

Citizenship and Exclusion

If it were true that a constituent tension between the categories of democracy and citizenship traverses the entire history of the political institution, it would seem as if such a configuration would always lead to a discussion of exclusion from citizenship (with regard to slaves, women, wage laborers, and colonial subjects, as discussed previously). And also, it seems that more work needs to be done before we can enter into a *general* analysis of this question, as this description does not offer a clear answer to the question of whether we are dealing with an arbitrary grouping of independent and heterogeneous historical “cases,” or whether, on the contrary, what we are seeing is the same characteristic returning and changing positions from one social structure to another. Moreover, it is true that – for reasons worth exploring – in contemporary discussions of politics in the “post-national” or “post-liberal” era, the category of exclusion has tended to supplant that of inequality and become generalized, which has had the effect of both obscuring questions of citizenship and rendering them concrete.

Here, we will turn our attention specifically to the paradoxical relationship that emerges in the modern era between

the concept of *universalized* citizenship – both in the sense of one that is founded on universal principles and in the sense of one that spans distinctions of political regime and cultural tradition – and certain forms of *internal exclusion*. From the perspective of defining citizenship, these forms will appear either contradictory or constituent. Abolishing them would therefore require more than simply lifting restrictions on the application of a right; it would necessitate transforming the interpretation of the principles of citizenship themselves.

Exclusion, Inequalities, Discriminations

These debates over exclusion from citizenship are not new. Rancière (1999: 116) quotes Bonald as saying that “certain persons are in society without being of society.” I could not have put it better myself. Over the last decade, these debates have forcefully re-emerged in the West in the wake of the riots in the cities of the “North” and “South” (notably Paris and London) that were provoked or facilitated by ethnic segregation in the urban “*banlieues*” and “ghettos” (Balibar 2013). Sociological generalization is always controversial, of course. In his analysis of the 2005 riots, Robert Castel (2007) expressed the opinion that the term “exclusion” was ill suited to the circumstances, because the unemployed youth of African or North African descent who clashed with police were French citizens in the legal sense of the term. He preferred the category “negative discrimination.” Loïc Wacquant (2004), for his part, maintained that the “*banlieues*” were not ghettos in the American sense, to the extent that communities of foreign descent do not represent a historically separate space in the “city.” Castel then wrote:

No more than the *banlieue* is not a ghetto, the young immigrant in the *banlieue* is not “excluded,” at least, so long as

we wish for the term to retain a specific meaning. Exclusion in the strict sense implies a division of the population into two strict categories, placing the “excluded” outside of the functioning of society, having neither the rights nor the ability and resources necessary to play a role in the collectivity. [...] the youth in the *banlieues* nonetheless still enjoy several prerogatives that accompany belonging to the French nation: public citizenship and social citizenship. Independent of their ethnic origins, the majority of the young people in the “projects” in the *banlieues* are French citizens, and therefore in principle they enjoy political rights and equality before the law, at least once they become adults. Tocqueville often said that civic rights represent a form of nobility conferred on the people as such. We know that it took centuries of struggle to obtain these rights, and even then they were not extended to everyone right away. It was only in 1945 that women received the right to vote in France, significantly later than in most other industrialized nations. (Castel, 2007: 34)

Therefore, the young French citizens of immigrant descent are not strictly speaking *excluded*, because even though they are the targets of *discrimination* based on class, race, and age, they still enjoy the fundamental rights that, as a whole, constitute “social citizenship.”

But even Castel had to recognize that there is a risk of confusion here. It is undoubtedly true that in comparison to other populations in other areas of the world who are threatened by famine or deportation these young “immigrants” remain relatively protected from social risks. Even from a cultural perspective, they are not strictly speaking outside of society; on the contrary, they contribute to the creation of a “hybrid culture” within it. But even while an argument like this cautions us against using the term “exclusion” in a vague and emphatic manner – directed particularly at those who suggest that the contradictions of contemporary citizenship

simply reproduce the age-old oppositions between “citizens” and “subjects” in colonial empires – nonetheless, it does not erase the *structural* nature of these contradictions. We can turn to the comparison, which Castel himself uses, of what, several years earlier, Geneviève Fraisse, in a discussion of the situation of women in the republican space, called “exclusionary democracy” (Fraisse, 2001). She traced its genealogy all the way back to the conflicts during the French Revolution over the relegation of women to “passive citizenship,” as opposed to the “active citizenship” of men (which coincided with the establishment of popular representation as the foundation of the state), the consequences of which would continue to be felt even after the formal ascension of women to “equal” citizenship. The fact that this discrimination was embedded in the heart of political institutions for so long has left a deep scar, particularly in the form of a rigid separation between the “public” sphere and the “domestic” sphere, which assigned each gender a different social role, and denied women the ability to govern (offering them, “in compensation,” “governance of the home”). This was not external exclusion in the strict sense, but rather internal exclusion, and this concept did not consist in the legal status of women on its own, but its combination with representations and practices as well. The importance of formal rights is undeniable, but their relationship with the use and distribution of power, with “empowerment,” is no less so.

The Question of the “Right to Rights”

It is in this sense that we can propose expanding Arendt’s idea of a “right to rights” – on the condition, of course, that we go beyond her arbitrarily imposed limits. In fact, for quite some time now, the political use of this idea has extended beyond its strictly statutory definition. It has shifted from a “constituted power” (the right to rights is the result

of belonging to an existing political community, particularly a nation-state) to a “constituent power,” the active ability to *assert rights* in a public space or, better yet, dialectically, the possibility of *not being excluded from the right to fight for one’s rights*. And this is precisely the obstacle that confronts many social groups, even in our most liberal “democracies.” They experience the fluctuating line between “resistance” (which we could call the *minimal right*) and “exclusion” (which is rightlessness). Specifically, if there were no resistance, in its diverse forms (which are not necessarily violent), they could find themselves completely excluded, “displaced” outside of the territories in which they had acquired formal rights, legal protections, returned to territories where there is no *active citizenship*, at times to situations where even freedom and survival themselves are precarious. And, in fact, it is sometimes within these very democracies, in refugee “camps” or in communities of “illegal” immigrants (Caloz-Tschopp, 2004), that we find these social groups. More often, however, we find them *on the boundaries* themselves, in the places where the question is precisely the possibility of expression or assertion, and therefore of *political existence*. This was, in fact, exactly the scope of Arendt’s thinking about the condition of “stateless” individuals and collectivities, on the basis of which she elaborated her idea of the “right to rights.”

Existence in the form of resistance is not always possible, or rather it is not always possible without recourse to anti-institutional violence that aims to “break down the gates” of the space of citizenship and social *recognition*. But these very same violent protests can end up being completely counter-productive because of an overwhelming dissymmetry of forces, which will have the negative result of reinforcing the feeling among the “*excluded*” that they do not belong. In the case of the urban riots, which were primarily undertaken by youths, class and race discrimination mutually reinforced

one another. The former took the form of what has been ironically called “preferential unemployment,” the alienating choice between unemployment and precariousness that is in the process of reconstituting a *proletariat* in the traditional sense. The latter came in the form of a “genealogical framework” that continues to treat the descendants of immigrants as foreigners (or “immigrants”), in flagrant contradiction of republican law. On top of these there are the effects of a collective imagination that portrays the young immigrant as a potential domestic enemy, who threatens not only the community’s security, but also its cultural and religious identity (including when the official religious identity is “secularism”). The combined effect of these internal class and race exclusions offers a perfect illustration of what Castel himself defined as the *negative individualism* that arises from the dismantling of the social-national state by neo-liberal policies: a situation in which individuals are exhorted to behave as “entrepreneurs” of their own lives, constantly pursuing maximal efficiency, while at the same time being deprived of the social conditions that would allow them to assert their autonomy. I should add to this that if there are forms of *negative individuality*, then there are also, it would seem, forms of *negative community* that emerge once, in the mimetic circle, the revolt against violence and exclusion itself takes on violent forms that neutralize its effectiveness, and that the dominant system can easily manipulate and exploit in order to justify its own security policies. “Post-colonial” France, and Europe in general, provide us with a typical illustration of this: we find, at the same time, the legacy of centuries-old discrimination against the “subjects” of colonial domination, now transformed more or less completely into class differences, along with new varieties of “passive citizenship” that have resulted from the weakening of social movements and their ability to “transform society.” The category of exclusion thus remains irremediably complex

and heterogeneous, but it also represents a place that is strategically overdetermined by the current contradictions of citizenship.

Politics and Territoriality: Borders

We must now take a theoretical detour that will enable us to both understand the philosophical dimensions of the idea of internal exclusion and inscribe them within a teleology of citizenship as a form of the political. We will be looking for a working hypothesis that would enable us to understand what would justify (and on what terms) expanding the category of exclusion to the point that it would encompass all the phenomena of the denial of citizenship, ranging from *discrimination* to *elimination*.

To do this, it would not be a bad idea to begin by explicating the underlying territorial metaphor. As has been emphasized by Gilles Deleuze and Félix Guattari (1987), on the one hand, and Carlo Galli (2010), on the other – although they approached it from very different perspectives – all political practice is *territorialized*. It identifies or classifies individuals and populations relative to their ability to occupy a space, or be admitted to it. Yet incorporation to a territory has as a quasi-transcendental condition of possibility the existence of a situation of mutual *recognition* of individuals and groups, either in the sense of belonging to the same “community,” or in the sense of participating in “commerce,” which is to say, in communication and exchange, even, at the extremes, a sense of confrontation within the same conflict or the same “struggle.” Because of this dual determination, through territory as well as *recognition*, exclusion as a general political phenomenon has a status that is very close to that of the *border*, which isolates or protects communities, but which also makes communication possible and crystallizes conflicts. Like the border, within

the political field exclusion represents a quintessentially two-sided phenomenon, both historical and symbolic. To this extent it is also deeply *amphibological*, meaning that the two sides never cease interfering with one another. The empirical, historical, phenomena of territorialization and de-territorialization (such as the displacement of populations, migrations, the fortification of borders, barriers to communication) are transformed into determinations of the universal, which is to say, into regimes of rights and access to rights. Distinctions that emerged from the universe of symbolism, such as "anthropological differences" of gender, age, culture, which as a whole characterize humanity as a "species," are transformed into (more or less constraining) material instruments for assigning individuals and groups to territories and regulating their circulation. Here we have touched upon the fundamental epistemological fact that spatial categories such as territory, residence, ownership of land, but also, correlatively, travel, nomadism, and sedentariness, are also constituent determinations of citizenship. We must therefore incorporate into our definition of the political institution the fact that these cycle in an unpredictable manner between the empirical and the transcendental, the historical and the symbolic.

These remarks are abstract, but their implications are immediate when we turn to the phenomenon of *internal exclusion*. In its most general definition, it means that an "external" border is mirrored by an "internal" border, or that the condition of foreignness is projected within a political space or national territory to create an inadmissible alterity (as was the case with slaves and is the case with immigrants), or, on the contrary, an additional element of interiority and belonging is introduced into an anthropological category, in such a way as to push the foreigner out (as is the case whenever women are appropriated as bearers of the national identity and held responsible for the

reproduction of its “purity”). In both cases, “other spaces,” or “heterotopias”, as Foucault would say, disrupt the homogeneity of the communal space, or, on the contrary, reinforce it, by marking the exceptional position occupied by the *other man* and guarding against him symbolically and institutionally. In practice, this can only take place through the emergence of rules of **inclusion** and exclusion. It is at the level of these rules (which are partly implicit and partly explicit) that we must ask the always difficult questions about continuities and variations among the figures of the stranger, the pariah, the monster, the “sub-human,” the internal enemy, the exile...

Starting from here we can now return from a critical angle to the ideas of belonging and being-in-common that have been presupposed by the idea of citizenship dating back to its ancient iterations, but which have also never stopped mutating. It seems self-evident that *political exclusion* (or *politicized exclusion*) is the other side of the constitution of an *exclusive community*. But the diversity among the examples we would have to consider is daunting; some of them do not exhibit a conspicuous form of separation of a form akin to a border. Take, for example, being **excluded from** “commerce” itself, or from communication, translation, mobility – phenomena that in the contemporary world, characterized by the intensification of the exchange of information, the circulation of goods and people, seem just as discriminatory as being refused admission to a certain territory or being expelled from it. These terms do not reflect the static phenomena of the existence of political communities and their historical relationships with determined territories, so much as a second-degree phenomenon, a more dynamic one. This would be the *relationship* between communities, the *exchange* of goods, and of the signs and individuals that reciprocally constitute these communities, as well as the varying degrees of “freedom” that this exchange confers

upon individuals with respect to community *belonging*, between the two extreme poles of immutable *adherence* and voluntary *adhesion*. Therefore, these terms testify, albeit often in the register of alienation and violence, to the fact that the existence of political communities implies not only a relationship *to themselves*, a principle of belonging or a right to participate in collective life, but also an *external recognition of* and by the other, with or without perfect reciprocity.

This consideration is obviously crucial for understanding the sense in which modern nation-states, in order to affirm their character as “sovereign” political communities, needed not only to maintain relationships of “commerce” with one another and to establish an “international law” that would govern times of war and peace, but also to use this dual foundation to construct a “cosmopolitanism” of a new type, endowed with a meta-legal role (as we see in particular with the account given by Kant [1983 (1796)]). The “citizen of the world” (*Weltbürger*) was the concrete counterpart (as a merchant, as an “intellectual” in the *République des Lettres*, perhaps even as a politico-religious exile or “refugee”) of the legal constitution of the nation-states (what Schmitt [2003 (1950)] called the *Ius Publicum Europaeum*, one of whose preconditions was European dominance and the division of the world among the various colonial powers). This world citizen was not an imaginary member of a *civitas* or a *polis* without boundaries, whose limits would coincide with the expansion of the universe; on the contrary, he was a *being in relationship* who circulated (or not) between territories and states. It is on this basis that we should ask what the contradictory results – what new possibilities for *recognition*, what new internal and external violences – have been of the contemporary transformations of “trade” and “international law,” now that the movements of populations, the dispersion of cultural communities, and the postcolonial

flow of populations in the reverse direction have become mass phenomena.

Rules of Inclusion, Rules of Exclusion

If it is true, as a result, that, in their relationship to territory as to the more abstract “political space” that forms the horizon of citizenship, there still remains this problematic reciprocity between belonging and commerce, being in common and being in relationship, then we should think about **inclusion** and **exclusion** as indicators of the essential instability of the community of citizens, which is constantly calling for new “guarantees” that themselves put the community at risk, and of the fact that its conditions of possibility are always infinitesimally close to its conditions of impossibility. More precisely, we can formulate *three theses* concerning **inclusion** and exclusion in general:

First Thesis There can be no institutional procedure for exclusion without a *rule*, whether it be a rule of law or a practical, sociological, norm. But the exclusionary rule must be the inverse of a rule or normative system of **inclusion** – thus the strategic scope of the ideas of belonging and participation, what political scientists with their characteristic cynicism call admission to the citizenship “club.” It is important to keep in mind this necessary co-occurrence of rules (or norms) for **inclusion** and exclusion, so that we do not forget that violence, which is always present in these matters, is not situated on the side of exclusion alone. **Inclusion** itself can be just as violent, whether it takes the form of forced (or at least coerced, under pain of “social death”) “conversion” or assimilation. The *compelle eos intrare* did not disappear with the ebbing of the political power of churches to “compel adhesion for the purpose of salvation,” which Saint Augustine based on a line from the Gospel – it has only taken

other, more “secular” and more “everyday” forms. Cultural anthropology has taught us how to discern the element of violence, whether consciously organized or not, that resides not only in all processes of colonization (whether internal or external), but also in acculturation and therefore in education, insofar as education is the assimilation of individuals into a socially “dominant” or “common” culture.

In truth, we must account for a *dual violence* inherent in the necessary co-occurrence of inclusions and exclusions. Therefore we must look at the problem of the “civilization” of civilization itself, or of a civilization that morally and politically confronts its own “discontent” (Freud), its own element of violence or savagery. From this standpoint we can posit that *citizenship* is a political regulation of this violence and that it concedes a space of varying size to it, but that it never suppresses it purely and simply. It is evidently crucial to analyze and evaluate the forms this takes, which can be more or less symmetrical. It could be that the conditions that define belonging also *ipso facto* identify non-belonging (as in the ideal scenario of a relationship between “us” and “them”). One could imagine that, in modern states, “nationality” functions in this simple way, that in one swoop it instituted the equivalence between *citizenship* and *nationality* that we earlier called “foundational.” But things are more complicated in practice, because within active citizenship there are many degrees (even in places that officially do not recognize the categories of “reduced” or “second-class” citizens that characterized the apartheid regime and colonization in general). Above all there is a *gray area* where individuals are neither completely included nor completely excluded (just as there are “foreigners who cannot be legally expelled” from a given territory, because of family ties, for instance, but who nonetheless “cannot become legal residents”). This boils down to saying that the rules of inclusion are not purely and simply the inverse of the rules of

exclusion. Thus, the constituent relationship between community and exclusion can begin to function *in the opposite direction*; instead of a pre-existing definition of community, predisposed to make the simple differentiation between citizen and non-citizen, reality is created out of an *unresolved conflict*, one which never stops evolving, which for the most part takes place “behind the scenes” of citizenship (or on *another stage* of the political), and whose stakes are discriminatory violence, inequalities in statuses and rights, whose anthropological “material” is sexual, racial, religious, cultural... Through this conflict, the institutional community is mirrored by an “imagined community” (Anderson, 1983), just as the external border comes to be mirrored by an internal border (Fichte, 2008 [1808]), but it is also *politically transformed*, whether it be in the direction of restriction or expansion.

Second Thesis One consequence that follows from this and that is far from purely speculative, but rather applies to the daily political experience, is that **exclusion** and **inclusion** do not describe fixed rules or situations so much as the stakes of the conflicts through which citizenship, in a sense, “thinks” its own conditions of possibility. If someone is **excluded from citizenship in a radical manner, particularly if this is done** through what we have called “internal exclusion,” this never means that she simply remains outside of the community, like a foreigner who can be refused a visa or denied naturalization (which, as we know, is always applied *differentially*). It means that **she is excluded from inclusion, in** other words, from a status, but also, at a deeper level, from a power or capacity. Arendt’s formula of the “right to rights” does not reflect the *institution* of citizenship so much as *the access to citizenship*, or, better yet, *citizenship as access* and as an ensemble of procedures for access (Van Gunsteren, 1998).

We must then understand this concept of “right to rights” as a unity of opposites in the dialectical sense. Arendt herself, given the circumstances (and the tenuous analogies that she attempted to develop between the different types of domination and elimination that were characteristic of modernity), focused mostly on developing the *negative side*: the fact that “stateless” individuals are deprived of the fundamental right (or “personhood”) that is the precondition of all others. But there is also the *positive* or, better yet, the *affirmative side*: the side that we saw when we defined “active citizenship” as a form of participation that already manifests itself in demands for access (or belonging). In these cases it is not founded on an existing right, but constitutes one or imposes its recognition. Symmetrically to the earlier formulation, we could say that we are dealing with an *exclusion of the exclusion*, or an *inclusion* that implies the negation of the negation.

Third Thesis But, in turn, this examination of the dynamic relationship between *inclusion and exclusion*, one that is both conflictual and reflexive, leads us to shift our attention to the most concretely political aspect of this dilemma, which will involve the entrance onto the scene of *subjects and relationships between subjects*. Variations in *inclusion* and exclusion are not impersonal processes: they are relationships of force exercised by institutions and power apparatuses over individual and collective subjects. The question that they imply never simply takes the form of *who is excluded from what* (from what ability to belong, from which rights)? But always also the form: *who excludes (from what, from where)*?

Here, evidently, the experiences of racial segregation and sexism are paradigm cases. If the political community functions like a “club” to which one can be either admitted or refused access, we must ask how it is that the “rightful

members" were admitted, how they decided on the rules for admission, and how their active participation translates into preserving the rules. In other words, there is good reason to write the political history of a community of citizens around the moments when it has been open or closed. The practical implications of this are obvious. There could be no exclusion of women from full citizenship (implying the exercise of political and professional responsibilities), or from certain civil rights, without the constitution of a citizenship that functioned (and continues to function) as a "men's club," in which individuals (male or not) continually endeavored to enforce these rules, by inscribing equaliberty within an internal border that was presented as "natural," "traditional," or "socially necessary." We can make the same observation, all else being equal, with regard to the phenomena of racial and cultural discrimination, which erect barriers (sometimes symbolic, sometimes material) that deny certain human beings access to citizenship, or to its full rights, and which shape the political institution of every country in the world, liberal democracies being no exception.

What all this means is that *it is the community itself that excludes*, not only in the form of bureaucratic rules and procedures, but also in the form of a consensus of its members, which is itself more or less politically "motivated." To put it in clear terms, we would say that *it is always citizens, "knowing" and "imagining" themselves as such, who exclude from citizenship and who, thus, "produce" non-citizens in such a way as to make it possible for them to represent their own citizenship to themselves as a "common" belonging.* We must nonetheless offer two qualifications, perhaps even mitigations, alongside this radical conclusion, which implies that citizenship as exclusion of the exclusion must always be grounded upon struggle. First, the degree to which the citizens of a community participate in the exclusion of non-citizens is never uniform: it involves degrees and exceptions, protests and transgressions of consensus. Second, the

participation of some in the exclusion of others is rarely *direct*, but for the most part *indirect*, *delegated* in a certain sense to the institutions of citizenship that “represent” the citizens or stem from their authorization – which also means that the management of exclusions constitutes an *implicit clause* in the representation and delegation of power. As we know, in the democratic institution of citizenship, it is more often than not up to the *law* to provide a transcendental sanction for all manner of social categorizations and administrative procedures, or to transform cultural, ideological, and sociological distinctions into universal, “normative,” rules.

Here we arrive at another aspect of the “conflictuality” embedded in the unstable equilibrium of the processes of **inclusion and exclusion**, insofar as they bring into play relationships of society, state, and law. Because the participation of citizens in the exclusion of non-citizens passes through the delegation of power to the state, the line of demarcation between these two types of humans is sanctified or sacralized. But owing to the fact that the state and the law responsible for carrying out this differentiation are themselves fragile authorities whose legitimacy can be contested and whose sovereignty is at times shaky, the exclusionary rule is constantly exposed to perverse uses. We see this especially in contemporary societies where racism and xenophobia are not the result of true conflicts of interest between culturally or historically foreign communities so much as mechanisms for projecting the social anxieties of the majority. What the nationals of a given country are more or less explicitly “requesting,” for example, when they demand stronger exclusionary measures targeting immigrants, or what the French far right calls “priority for nationals,” is an a priori guarantee against discrimination or the degradation of social status, which they are afraid they might be next in line for, especially if they happen to be poor or socially disadvantaged. Naturally, there are enormous differences of degree between these phenomena, which are never automatic. Yet they are

regular enough, being periodically reactivated in the context of “crises,” for us to see the signs of a worrisome affinity between “populism” and democratic citizenship itself. The *gray area* discussed earlier thus appears not only as a zone of indecision between inclusion and exclusion, but as a zone in which exclusion is indirectly demanded of the “representative” state by a quasi-community of quasi-citizens, or by citizens uncertain of their rights and their recognition.

The Concept of the Political and the Anthropology of Citizenship

The discussion above is doubtless a simplification of the complete historical account of relationships of citizenship and exclusion. Nevertheless, we can hope that these discussions can initiate a shift in our manner of understanding the “concept of the political,” for which Schmitt’s famous definition given in his 1932 *The Concept of the Political* would represent both an obligatory reference point and a negative model (Schmitt, 1976 [1932]). It is not a question of generalizing or updating the idea that the “distinction between friend and enemy” defines what is specific to the political as opposed to the other spheres of human activity, but rather of explaining why, in a given set of circumstances, this distinction can come to express the totality of measures that join community and exclusion together, while at the same time showing itself unable to take into consideration the whole system of differences that these encompass. In order to make these two points clearer, I will describe what constitutes the quintessential paradox of *political anthropology* that is specifically associated with the development of modern national citizenship.

- 1 Why is it that modern citizenship, recast around universalist principles, not only has *failed* to put an end to all forms

of interior exclusion, but also has had a tendency to create new ones, granting them justifications that are themselves universal, or transcendental? The principle of equaliberty posits that, within the limits of her own community or of her politically constituted “people,” every individual is the equal of, if not similar to, any other, and that no one can exercise an arbitrary, discretionary, authority over another. But the history of civil codes and bourgeois constitutions is one of discriminations founded not only upon “common utility” (in accordance with the statement in the 1789 Declaration of the Rights of Man and Citizen, Article One: “Men are born and remain free and equal in rights. Social distinctions may be founded only upon the general good”), but also upon marginalization within humanity itself. The retreat of statutory *inequality*, whether traditional or conventional, would therefore have been purchased at the price of an exclusion that was even more radical, because it legitimated itself within the very idea of universality itself.

2 We must therefore assume that the extension of the principle of the rights of the citizen to “everything with a human face” (Fichte, 1973 [1795]) and their foundation upon the “rights of man,” which represents not so much a natural origin as a transcendental guarantee of access to citizenship, constitute not only a justification for the elimination of discrimination (or a *struggle* with the aim of eliminating it), but also a reason behind the renewal of these discriminations and of their extension beyond previous limits, albeit under a new form. Once individuals and groups can no longer be excluded from citizenship on the basis of status or social background, they must be excluded precisely as “humans,” as types of humans that are different from the rest. And what is striking is that this mechanism of exclusion that is itself universalist does not disappear as the “foundational” discourse of natural rights gives way to a purely legalistic

constitutionalism, in which government practices find their foundations in law or science (or, more often than not, a combination of the two). On the contrary, this discrimination becomes diversified and coextensive with society, within the framework of what Foucault called “biopolitics.” The only explanation for this is that there is a necessary structural co-occurrence between the mode through which modern political “universalist” communities (primarily the *nation*) are constituted and the transformation of general *anthropological differences* (differences of gender, differences of age, differences between the normal and the pathological, etc.) into principles of exclusion, which has granted modern “humanism” its intensely contradictory content.

This is what Foucault demonstrated in a series of works, the analytical precision of which can (and must) be debated, but whose main point represents an irreversible epistemological break: the transcendental universality of the species and the discriminating and discriminatory functions of anthropological differences are not incompatible; they form two faces of the same discourse, one that began with the philosophy and politics of the Enlightenment (as we already saw with the construction of Kantian *anthropology* (Kant, 2006 [1798])). But Foucault (2003a) also demonstrated, particularly with the example of “abnormality,” that this necessary co-occurrence is always problematic: not only because the universalism of “the rights of man” allows for recourse to an *ideal* that can be seized upon by any of the categories victimized by exclusion, but also because the line drawn by exclusion is intrinsically unstable and ultimately elusive. This is why the category of “abnormal” constantly oscillates between psychiatric references and criminological ones, such that the marginalization of “abnormals” is contested between the medical and legal apparatuses. Here it might be useful to draw a comparison with Arendt’s (1951) analyses of the contradictory relationship that existed in the nineteenth and twentieth centuries between the *closed character* of

citizenship instituted within *national frameworks* and *the universalism* of access to the rights proclaimed by the nation-state (with the notable exception of its imperial and colonial extensions, where there were no citizens, but rather “subjects,” or “subject races”).

Thus the extreme and yet revelatory position of *racist states* such as Nazi Germany or apartheid South Africa in the history of modern states, because they tended (locally, provisionally, but with dramatic exterminatory consequences) to focus on this contradiction in one of its terms alone, by developing radical plans for the purification or segregation of the species. We know that eugenics programs (the forced sterilization of “undesirables,” for example) were implemented throughout the twentieth century, in the Nordic social democracies as in many US states (including California). As the Frankfurt School theorists (Horkheimer and Adorno, 1972 [1944]), as well as critics of modernity such as Zygmunt Bauman (1999), pointed out, this nihilistic and radically anti-humanist tendency was not external to modern humanism; rather, it formed its other face (or its other stage), which was “normally” more or less repressed. Underneath the *political* sphere there is always also an *un-political* sphere (Esposito, 1993).

This leads us to suggest that there can be a gradual intermingling of models of exclusion that justify themselves in idealist terms, appealing to a definition of man in which he is predestined for citizenship, and those that justify themselves in materialist or positivist terms, identifying psychological or physiological characteristics that would mark the “inferior” capacities of certain humans (depending on the era, women, manual laborers, abnormals, foreigners, and colonial populations or immigrants). In the contemporary situation, in which the classical representation of national citizenship is subject to violent tensions, certain situations of exclusion can illustrate the model of Agamben’s (2005) “normalized state of exception,” which is grounded in Schmitt,

but others simply reflect the quasi-transcendental impossibility of *representing the community* (or “the common”), whether in terms of interests or in terms of rights and reciprocal obligations (Nancy, 1990).

The whole question rests in knowing whether the collective “actors” of globalization, whom we could describe as the “citizens to come” of the cosmopolitan space, will as a majority search for a transnational model for “governing” discriminations and exclusions, or, on the contrary, for a new universalism that would be as “egalitarian” as possible. This is why concrete questions such as the rights to movement and residence (going beyond the individual “hospitality” that Kant made into the principal content of cosmopolitanism) have had a determinative impact on the evolution of the very idea of “citizen” itself. Or maybe these fundamentally transnational rights will be recognized not only as “rights of man” (which already happened, with a few qualifications, in the 1948 Universal Declaration of Human Rights), but as the elements of political citizenship. Or perhaps post-national “governance” will translate into the increased relegation and repression of “nomadic” and “diasporic” populations. This would mean that the sovereignty of states would be concentrated specifically in their policing-oriented roles, such as regulating borders and the movements of populations, potentially leaving it up to the international bodies and NGOs to take care of the enormous “humanitarian” problem represented by the growing mass of “non-citizens” who are, as such, *from neither here nor there*. We would therefore end up with a particularly violent, and probably unstable, transformation of intensive universality into extensive universality, creating a “post-national citizenship” based upon communication networks and globalized trade (as Saskia Sassen [2006], in particular, has proposed), but at the price of a symmetrical generalization of the rule of exclusion.