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DEMOCRACY IS INCLUSIVE. ARENDT'S PARADIGM

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Abstract

This paper focuses on the connection between an inclusive idea of citizenship and the real concept of democracy. A good definition of democracy stresses the basic principle of autonomy, and an adequate notion of autonomy implies the double face of it: the public and the personal one. Hannah Arendt's reflection on statelessness plays a paradigmatic role in this political and philosophical perspective on citizenship. Through Arendt's analysis, the article tries to show the essential nature of the relationship between democracy and inclusive citizenship.

Keywords

Autonomy, citizenship, Arendt, democracy, statelessness.

Resumen

Este artículo se centra en la conexión entre una idea inclusiva de ciudadanía y el concepto real de democracia. Una buena definición de democracia enfatiza en el principio básico de la autonomía, y una noción adecuada de autonomía implica una doble

cara: la pública y la personal. La reflexión de Hannah Arendt sobre la desestatización desempeña un papel paradigmático en esta perspectiva política y filosófica sobre la ciudadanía. A través del análisis de Arendt, el artículo intenta mostrar la naturaleza esencial de la relación entre democracia y ciudadanía inclusiva.

Palabras clave

Autonomía, ciudadanía, Arendt, democracia, desestatización.

In this paper, we present a reflection on democracy aimed at showing how inclusiveness is a constitutive characteristic. The privileged path that we choose to verify the plausibility of this intuition involves the link between autonomy and citizenship. The reason for this choice of perspective lies in the sharing of an idea of democracy as a government founded on the principle of autonomy and an idea of citizenship, as a *status* that is continuously subjected to the tension between inclusion and centrifugal forces of exclusion.

We will not provide an original definition of citizenship, autonomy, and democracy. The links and the relationships between these concepts are the core of this paper. More specifically, what we would like to clarify is what is at stake, from the perspective of individuals and personal biographies, when the sphere of citizenship is questioned, when becoming a part of it is questioned or, on the contrary, being excluded from it.

Faced with the current risky process of erosion of democratic guarantees that are on the agenda in the world scenario and partly concerning the compression of the sphere of citizenship we would like to present some considerations aimed at confirming the relevance of the negative consequences of refusal or revocation of citizenship. For some time now, the political tendency to feed desires for exclusion and defence needs has become prevalent, not only in Europe but also in Trump's United States. This tendency is accompanied by legal and political solutions that combine the deficit of citizenship and the relativization of fundamental rights. The European response to the increasingly dramatic issue of migrants becomes particularly worrying and requires an appropriate alert, even under this specific profile.

If democracy is not only government of majority

As is known, the notion of democracy is in need of clarification, despite its strong intuitive potential. We speak of democracy as the government of the majority and we speak of democracy as a political society based on freedom. However, the first form, that of a democracy as a method, is foreign to the positive tension towards the acquisition and practice of autonomy. It consists exclusively of the affirmation of a generic principle of legality, in the choice of an instrument such as the majority principle within a representative power system. The plasticity of a conception that can easily adapt itself to, and be coherently compatible with, visions of political power very distant from each other is, therefore, evident. Nothing is said in other terms on the nature of rules, nothing

is established in defence of the minorities, and nothing is to guarantee the effective self-regulation of citizens. Democracy here has little to do with a concept of law as a limit of strength and a lot to do with the inherent risk of paradoxical outcomes of it being exercised.

It is not by chance that the critical argument of Kelsen (1929) starts from this belief, according to which

He who views absolute truth and absolute values as inaccessible to the human understanding cognition must deem not only his own, but also the opinion of others at least as feasible. The idea of democracy thus presupposes relativism as its worldview. Democracy values everyone's political will equally, just as it gives equal regard to each political belief and opinion, for which the political will, after all, is merely the expression. Hence, democracy offers every political conviction the opportunity to express itself and to compete openly for the affections of the populace¹ (p. 103).

This is the profound reason why the dialectic between majority and minorities is constitutive of a democracy that is not only such in appearance.

The rule of the majority, which is so characteristic of democracy, distinguishes itself from all other forms of rule in that it not only by its very nature presupposes, but actually recognizes and protects—by way of basic rights and freedoms and the principle of proportionality—an opposition, i.e., the minority (Kelsen, 1929, p. 103).

This is possible if we are willing to take reasoning seriously, and what it can represent in terms of (relative) objectivity (Lalatta Costerbosa, 2014). This form of perspectivism holds as recognition of the fact that although it is impossible to have a position that is free from perspectives, even from the moral point of view, the interpretative moment is decisive, and it must be as impartial as possible and distant from any self-interested position. What matters most, from a specifically practical point of view, is that despite their inevitably relative nature, these constraints and these coordinates of practical judgment must succeed in influencing, and they must have power. This is the only possible objec-

1. We have dealt more extensively with the reductive or paradoxical profile of certain conceptions of democracy in Lalatta Costerbosa (2014).

tivity. These are not *neutral perspectives*, but only of perspectives extended to impartiality. Assuming them in the practical judgment, however, means ultimately guaranteeing the possibility of *saying* from *one* perspective “what could not be explained from no perspective” (Lukes, 1982, pp. 304-305).

The normative idea of democracy, unlike its proceduralist version (Habermas, 1996, pp. 25-27), has a relativistic inclination, but this does not only not suggest nihilism; on the contrary, it represents, for democracy in a radically pluralistic society, the only possibility of being constructive: neither oppressive nor in precarious balance between opposing interests.

If Goethe is right in affirming that in the end we depend on the creatures, we have produced, if we accept this idea, then there is only one way that one can say that they are authentically free, to oppose power as the dominion of others, as a negation of the autonomy of subjects. The only way is to become authors of this creation and, not secondarily, participate in all its decision-making; and not just the one time, but every time this act is done. The only available way is the democratic one.

An adequate conception of democracy thus refers to a concept of political community aimed at emphasizing

the deficiencies of centralized power, virtues of decentralization, expressive and instrumental values of participation, and values of citizen discussion both as an intrinsically attractive form of politics and as a good method of problem-solving (Cohen & Sabel, 1997, p. 7).

Pursuing this perspective means implementing a reduction in the centrality of the state institution from the start, and adopting a concept of law that is increasingly independent of the dominant legal tradition. In other words, this normative model of democracy does not focus on the centrality of the national state. Furthermore, it is also constructive in relation to the cogent problem of global legal institutions, elaborating on the ideal of autonomy from a political-institutional and juridical perspective.

The backbone of this democratic conception of the clear Habermasian matrix can be summarized by the substitution of personal interests with *rational arguments*, supported by groups or individuals and aimed at deliberation. Above all, the arguments that each of the citizens put forward in defence of a determined position are valuable. The deliberative moment should not rise on a compromise between opposing interests, but must arise from a dialogue between the involved, between those who must then

recognize and respect the deliberation crystallized in legal regulations; within a dialogue characterized each time by numerous rational arguments compared and finalized to the agreement.

Belief resonates in the pages of Habermas –already noted– a conviction already expressed by John Dewey, of the partial normative insignificance of the majority principle.

Majority rule, just as, majority rule, is as foolish as its critics charge it with being. But it never is merely majority rule. [...] “The means by which a majority comes to be a majority is the more important thing”: antecedent debates, modification of views to meet the opinions of minorities [...] The essential need, in other words, is the improvement of the methods and conditions of debate, discussion and persuasion (Dewey, 1954, p. 207; Habermas, 1992, p. 304).

Against the background of this idea of democracy, autonomy and citizenship are the two sides of the same coin; only understanding them in the light of this intimate bond allows us to grasp its deepest nature².

Autonomy does not simply mean individual self-determination. Citizenship does not mean just the ownership of certain rights and belonging to a political community. Both concepts have a further and even more significant value if viewed from the perspective of the subjects involved.

To fully understand the theoretical scope of the idea of autonomy, it is not correct to underestimate or even to neglect its public declension. In the same way, conceptually grasping citizenship involves rethinking the notion of autonomy. It is this last attempt that we will now try to accomplish, briefly, and then return to the notion of democracy from which we started.

What does autonomy mean?

There are different interpretations of autonomy. The definition of autonomy that comes closer to common interpretation and is more intuitive is the one proposing the correspondence between autonomy and free choice, implicitly opposing the principle of autonomy to every deterministic conception of man and the world. To say autonomy

2. On this relationship within the vast literature, the following authors can be seen: Zolo (1994), Andrews (1991), Held (1989), Barbelet (1989).

means to say the ability of choice between multiple possible options, and the ability to exercise control over oneself with regard to one's conduct of the action.

This perspective on the subject that acts has been repetitively put in crisis throughout history. The most recent assault on free will comes from the scientific world, from neurology and more particularly from the constellation of neuroscience.

In our opinion, neuroscience, today often called into question to test the effective plausibility of our free will, is not able to support a credible deterministic framework, as regards the planning of the subject, since planning necessarily means openness to the world and presence, relationship, with the Other, and therefore danger, variability, unpredictability, and above all creativity. In this case, the limit of neuroscience is extrinsic to its degree of prediction of human behaviour, the question of self-determination that calls into debate dimensions that transcend the sphere of individual competence and flow on a metaphysical and epistemic plane with respect to which neuroscience cannot have the last word, nor can it say anything significant. If we remain on the subject of subjectivity, neuroscience, contrary to what is often sustained, corroborates our possibility of freedom, since it reveals a cerebral constitution³ that confirms the idea of relational autonomy that many philosophers from long ago had already grasped, from Habermas to Merleau-Ponty, from Buber to Foucault and even Aristotle.

In short, neuroscience explains what happens in our brain from a descriptive point of view; it allows us to reconstruct the course of an action, but it does not provide us with information about the moment of triggering the action, it does not pre-condition *the reasons for acting*. In terms of the traceability of our choices, it fails to indicate the ultimate source, the trigger element. They too seem silent to our autonomous creativity (Castelfranchi, 2014; Umiltà, 2014; McCabe & Castel & Rhodes, 2011; McCabe, Castel & Rhodes, 2008; Skolnick, Keil, Goodstein, Raeson & Gray, 2008).

Leaving the neuroscientific controversy on the substance of free will, which we think is the best thing to do; we can go back to the definition of autonomy.

In the *Treaty on Human Nature*, Hume (1748) represents autonomy as the determination of the will in carrying out an action, where will is “nothing but the internal impression we feel and are conscious of, when we knowingly give rise to any new motion of our body, or new perception of our mind” (p. 399). This is a minimal definition that will have a decisive development, in a transcendental sense, in the Kantian moral doctrine. Autonomy means for Kant that “vernünftige Wesen stehen alle unter dem

3. For more in this critical line of the topic, we refer to Lalatta Costerbosa (2016), Brożek & Kurek (2013), Rizzato & Donelli (2011), Iacoboni (2008), Rizzolatti & Sinigaglia (2006).

Gesetz, daß jedes derselben sich selbst und alle anderen *niemals bloß als Mittel*, sonder jederzeit *zugleich als Zweck an sich selbst* behandeln solle” (Kant, 1785, p. 434). And “der Wille eines vernünftigen Wesens jederzeit zugleich als gesetzgebend betrachtet werden muß, weil es sie sonst nicht als *Zweck an sich selbst* denken könnte” (Kant, 1785, p. 435). *Autonomy* is, therefore, self-regulation in this transcendental sense. Man *can* be autonomous or can be an end in himself and not a mere means in the hands of others.

The notion of autonomy has a further development in the political sense in the work of the utilitarian John Stuart Mill. It is certainly the London thinker of the 20th century who is the theoretical beacon of the debate on personal freedom, in the face of the increasingly oppressive and marginalizing pitfalls of contemporary societies. Looking at Mill’s reflections, we must, therefore, understand the human and individual value of political autonomy in all its consistency, of concrete participation in social and deliberative life.

But there is a sphere of action in which society, as distinguished from the individual, has, if any, only an indirect interest; comprehending all that portion of a person’s life and conduct which affects only himself, or if it also affects others, only with their free, voluntary, and undeceived consent and participation [...]. It comprises, first, the inward domain of consciousness; demanding liberty of conscience, in the most comprehensive sense; liberty of thought and feeling; absolute freedom of opinion and sentiment on all subjects, practical or speculative, scientific, moral, or theological. The liberty of expressing and publishing opinions may seem to fall under a different principle, since it belongs to that part of the conduct of an individual which concerns other people; but, being almost of as much importance as the liberty of thought itself, and resting in great part on the same reasons, is practically inseparable from it. Secondly, the principle requires liberty of tastes and pursuits; of framing the plan of our life to suit own character (Mill, 2008, pp. 16-17).

In brief, according to Mill (2008), autonomy is the freedom of “pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs, or impede their efforts to obtain it” (pp. 16-17). This idea goes on to live in the writings of the law philosopher Hart. Such writings are dedicated to the unpredictable intertwining of law, morality, and politics in the essays that saw him face off against the legal moralism of Lord Devlin, a century after Mill. Furthermore, in Ronald Dworkin’s work (Hart’s most

important student) we have a decisive piece of the jigsaw that makes up a satisfactory notion of autonomy.

In *Life's Dominion* (1993), in the most recent work *Justice for Hedgehogs* (2011), autonomy has no transcendental value, yet Dworkin does not refer to it to the best interest or simply to free will or to the exercise of the will, but to the *integrity* of the person. It is a concept that seems to conserve (in its own way) the claims of Kant and those of Mill, and are less pretentious from a theoretical point of view.

The autonomy of Dworkin is not only free choice, but it is also a free and coherent choice with respect to an overall project of life. Something more than the concept of freedom as a choice between several possible options according to the Mill/Hart thesis, something less than Kant's transcendental autonomy. Autonomy and its respect allow the integrity of the person, the self-creation of one's own life story to be fulfilled and protected. The capacity for coherence and responsibility with respect to this life plan are inextricably linked to autonomy, which looks at the life of the subject in its unity, not the mere present condition. It may seem a nuance compared to the Millian conception of autonomy as a free choice and free planning, but it is not. The background is that of a deeper study of the inner and intimate sphere of the subject. It is the background that allows Dworkin to distinguish between the immediate will of the subject and its deliberate and critical autonomy, an autonomy that has imaginative power, which is the potential source of morality.

Dworkin (1993) takes advantage of these reflections to elaborate a re-actualized concept of autonomy by passing through the recovery of the value of *privacy*, interpreted in a non-trivial or reductive sense.

Sometimes privacy is territorial: people have a right to privacy in the territorial sense when they are entitled to do as they wish in a certain specified space-inside their own home, for example. Sometimes privacy is a matter of confidentiality: we say that people may keep their political convictions private, meaning that they need not disclose how they have voted. Sometimes, however, privacy means something different from either of these senses: it means sovereignty over personal decisions (p. 53).

According to Dworkin *autonomy* does not only mean that “we should respect the decisions people make for themselves, even when we regard these decisions as imprudent because each person generally knows what is in his own best interests better than

anyone else” (Dworkin, 1993, p. 223). Autonomy is not simple freedom to choose; but awareness of the intrinsic value of a life that is always immediately just one, *the* only biography that we legitimately rule: in this we trace our integrity. Being autonomous for Dworkin means “to be responsible for shaping our lives according to our own coherent or incoherent –but, in any case, distinctive– personality” (Dworkin, 1993, p. 224). Autonomy, if recognized and understood in the full sense “allows us to lead our own lives rather than be led along them, so that each of us can be, to the extent a scheme of rights can make this possible, what we have made of ourselves” (Dworkin, 1993, p. 224).

The integrity view of autonomy does not assume that competent people have consistent values or always make consistent choices, or that they always lead structured, reflective lives. It recognizes that people often make choices that reflect weakness, indecision, caprice, or plain irrationality [...]. Any plausible integrity-based theory of autonomy must distinguish between the general point or value of autonomy and its consequences for a particular person on a particular occasion. Autonomy encourages and protects people’s general capacity to lead their lives out of a distinctive sense of their own character, a sense of what is important to and for them. Perhaps one principal value of that capacity is realized only when a life does in fact display a general, overall integrity and authenticity (Dworkin, 1993, p. 224).

Here is a good and rich definition of autonomy. However, we need to underline the relational dimension of it. Autonomy without a relationship, as its essential and connatural trait; autonomy without the recognition of the Other is lacking, it is incomplete. The path of recognition is a path from social nature, and this is a decisive step. Autonomy is ultimately configured as participation in the political community and its deliberations, and, therefore, as citizenship.

With regard to this, the contribution made by Castoriadis (1975) in his essay *Autonomie et aliénation* is valuable. He gives us an image of autonomy capable of enhancing the framework of relationships in which the subject is immersed. The autonomous making of a subject consists in being able to arrive at one’s own discourse. A discourse that must deny the discourse of another, not necessarily in its content, but as it is the discourse of the Other (Castoriadis, 1975).

In this way, the Greek thinker reaches a definition of richer autonomy, which does not correspond either to full transparency or to the cancellation of the discourse of the

Other as such. It is rather a new relationship that arises from the spoils of the discursive confrontation with the Other and becomes original, authentically personal, and in this sense, unique (Castoriadis, 1964).

But if we follow this suggestion that explains the more concrete and intuitive meaning of the presence of the Other *in* the subject, we can also better and easily understand the social depth of the idea of autonomy and its bi-univocal connection with citizenship.

The subject is already and immediately within a historical and social framework and, to tend to the realization of its autonomy, it should not (because it would be impossible) eliminate it and escape from it, almost discarding it from history, picked up by its pigtail like the baron invented by Raspe. He must rather become the owner of it.

Autonomy does not mean the pure and simple elimination of the discourse of the other, but the re-elaboration of this discourse, so that the other is not indifferent material but amounts to the content of what it says: only in this way an inter-subjective action becomes possible and is no longer condemned to remain vain or to contrast with its mere existence what was presupposed as its principle. In the absence of this, there could not be politics of freedom and one would have to choose between silence and manipulation or one should be reduced to the subtle consolation of “after all the other will do what he wants”. Ultimately, it is because of this that I am responsible for what I say and for when I am silent (Castoriadis, 1964, p. 172).

Standing out clearly on this interpretive background is the awareness that “autonomy” is always “the autonomy of a subject” that lives in a community, who has a “social and historical existence”(Castoriadis, 1964, p. 173), who is a citizen.

With Kant, against Kant

As should now be evident, what is decisive for the respect of the value of autonomy is that the intersubjective dimension is caught in its existential and necessary role, and that we can theoretically translate it according to the legal-political lexicon of rights. It is fundamental that the commonality of “social” subjects is valued by nature: *rights are recognized as intersubjective nature and self-regulation as communicative nature.*

The system of rights can be reduced neither to a moral reading of human rights nor to an ethical reading of popular sovereignty, because the private autonomy of citizens must neither be set above – Habermas explains to us, core author for our reconstruction – nor made subordinate to, their political autonomy.

Private autonomy and public autonomy are co-originating, and this is confirmed by an adequate interpretation of self-regulation.

The idea of self-legislation by citizens, that is, requires that those subject to law as its addressees can at the same time understand themselves as authors of law. We cannot meet this requirement simply by conceiving the right to equal liberties as a morally grounded right that the political legislator merely has to enact (Habermas, 1992, pp. 104 and 120).

Starting from this correspondence between individual and relational, to say “autonomy” means taking recognition seriously, and therefore attributing to the idea of citizenship, and its relative right, the function and the anthropological and political-moral value pertaining to it. Citizenship becomes, in other words, an issue that goes beyond the fundamental recognition of political rights.

At this point in our discussion, we could attempt a synthesis: democracy means autonomy *with Kant*, which also means citizenship and immediately, which is *against Kant*.

“With Kant, against Kant” is an expression that tries to sanction the value of autonomy, against all the exclusionary criteria of the definition of citizenship based on economic-social standards or ethnic-cultural exclusion. We put Kant out in a provocative manner because the philosopher par excellence of autonomy is also a thinker who offered a narrow idea of citizenship, or at least controversial one.

For Kant all men are free as men, all men are equal as subjects, but not all are citizens because not all are independent. To be citizens – according to the Prussian philosopher – individuals must possess the following requisites: 1) adulthood, 2) male gender, 3) economic independence, 4) residence, birth, and common origins. Here the concept of belonging is characterized in a strongly restrictive sense. First an element connected to the nationality is required, so that the unaccompanied residence also means that you are in a *foreign country*. A second element concerns the (adult) age and the (male) sex of human beings, because the existence of women and minors, who are in a condition of constitutive dependence, is in a certain sense only mere inheritance (Kant, 1797). The third and decisive characteristic concerns the economic

availability and the work activity, through which civil independence becomes a dependency of the political community. These three factors are the prerequisite for *qualified* and *exclusive* citizenship. The integration of them *excludes*, on the one hand, all those who are not originating in a given territory, and who therefore can never consider the country as the mother's womb that gave them life and paternal soil to be handed down as something unique and precious (Kant, 1793). On the other hand, it *excludes* those who have not achieved and/or cannot achieve economic and professional independence. This line *excludes* women by nature, who do not and cannot reach independence, and for reasons linked to talent, hard work and fortune those who have not yet been able, or can never, become independent.

Citizens for Kant are not the depository men of civil rights, because even followers, and therefore all members of the political community, have the right to external freedom and to be considered equal to men. However, they are not required to directly participate in the political life of the community, in analogy with the Aristotelian and Rousseau model of citizenship. Being citizens, and not simply subjects, means, for Kant, to be depositaries of the political right to vote and to be voted. The conditions for being able to rise to such emancipation with respect to the simple condition of subjection are however restrictive.

In short, Kant's notion of citizenship consists in the exercise of political rights, especially in the right to vote, in economic characteristics, relating to self-sufficiency and the type of work performed (*Selbstständigkeit*), and in natural and cultural characteristics, respectively linked to gender and nationality.

But an idea of citizenship that reflects this paradigmatic theoretical model that excludes from the enjoyment of certain rights, on the basis of cultural and genealogical affiliations, is incompatible with the idea of autonomy that we have tried to define. In other words, it betrays the most authentic sense (what Kant better than any other has taught us to recognize) of people's autonomy.

This position on citizenship that is declined in the sense of an exclusion from the right to vote or in an essentially hetero-directed exercise by an *idem sentire* that one is not able to critically problematize, often seems reformulated and advocated without this leads its supporters to admit dening with this choice value to the principle of autonomy⁴. A restrictive idea of citizenship comes, on closer inspection, on a collision course

4. For a tripartite typology of models of citizenship, distinguished as a "German" or organicist model, a "French" or conventionalist model and "interactionalist" model, founded the latter (the one defended by the author) on sharing a common project of coexistence and on contiguity (La Torre, 2004, pp. 290-300).

with the autonomy of individuals close to society and –if we accept the definition of democracy as the political ideal of freedom, illustrated in the opening– reveals its anti-democratic face.

Arendt. Inclusion as the archetype of rights

This landing, which clarifies how the erosion of the space of citizenship corresponds to a democratic regress, finds paradigmatic confirmation in the philosophical-political thought of Hannah Arendt when it reflects on the notion of law, on belonging to the political community and more specifically on that exceptional human condition which is the condition of the stateless person.

In one of her most wonderful works, *The Human Condition*, Arendt (1998) offers us a three-dimensional portrait of the human condition. The condition of life of man deals firstly with the natural and biological necessity that need to be faced, and which must be appropriated in order to survive. For this reason, work is constitutive of the condition of life, just as it is constitutive of the presence of man in the method, of his being in the world, the material creative capacity, the proper work of a man who knows how to make the world of objects. A man who knows how to build a house and tools, that world which then becomes the technological universe with all its contradictions.

To these two dimensions of the human condition a third one is added, the one that identifies what is peculiar in humanity. We are talking about the trait of sociality, relationality (Nedelsky, 2001)⁵. Human beings are essentially bound to each other. Plurality is the third condition of man to whom the most significant activity corresponds, the action proper, thinking and acting together and towards others. The freedom of man corresponds to his being together with others, consists of communicating, in dialogue, in something that contradicts isolation from the front. You can work alone, you can make it yourself, but you cannot do it yourself. In *Active life*, the following is stated: “If it were true that sovereignty and freedom are the same, then indeed no man could be free, because sovereignty, the ideal of uncompromising self-sufficiency and mastership, is contradictory to the very condition of plurality” (Arendt, 199, p. 234)⁶.

5. On the concept of relational autonomy with particular reference to Arendtian thought, we refer to Nedelsky (2001).

6. For an in-depth study of the notion of citizenship in relation to the forms of political participation, the analysis proposed by D. Villa (2001) is interesting.

We need others to be ourselves, as beings capable of freedom; we are born as beings in relationship. Freedom is always freedom with others (in a community). Furthermore, law is the condition of possibility of coexistence between individuals (Villa, 2001). Freedom, therefore, needs rights.

In order for this not to be contradictory, the law cannot correspond to the transformation of an abstract and unhistorical model, but it must be an expression of the freedom of concrete subjects who live together, who tend to live “in togetherness” in a common space.

We are so used to understanding law and rights, in the sense of the Ten Commandments, as commandments and prohibitions whose sole meaning is given by the duty to obey you, to easily forget the original spatial character of the law. Every law first creates a space in which it has value, and that space is the world in which we can move freely. What is outside of that space is devoid of law and, strictly speaking, devoid of the world, in the sense of human coexistence, it is a desert. This ‘infra’ is the world of relationships that is formed by acting, the political activity of man, is certainly far more difficult to destroy than the fabricated world of things, in which the manufacturer and producer remain the only lord and master. But if this world of relations is devastated, then the laws of political action, in which the processes are in fact hardly cancellable within the political, is replaced by the law of the desert (Arendt, 2003).

Law according to Arendt is like the wall of a medieval city, allowing and qualifying the living of citizens who are such only after the construction of that perimeter structure.

Law (here in the sense of the *nomos* of the Greeks and not of the *lex* of the Romans) therefore creates and constitutes public space; it is the pre-political moment of manufacturing that precedes and sets the premises for action, for politics. Law is *constitutive* of every political action and political relationship. As Heraclitus did, Arendt compares the law to the walls of the city: just as the walls must first be constructed, so that there can be an identifiable city in its form and its demarcations, so the law *determines the true physiognomy of its inhabitants*, discerning them from all other cities inhabitants (Arendt, 2003).

Recalling the comparison of Alessandro Passerin d’Entrevès, in *Sulla violenza (On violence)*, in an important note, Arendt states that

the point of these rules is not that I submit to them voluntarily or recognize theoretically their validity, but that in practice I cannot enter the game unless I

conform; my motive for acceptance is my wish to play, and since men exist only in the plural, my wish to play is identical with my wish to live (Arendt, 1972, p. 193).

This translates in the “right to have rights” (Arendt, 1979, p. 296). The “right to have rights” is inherent to human beings as such, regardless of their national belonging, as beings made to live together, living beings to which the condition of the plurality is inherent.

All of this is clarified in Arendt’s mind when sorrow is dramatically confronted with the problem of statelessness. The stateless, those who “once they had left their homeland”, “they became stateless”, “deprived of their human rights they were rightless, the scum of the earth” (Arendt, 1979, p. 267). “The moment human beings lacked their own government and had to fall back upon their minimum rights, no authority was left to protect them and no institution was willing to guarantee them” (Arendt, 1979, p. 292).

Arendt’s criticism of human rights must be seen against the background of this realistic and heavy awareness (Macready, 2017; La Torre, 2013; Goldoni & Maccorkindale, 2012; Balibar, 2010; Klabbers, 2007; Birmingham, 2006; Waldron, 2000). In practice, they remain unrecoverable.

The Rights of Man, supposedly inalienable, proved to be unenforceable even in countries whose constitutions were based upon them-whenver people appeared who were no longer citizens of any sovereign state [...] thus during the last war stateless people were invariably in a worse position than enemy aliens who were still indirectly protected by their governments through international agreements (Arendt, 1979, pp. 293-294).

The retrospective impact that also assumes the condition of belonging on the normative level is what Arendt (1979) is thinking of.

The calamity of the rightless is not that they are deprived of life, liberty. And the pursuit of happiness, or of equality before the law and freedom of opinion [...], but that they no longer belong to any community whatsoever. Their plight is not that they are not equal before the law, but that no law exists for them; not that they are oppressed but that nobody wants even to oppress them (p. 296)⁷.

7. The current condition of refugees represents a confirmation that has not only a juridico-political but also an anthropological-existential value of the stateless status proposed by Arendt (Greblo, 2017; Williams & Macedo, 2005; Villa, 2000).

The theme here is not the value of belonging to the community in terms of recognition of personal autonomy, but what the consequences of the lack or loss of such *tout court* belonging are.

We became aware of the existence of a right to have rights (and that means to live in a framework where one is judged by one's actions and opinions) and a right to belong to some kind of organized community, only when millions of people emerged who had lost and could not regain these rights because of the new global political situation [...] Only with a completely organized humanity could the loss of home and political status become identical with expulsion from humanity altogether⁸.

At stake is not the discrimination of a politically recognized community, but the condition of not belonging to any community; and this not for the individual who in this condition finds himself living and moving, but for the rest of the world, for the nations that cannot see him, for which he falls into a condition of moral and juridical invisibility.

Man, it turns out, can lose all so-called Rights of Man without losing his essential quality as man, his human dignity. Only the loss of a polity itself expels him from humanity.

The right that corresponds to this loss and that was never even mentioned among the human rights cannot be expressed in the categories of the eighteenth century because they presume that rights spring immediately from the "nature" of man [...] The decisive factor is that these rights and the human dignity they bestow should remain valid and real even if only a single human being existed on earth; they are independent of human plurality and should remain valid even if a human being is expelled from the human community (Arendt, 1979, pp. 297-298).

In conclusion, one cannot assert individual freedom, autonomy, without also and immediately taking care of the fair conditions of possibility of participation in the exercise of public autonomy and a distribution of citizenship as inclusive as possible, without prejudice to the ideal bond of symmetry between rulers/representatives and governed/represented. This objective is at the basis of the approximation of the principle of self-regulation. The normative restriction according to which we are free –with

8. For Arendt, the destiny that awaits the stateless person is that of an irrelevance, of a superfluity that rises to existential negation (Hayden, 2009, pp. 55-91).

Rousseau. If we obey the laws that are prescribed, if those who are called to obey have participated in the prescribing of the norms and who participates in the enactment of the rules and is submitted to them.

Recognizing citizenship does not just mean not denying (political) rights. If we follow Arendt's intuition positively, it also means creating external conditions of real possibilities for an extended and distributive practice of autonomy, participation and tendential contraction of spaces of exclusion.

Autonomy and citizenship are –as we had already hypothesized– two sides of the same coin, the medal that we call democracy. Denying citizenship without admitting that it violates autonomy is a theoretical error or, worse, a political lie⁹. Citizenship is the praxis of autonomy and democracy cannot be unconstitutive of the vocation to exclusivity on the basis of the assumption of a reasonable relativism of values.

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9. The drama of the condition of radical exclusion from the political community as a growing world phenomenon is deepened in Carens (2013), where the perspective of *open borders* is linked to the recognition of democratic values; M. Agier (2011) makes an anthropological analysis of the condition of life in refugee camps and, starting from this ethnographic survey, a defense of the non-resizable importance of integration and recognition of citizenship; Cole & Wellman (2011): a text in which opposing political solutions to the phenomenon of immigration are set against the opposite poles: the way of a right to *exclude* and the *open borders* thesis; see M. Agier (2008).

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