into its genuine interpretation. As if to say that the *unconditional hospitality* goes beyond economic calculations, legal measures and political boundaries, but in reality, nothing, and no one, can come to pass without it. If, in fact, right – and to a greater extent, the «right of hospitality» – with its rules, its conditions and restrictions, appears to invariably compromise and even eliminate any genuine ethic of hospitality, it is precisely this ethic that the right, in its total openness, paradoxically upholds. Only to the extent that it permits us to acquire the most genuine sense of duty, of obligation, of our debt to others, does the right show itself for what it is and should always be: that which, by determining our requirements, safeguarding our interests and establishing our position and our identity, forges our relationship to outsiders, the one contraposed to the other. Every time that a right is assigned to us or acknowledged by us, we simultaneously find ourselves in debt, in a situation of indebtedness; by stating a right we unconditionally impose a duty. Even before we enter into the world of words (the language community), even before, by acquiring language, we develop a consciousness of ourselves, we in fact gain, through rights, that which defines our personality, our personal identity, our legal name: that which links us to others and represents us as persons in relation to the world of others, both to others that "pre-existed" in past generations, and to humanity in general. «Even before we are able to say the word "I", the law has made each of us the subject of rights» (Supiot 2006, p. 2).

If we ignore this paradoxical alternation – the continual transformation of rights into duties, the constant see-saw between having rights and owing obligation – we end up not recognising the hospitality bond that has always, in all its inconsistency, existed and which allocates the right (and rights). On the other hand we have to also admit that if the genuine hospitality (that without conditions, which allows no limits) always apparently

12 Derrida dwelt heavily on the idea of unconditional hospitality in several works, among which see *Cosmopolitans of all nations, yet another effort!* (1997), *Adieu to Emmanuel Lévinas* (2003), *On Hospitality* (2000), all published in 1997, and *Rogue States* of 2003 (Derrida 2003).

transcends and repudiates any regime or condition of right, it is only by being based on right that it can prove to be effective. To put it another way, if hospitality is not to be a mere chimera or is disinclined to risk accepting its own negation, then it has to accept the conditions (political, social and economic) which right unfailingly imposes upon it (the rules which have from time immemorial set up and determined the rights of asylum, of residence, of citizenship, etc.).

We can thus state that right makes hospitality possible – and therefore the conditions of its own possibility – by paradoxically ranging itself with its contradiction, or rather, by summoning it as it contravenes the rules. Beyond an ethic of hospitality (a "common" ethic of hospitality) which dictates the unconditional acceptance of others, which always presumes the pre-eminence of the Other compared to the self, which always submits to an original summons (Levinas 1990); beyond the lopsided relationship that entrusts us with an infinite responsibility with regard to the other, we once again come up against the paradox of the "right of hospitality". It is not a case of merely re-examining the status of the "refugee" or the "stateless" or the "right to asylum". It is not just a case of envisaging, as Hannah Arendt put it, that unique right whose origins lie in the very beginnings of organised political life and which stands out «as a symbol of human rights in the field of international relations» (Arendt 1996, p. 389), or a case of going back to the ancient idea of «city-refuge» (Derrida 1997). It is a case instead, of thinking of the right in its original sense of hospitality (in all its ambivalence).

8. *Hospitality as ethical experience*

It is in this sense that we have to give Kant the credit of expounding, in the enlightened, natural law climate of seventeenth century humanitarianism, the idea of a «cosmopolitan right» limited to «conditions of universal hospitality» (Kant 1995, p. 301). This right identifies each of us, as human beings, as guests of the other, without there being any other right (founded on reason) to spurn us or maltreat us because of our origins. Even if it is always a case of setting limits, boundaries and conditions on the exercise and practice of a hospitality conceived of as a universal experience, Kant can be credited with raising hospitality to the ranks of law. In fact, he managed to raise the hospitality imperative to the juridical and political equivalent of the moral categorical imperative: «the cosmopolitan right must be limited to the conditions of universal hospitality» (Kant 1995, p. 301). This means

that envisaging a right that is open towards the outsider, to the acceptance of the other, is within the margins of risk that such an opening entails. Such a right, in fact, does not shrink from the idea of a social relation as a point of encounter between outsiders, that paradoxical space where the Other manifests himself in the contact we have with him: a space where there is undoubted opposition, but also reciprocal interpretation, where the ones present themselves to the others as the *others* to themselves.

As we know, inclusion has its 'reasons' and its limits. In the same way, the right defines (and redefines) its own boundaries inside which the game of inclusion/exclusion takes place. In its very nature, the right includes when it excludes and excludes every time it includes: this is its paradoxical contradictory nature. Yet in its continual development the right is properly a right (at least in its ethical dimension, its essential *ethos*) if it is open to the eventuality of the other, prepared for the emergence of that potential diversity which it unfailingly removes from the politics of belonging, from the hostile defence of a identity that is pre-established and determined a priori. From this necessary exposure to the presence of the other, therefore, the right is open to the essential relationship between ethics and hospitality.

We are not dealing here with one ethic out of many: insofar as it touches upon the ethos, the «being-in-its-own-place» (the abode, the domestic hearth) as much as the way of being (the way of relating to oneself and to others, to others as one's own family or as outsiders), ethics is in fact hospitality (Derrida 1997, p. 27). Insofar as it offers a home to welcome the other, where it places "its own" and, at the same time, the outsider, despite all its tensions and contradictions, hospitality is co-extensive with the ethical experience. Even though in some way it could include the other in an attempt to take possession of him or control him or make him a hostage – the guest-hostage oscillation is forever present in and threatens the hospitality-space (and here we should give a thought to the strange phenomenon of the *Centri di Permanenza Temporanea* – the Italian centres for temporary residence)[13] – the hospitality relationship is always expressed on the level of ethics. In the same way, hospitality is not only one right out of many (the «right of hospitality»): it is a proper right insofar as it enters into an obligation when affirming a duty towards others. Its Law and its provisions predate positive legislation and rigorous law codes, and precede

13 This is the so-called Cpt, introduced in Italy in 1998 by the "Turco-Napolitano" law and confirmed by the "Bossi-Fini" law of 2002 (n. 189), and present throughout Europe.

States and Nations; they come before established political rights of identity and organised communities, be they those of families, nations or states.

We must therefore think of hospitality (and also the right of hospitality) as lying outside of the specialised domain of state law (outside the positive right of the state), as being distant from any constituted form of culture or identity, from any system of belonging to a community. We must regard the hospitality relationship as one that does not presume the objective inclusion of "Us", that does not imply a collective future, and that does not acknowledge the abstract, separate, arbitrary and coercive nature of the laws of the state. It is not a case of establishing some community (be it ethnic, racial, political, national, international or supranational), because hospitality presumes a primary experience that predates any link or connection based on belonging, any commonality based on identity, any possession defined by people in common. At the same time, however, we must not forget that hospitality presumes, to an even greater extent, a primary relationship with the other that precedes the actual formation of the individual, or the consciousness of identity; in fact, it really involves an openness towards the other, an acceptance of the other, action on behalf of the other that precedes the actual determination of the inter-individual relationship. It does not involve the other as an identity (as an individual or ethnic, national or cultural entity), but as otherness (as an absolute, universal singularity); as a non-negotiable otherness[14], that cannot be attributed to differences (those involved in "regulated exchange"), but can be paradoxically placed within the ambit of a social relation based on reciprocal otherness, beyond any equivalence.

9. *Inclusion in terms of otherness*

And here we finally arrive at the last station of our journey. Using the hospitality relation, it is not just a question of regarding the other (the stranger, the foreigner, the outsider, the illegal immigrant) as an essential element of our identity, but, at a deeper level, it is a question of rethinking the problem of the social inclusion of outsiders in terms of otherness, or rather, on the social, ethical and juridical plane of alienness (and alienation[15]). We should, therefore, restart from here, from all the philosophy (I am referring

14 The expression is Jean Baudrillard's (Braudillard 1991, p. 145).

15 The idea of "alienation" in this sense has no connection with Marx's theory of "alienation".

particularly to Bataille, Blanchot, Lévinas and Derrida) which, although its methods have been repeatedly criticised, has managed to exploit the deep-rooted sense of otherness as an unprecedented opportunity to reflect upon the issues and conditions that are a feature not only of the processes of formation of social identities, but also of the problems of including outsiders.

This is what, in part, the ancient laws of hospitality teach us: in the hospitality relation, whoever is offered hospitality remains invariably other with respect to the society that is nonetheless accepting him; he is always an outsider with respect to the procedures of social inclusion and assimilation, who remains on the margins of the processes of cultural absorption. The laws also teach us to understand the problem of citizenship within the complex dynamics of acceptance and otherness which have always been a feature of the "hospitality" relation with outsiders, with persons who recognise one another (and who identify themselves) in their reciprocal alienness, both by means of what makes them the object of hospitality and at the same time hostile to one another. Placing this paradoxical area of ethics within the realm of law does not mean invoking right, and rights, as the only general medium of social inclusion of outsiders (and solidarity with them) that is available in our modern multiethnic societies (Habermas 1998); it means, as well as all of these, restoring to right its essential ethical character that exposes it to the dynamics (however paradoxical they seem) of acceptance and hospitality, returning it to the very level of duty and obligation on which it always had its origins. Only in this way, I believe, can we perhaps give back to our social coexistence that vitality that is nourished, for good or evil, in our relations with others; others who remain outsiders even though being defined (and establishing themselves) in the "symbolic" terms of differences, in the stable condition (within boundaries) that social action and right imposes upon them. This is because the outsider, if such he is, is only and invariably found in the indescribable "gap" (and the leftover) between the phenomenon of otherness and the idea of difference.

Tito Marci
Università degli Studi di Roma La Sapienza
(tito.marci@uniroma1.it)

References

Arendt H., 1996, *Le origini del totalitarismo*, Milano, Edizioni di Comunità (ed. or. 1951).

Baudrillard J., 1991, *La trasparenza del male*, Milano, SugarCo (ed. or. 1990).

Beck U., 2004, *Der kosmopolitische Blick oder: Krieg ist Frieden*, Frankfurt am Main, Suhrkamp Verlag.

Beck U., Grande E., 2004, *Das Kosmopolitische Europa*, Frankfurt am Main, Suhrkamp Verlag.

Benveniste E., 1976, *Il vocabolario delle istituzioni indoeuropee*, Torino, Einaudi (ed. or. 1969).

Chatterjee P., 2004, *The Politics of Governed*, New York, Columbia University Press.
Id., 2011, *Lineages of Political Society*, New Delhi, Permanent Black.

Cicchelli V., 2012, *L'Esprit Cosmopolite*, Paris, SciencesPo.

Costa P., 2000, *Civitas. Storia della cittadinanza in Europa*, I-IV, Roma-Bari, Laterza.

Crifò G., 2004, *Civis. La cittadinanza tra antico e moderno*, Roma-Bari, Laterza.

Derrida J., 1997, *Cosmopoliti di tutti i paesi, ancora uno sforzo!*, Napoli, Cronopio.
Id., 1998, *Addio a Emmanuel Lévinas*, Milano, Jaca Book (ed. or. 1997).
Id., 2000, *Sull'ospitalità*, Milano, Baldini & Castoldi (ed. or. 1997).
Id., 2003, *Stati canaglia*, Milano, Raffaello Cortina (ed. or. 2003).

Detienne M., 2002, *Apollo con il coltello in mano*, Milano, Adelphi (ed. or. 1998).

Habermas J., 1998, *L'inclusione dell'altro*, Milano, Feltrinelli (ed. or. 1996).

Huntington S. P., 1996, *The Clash of Civilizations and the Remaking of World Order*, New York, Simon and Schuster.

Irigaray L., 2013, *The Conditions of Hospitality,* edit by T. Claviez, Series: Perspectives in Continental Philosophy, New York, Fordham University Press.

Isin E. F., Turner B.S. (eds.), 2002, *Handbook of Citizenship Studies*, London, Sage.

Jayal N. G., 2013, *Citizenship and its Discontents: An Indian History*, Cambridge, MA, Harvard University Press.

Kant I., 1995, *Per la pace perpetua*, in *Scritti politici*, Torino, Utet, Torino (ed. or. 1795).

Lévinas E., 1990, *Totalità e infinito* (1961), Milano, Jaca Book.
Id., 1991, *Altrimenti che essere o al di là dell'essenza*, Milano, Jaca Book (ed. or. 1978).

Marci T., 2001, *L'etica dell'ospitalità nell'era della globalizzazione* , in «Studi di Sociologia», aprile-giugno, anno XXXVIII, n. 2, pp. 239-263.
Id., 2003, *La società e lo straniero. Per un diritto ospitale nell'età della globalizzazione*, Milano, Franco Angeli.
Id., 2008, *L'"altra persona". Problemi della soggettività dell'età contemporanea*, Milano, Franco Angeli.

Marshall T. H., 1950, *Citizenship and social class*, Cambridge at the University Press.

Nietzsche F., 1984, *Aurora*, Milano, Adelphi (ed. or. 1881).

OECD, 2011, *International Migration Outlook: SOPEMI 2011*, OECD Publishing. *http://dx.doi.org/10.1787/migr_outlook-2011-en*.

Ong A., 2003, *Buddha Is Hiding: Refugees, Citizenship, the New America*, the Regents of the University of California Published by arrangement with the University of California Press.

Pendenza M. (ed.), 2011, *Sociologie per l'Europa. Ulrich Beck, Gerard Delanty, Anthony Giddens, Jürgen Habermas*, Roma, Carocci.

Sayad A., 1999, *Le double absence*, Paris, Seuil.

Sassen S., 1999, *Guests and Aliens*, New York, The New Press.

Schmitt C.,1972, *Le categorie del politico*, Bologna, Il Mulino (ed. or. 1927).

Supiot A., 2006, *Homo juridicus. Saggio sulla funzione antropologica del Diritto*, Milano, Bruno Mondadori.

Weber M., 1978, *Economy and Society*, Berkeley, Ca, University of California Press (ed. or. 1922).

Wolff C., 1972, *Jus Gentium*, in *Gesammelte werke*, *II. Abteilung* – Lateinische Schriften Band 25, Hildesheim-New York, Georg Olms Verlag.