

Beyond the nation and the state: how communalist self-government redefines the citizen and the immigrant¹

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“Cities are spaces in which we can talk about reclaiming popular sovereignty for a demos other than the nation, where we can reimagine identity and belonging based on participation in civic life rather than the passport we hold.”²

Introduction

Challenging the authority of the State, many municipalities around the world have decided to remedy widespread deficiencies in national immigration policies during the ongoing crisis of the welcoming of refugees. Whether it is under the name of “sanctuary cities”, “rebel cities”, “cities of refuge” or “fearless cities”, cities have organized to welcome and integrate immigrants³. These seemingly separate initiatives resonate with a broader movement, alternately dubbed municipalism or communalism, which seeks to transform cities into self-governing entities that challenge the power of the nation-state. Communalism strives to reclaim and exercise popular sovereignty at the municipal level, a scale at which citizens can directly act in the political sphere, instead of at the level of the state, where they are represented by elected bodies which govern them.

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² Baird & Huges, 2016.

³ It is here important to note that, throughout this article, I will refer to the generic expression of “the immigrant”, understood in its broadest sense, namely as anybody who does not have the legal status of citizen of the state to whose authority she is subjected. I choose not to use the legal term of “alien”, as it denotes an understanding of the non-citizen as being fundamentally outside of the *polis*, and it is this separation that I intend to challenge. I specify here that though my main focus is to understand how to think the belonging to a community and the nature of self-government in the migration context, from a different framework than the one of the nation-state sovereignty, I will differentiate, when necessary and relevant, between various categories of immigrants (whether documented on the basis of asylum, family reunification, labor, studies, non-asylum humanitarian reasons, or undocumented). Indeed, their situations are completely different, whether on the level of their reasons for leaving and integrating another demos, and so are their legal statuses, the rights they enjoy, and the nature of the claim they have on the community.

Since the Peace of Westphalia in 1648 and subsequent establishment of the nation-state as the paradigmatic mode of government⁴, the question of what constitutes the appropriate political unit for democracy has been largely forgotten. When this question has been sporadically asked by the people throughout history, it has been rapidly and violently answered with state repression, as evidenced by the bloody repression of the Paris Commune in 1871. If raised in political theory, the reply has almost undisputedly been “the nation-state”, subordinating democracy to representative government and imagining the state as its only locus of actualization. Indeed, the very practice of questioning “what kind of unit is the most appropriate for democratic government” has been marginalized in classical modern political theory (Dahl, 1967). However, in the wake of globalization, the nation-state paradigm has been interrogated by many, although completely rejected by few. Among these last bodies of thoughts, this article will focus on the democratic theory of communalism, which takes the municipality⁵ as the main locus of self-government, as formulated by Murray Bookchin.

Drawing on Hannah Arendt’s analysis of the “lost treasures of the revolution”, I will first present several accounts of the political power of the municipality, which will then be used to present it as a legitimate candidate for the locus of self-government and popular sovereignty. However, I want to clarify at the outset that the focus of this paper is not to provide a normative justification of communalism as a democratic theory, nor to discuss its modality, viability or feasibility. It is no small task to bring this approach into dialogue with other bodies of political theory as well as to advocate for its desirability. While not shying away from this task, it is one that largely overflows the scope of this paper⁶. Rather than attempting to answer the many important questions communalism raises, and should raise, I will concentrate on how the communalist framework offers new possibilities for thinking about the fundamental theoretical

⁴ For various accounts on the legacy of the Peace of Westphalia, see Gross, 1948; Osiander, 2001; Krasner, 1999.

⁵ The use of the term *municipality* is a generic one, without any pre-established boundary. In this sense, municipality can cover a street, a neighborhood, a town, a village, or a city, the organizational system of these municipal entities being in any case confederalism as explained later. The communalist perspective does not prescribe any kind of indication in this regard as the definition of what constitutes a municipality depends on historical, geographical, climate, demographical, cultural, political, social, religious, and economic conditions. If adopted, the communalist model therefore has to be adapted to particular local conditions. However, in this article, I will more often emphasize the paramount role of cities, as cities are where most immigrants transit, apply for citizenship, live, work... I am well aware of this urban bias, but it goes beyond the scope of the article to differentiate between rural and urban municipalities, both in a descriptive and in a normative perspective. The main argument of this article is that the municipality, as it should be, is the best place to secure the right to have rights of immigrants, since it is the scale that can enable democratic self-government, and as such, it concerns both rural and urban areas.

⁶ About the communalist strategy to take over the municipality through electoral politics to transform it into a self-governing entity, as well as the tensions such a strategy raises, see Van Outryve d’Ydewalle, 2019.

questions generated by the arrival of newcomers in a *polis*. Such a perspective is justified, as it translates the current experience of municipalities' relationships to social movements, to immigrants, and to the state when dealing with migration. By showing how communalism offers tools to remedy the deficient actions of nation-states on a question as important for human beings as their conditions of hospitality and integration into a new *polis* – that is, by grounding the right to political participation in the lived and shared experience of the community and by transforming the face-to-face encounter occurring in cities into a face-to-face democracy –, I hope to make the case for the potential of the communalist paradigm to address crucial political, social, legal, and moral issues.

Second, I will analyze the relationships the different kinds of sovereign considered in this article can have with the immigrant. After briefly detailing the classical vision of the nation-state's relationship with the immigrant, I will outline how the relationship of the municipality to the immigrant differs both structurally and empirically due to features inherent in this political unit.

Third, I will demonstrate that, since the municipality can be argued as the best locus of self-government, it provides a more appropriate framework for securing cosmopolitan norms than does the nation-state. Indeed, after showing how communal self-government and human rights mutually reinforce each other, I will explain how and why the municipality offers unique potentialities for securing “the right to have rights”. I will then analyze how the municipality enacts “democratic iterations”, a concept developed by Seyla Benhabib, as it acts in the political sphere to secure the rights of immigrants. Such iterations allow us to consider how communalism redefines the conception of citizenship as post-national and communalist, thereby offering us a new understanding of what makes a human being part of a *demos*.

1. The municipality as the locus of self-government

1.1. The “lost treasure” of the revolutionary tradition

In *On Revolution*, Hannah Arendt explains how most revolutionary movements seeking to bring freedom to the people failed to achieve *constitutio libertatis*, that is to develop sustainable institutions that would both embody the revolutionary spirit and allow for the popular exercise of the newly-gained freedom. Contrary to the freshly enshrined constitutional principle according to which all power belongs to the people, revolutionaries ended up creating a space to exercise this new freedom that was reserved for the peoples' representatives, to the exclusion

of the people themselves (Arendt, 1963, p. 235). The distinction between ruler and ruled, supposedly abolished by the revolution, was in fact constitutionalized, thereby making the task of government “the privilege of the few”, preventing citizens from participating in the government and excluding them from the public sphere (p. 237). This perspective of seeing professional politics as the only way to participate to the government of the *polis* rests on the conception of individual happiness and freedom as pertaining to a private sphere, separate from a public sphere⁷, and by the rejection of the definition of public freedom as “the citizen’s right of access to the public realm, in his share in public power – to be ‘a participator in the government of affairs’” (p. 127). Because they have been conceived as a mass unable to think, the people would not have access to this sphere, left only with the opportunity to vote for representatives capable of defending their interests or their welfare, but not their *opinions* and their *actions* (p. 227, 268-270). Arendt’s conclusion is therefore still valid in our contemporary representative democracies: “the relationship between a ruling élite and the people, between the few, who among themselves constitute a public space, and the many, who spend their lives outside it and in the obscurity, has remained unchanged” (p. 277).

However, according to Arendt (1963), this centralization and indivisibility of power in the hands of the governing bodies could have been avoided by incorporating in the Constitution spaces for the deployment of public freedom and direct participation of citizens in public affairs, as was the case during the revolution. At the origin of the revolutionary activity, such spaces spontaneously appeared in the first days of modern revolutions, whether in the form of the town-hall meetings during the American Revolution, the neighborhood sections and the “*sociétés populaires*” during the French Revolution, the *soviets* during the Russian Revolution of 1905 and 1917, the *Räterepublik* in Berlin and Munich after Germany’s defeat of the World War I or the workers’ councils during the Hungarian Revolution of 1956 (pp. 232-281). However, the revolutionaries failed to see how the council system presented an “entirely new form of government, with a new public space for freedom which was constituted and organized during the course of the revolution itself” and which could have allowed for the direct participation of citizens in power (p. 249). Arendt deplored “the current ‘realism’, despair of

⁷ According to Arendt (1963, p. 269), there is a division between, on the one hand, what pertains to the public interest and is the locus of public freedom resting exclusively in the hands of the government and, on the other, what touches upon the space of private freedom and welfare, in which the government is prevented from intervening. This opposition between the form of ancient freedom – emphasizing the active participation in power at the expense of the enjoyment of individual rights – and modern freedom – insisting on the pursuit of private interests to the detriment of participation in public power can be traced back to Benjamin Constant in “De La Liberté Des Anciens Comparée à Celle Des Modernes”.

the people's political capacities . . . based solidly upon the conscious or unconscious determination to ignore the reality of the councils and to take for granted that there is not, and never has been, any alternative to the present system" (pp. 270-271). The disaster of these revolutions was to bury this "hope for a transformation of the state, for a new form of government that would permit every member of the modern egalitarian society to become a 'participator' in public affairs" (pp. 264-265).

During the French revolution, the neighborhood sections and the "*sociétés populaires*", which were "assemblies where citizens could collectively manage the questions of public interest", (Arendt, 1963, pp. 239-240) were soon abandoned, in favor of the "great popular Society of the whole French people", "one and indivisible" (pp. 240-241). In Arendt's view, "the latter, alas, in contrast to the small popular societies of artisans or neighbours, could never be assembled in one place, since no "room would hold all"; it could exist only in the form of representation, in a Chamber of Deputies who assumedly held in their hands the centralized, indivisible power of the French nation" (p. 241). Similar reasoning animated the Founding Fathers in the United States. In the Federalist paper no. 14, Madison writes: "The true distinction between [a democracy and a republic] . . . is, that in a democracy, the people meet and exercise the Government in person; in a republic, they assemble and administer it by their representatives and agents. A democracy consequently will be confined to a smaller spot. A republic may be extended over a large region." (Madison, 1787). With the birth of the modern nation-state and its unitary vision of sovereignty died the potentiality of the municipality as a self-governed sovereign, and thereby the very possibility of a face-to-face and direct democracy.

1.2. *Popular sovereignty as self-government*

Arendt's account of the lost treasures of the revolution enables us to envision a new form of self-government, one exercised directly by the people and not by its representatives. This form of self-government presupposes a conception of popular sovereignty where "the people are subjects and objects of the law, or the makers as well as obeyers of the law" (Benhabib, 2011, pp. 97-98) and where "all *full* members of the demos are entitled to have a voice in the articulation of the laws by which the demos governs itself" (Benhabib, 2008, p. 35). In this article, I adopt this definition of popular sovereignty understood as the self-government of a demos. My normative claim is that such self-government is best realized at the level of the

municipality, not the state (see section 1.3)⁸. The contemporary weakening of the nation-state's institutions opens an opportunity for a new political project, demanding institutional imagination (Benhabib, 2011, p. 115). To the call for a "repooling of the markers of sovereignty" in new institutional forms in order to actualize popular sovereignty (Benhabib, 2011, p. 115), communalism answers with a radical version of self-government at the level of the municipality, requiring the *polis* to design institutions of popular sovereignty that would not embody statist features, such as representative government, professional politics, coercion, top-down authority or division of freedom between the public and private spheres.

The conception of self-government adopted here is one where the objects of the law effectively take part in the making of the norms to which they will later submit, rather than conferring upon representatives the task to choose these norms in exchange for freedom in the private sphere. In this sense, self-government is a radical project of autonomy, where a community departs from a position of *heteronomy*, characterized by the fact that it is directed from the "outside", by rules that have been inherited, unquestioned or undeliberated, and followed in an unconscious way, towards one of *autonomy*, in which it would be rendered conscious of these rules, putting them all into question and, from there only, giving to itself the new norms that will govern it (Castoriadis, 1975)⁹.

1.3. *The political nature of the municipality*

Drawing on the possibility of public spaces for self-government and addressing Arendt's regret of the lack of alternative system based on the historical experience of the councils,

⁸ By contrast, a unitary conception of sovereignty is defended by Paul Kahn for the United States, where "citizens would form a nation by virtue of their common political activity as members of the same state" and "would find a common identity in and through this political project of state formation". Popular sovereignty, emerging out of the unity of the constitution and the revolution, is therefore intrinsically linked with the state: "Popular sovereignty is only a particular way of viewing the state. It has no other form, place, or time apart from the state itself. The popular sovereign is the state conceived as efficient cause of its own existence". In this model, popular sovereignty cannot be realized without the state (Kahn, 2005, pp. 201, 204-207).

⁹ Cornelius Castoriadis captures the opposition between autonomy and heteronomy in this way, while recalling that many revolutionary movements have fallen in heteronomy: "If to autonomy, the legislation or regulation by oneself, one opposes heteronomy, the legislation or the regulation by another, autonomy is my law, opposed to the regulation by the unconscious, which is a law that is other, a law from somebody that is not me" (Castoriadis, 1975, p. 151 (my own translation)). Even though some thinkers like Castoriadis emphasizes the collective aspect of "autonomy", the use of the term "autonomy" to capture the process of self-government does not go unchallenged. I thank Seyla Benhabib for drawing my attention to the fact that the concept of "autonomy" presupposes an ontology of the self as "individualist", "rationalist", "non-discursive", and "monological", an issue first raised by Iris Marion Young. Digging further into this question would bring me too far from the primary thesis of this article, and I will limit myself here to emphasize the importance of both the processual and collective aspects of giving laws to oneself, which is conditioned by a process of "collective legislation". As suggested by her, I use the term of "self-government".

communalism is a perspective anchored in the belief that there *are* alternatives to the present system and that, by seeing the municipality as the locus of self-government through a system of assemblies, citizens *could* directly participate in public affairs. In addition to Arendt, many theorists have, to various extents, emphasized the paramount political role of municipalities in the exercise of public freedom¹⁰. Although they do not all argue that the municipality should be the legitimate sovereign, their accounts enable contemplation of several arguments in favor of why, and how, the municipality could constitute the privileged locus of self-government.

Alexis de Tocqueville (1991) praised the importance of the municipality for democracy in *Democracy in America*: “Municipal institutions are to freedom what primary schools are to science . . . Without municipal institutions, a nation may establish a free government, but it cannot have the spirit of freedom”¹¹. He describes how New England’s town meetings escape from the logic of representation by having all decisions taken by the citizens of the municipality during regular meetings, and not by any elected municipal body. Only a few tasks are ascribed to individuals elected every year and responsible for the “execution of the popular will”, namely, the decision of the assembly (Tocqueville, 1991, pp. 124-127). This reflects the important distinction between, on the one hand, the body participating in Arendt’s notion of “action” and making the decisions, where popular sovereignty lies, and, on the other, the one purely in charge of administering and managing these decisions¹².

Robert Dahl rehabilitates the question of which kind of unit is appropriate for a democratic political system. He considers the nation-state a “transitory historic form” that does not provide a “satisfactory fulfilment of the ancient and continuing aspiration for democratic self-government”, since its size prevents participation of citizens in public affairs by confining them to the necessity of representation (Dahl, 1967, pp. 956-957). In Dahl’s view, instead of the nation-state, the optimal democratic unit should be the city, that he calls the “democratic city” (Dahl, 1967, p. 964). Among the many reasons invoked by Dahl in his case for democratic

¹⁰ Other theories have reclaimed the political nature of the city in other perspectives than for self-government, for example as the site of new economic claims by both powerful and disadvantaged people (Sassen, 1991).

¹¹ My own translation.

¹² Arendt specifically states that the “fatal mistake” of the councils were their inability to “distinguish clearly between participation in public affairs and administration or management of things in the public interest”. (Arendt, 1963, p. 273). Bookchin also establishes this clear distinction between the municipal assembly in charge of policy-making and the delegates in charge of the administration of these decisions under close supervision of the first (Bookchin, 2015, pp. 75-77). This distinction between policy-making and administration could also be related to the classic distinction established by Rousseau between the general laws that are enacted by the sovereign acting according to the general will, and the execution of these laws by the government in particular case (Rousseau, 1988, pp. 160-178).

cities, from their historical role as a governmental unit, to the fact that it provides opportunities for political participation in the most important issues of social life, the following one is paramount for the communalist project: the city's "great potentialities as a unit for educating citizens in civic virtue or . . . for political socialization"¹³. Indeed, thanks to the fact that the city is the "most immediate and palpable context" people inhabit, it is the appropriate "political unit of more truly human proportions in which a citizen can acquire confidence and mastery of the arts of politics – that is, of the arts required for shaping a good life in common with fellow citizens" (Dahl, 1967, p. 967). With a government being "remote, inaccessible, and unresponsive, a government of professionals in which only a few can ever hope to participate actively", the nation-state has failed to provide its citizens, let alone immigrants, such socialization into its political life (Dahl, 1967, p. 967).

It is probably Murray Bookchin who has elaborated the most radical version of a democratic theory resting on the municipality as the locus of self-government, that he named communalism. His account of communalism, also called "libertarian municipalism"¹⁴ considers the municipality as the locus of communities to directly manage their own affairs through municipal popular assemblies functioning on the mode of face-to-face direct democracy (Bookchin, 2015, 2021). For issues that exceed the scope of the municipality, communalism supposes that municipalities should organize on the confederalist model, sketched as follows: "a network of administrative councils whose members or delegates are elected from popular face-to-face democratic assemblies, in the various villages, towns, and even neighborhoods in large cities. The members of these confederal councils are strictly mandated, recallable, and responsible to the assemblies that choose them for the purposes of coordinating and administering the policies formulated by the assemblies themselves." (Bookchin, 2015, p. 75).

However, this "is not to say that communalism accepts the municipality as it is today" as "the modern municipality is infused with many statist features" (Bookchin, 2015, p. 17). Namely, communalism defends the municipality as the locus of self-government as it is the only place

¹³ For a detail of his arguments as well as an account of the ideal size of the cities, see Dahl, 1967, pp. 963-967.

¹⁴ I will more often use the term communalism rather than municipalism in discussing this project, as the former possesses a historical and political connotation of emancipation from the nation-state and from capitalism that the latter does not have. Whether in the literature or in the field worldwide, both terms are used depending on the context. However, I do not extend on the nuances of this conceptual distinction here, and both terms will be denoting the same political vision in this article. Moreover, it is important to specify that this version of communalism has nothing to do, whether genealogically or politically, with the same concept used to denote a sectarian tendency in India.

where the people can gather, deliberate, and directly take decisions together on a face-to-face basis, rather than having recourse to representatives to exercise public power. Such a logic cannot coexist with the state which precisely rests on the idea of representative as a class of professional politicians to exercise public power, even at the municipal level. As such, the communalist project is a transformative one that calls for autonomous municipalities which, organized into confederations, would be in direct competition for the claim to sovereignty with the nation-states, with the ultimate aim of abolishing the latter.

Though acknowledging that cities should be empowered in her “normative ideal of city life”, Iris Young challenges Bookchin’s identification of the democratization of decision-making “with the decentralization of urban decisionmaking and the creation of small autonomous communities”. Indeed, she is mainly concerned with the possible oppression and domination that could arise between different municipalities with unequal power and resources and the absence of mechanism to “prevent the development of large-scale inequality and injustice among communities”, and would rather rely on the *de facto* economic interdependence of the region (Young, 1990, pp. 250-252). This concern is of course both necessary and legitimate, but it is not left ignored by communalists either, who see the challenge to the state as part of a broader challenge against any form of hierarchy, among which capitalism, sexism, racism, and colonialism (Bookchin, 2005). Communalism considers equality, solidarity, and mutual aid as preconditions of the establishment of autonomous communities, but simply refuses to see an external authority, distinct from the community, as the regulator of this solidarity. What is more, the relationships between municipalities in the confederation is not left unaccounted by communalists, as they do consider that the self-government of municipalities would be incompatible with forms of domination either between the members of the municipality, or between the municipalities themselves (Bookchin, 2015).

Moreover, Young considers that their goal of “counteracting hierarchical domination, alienation, and powerlessness” does not require decentralization “into small units of autonomous local control”, but rather democratization of institutions that are currently submitted to the capitalist rationality. Such democratization would instead require an empowering governmental authority, where empowerment is defined “as participation of an agent in decisionmaking through an effective voice and vote” for the “decisions that affect her or his action and the conditions of that action” (Young, 1990, p. 250). To open the process of policy-making by governmental bodies to democratic participation, Young proposes relying on

“neighborhood assemblies as a basic unit of participation”, in order “to determine local priorities and policy opinions which their representatives should voice and defend in regional assemblies” and be hold accountable for (Young, 1990, pp. 252-253), as also proposed by Barber (1984, pp. 269-272). The fundamental difference between her account of neighborhood assemblies and Bookchin’s lies in the place of the sovereignty. She does not see the municipality as sovereign entities of law-making, but rather as a body with important powers in implementing the policy decided at the level of the region understood as an “economic unit and a territory that people identify as their living space” (Young, 1990, pp. 252-253), whereas communalists see the neighborhood assembly as the place for policy-making, and the confederation as a place for the administration of these policies. Though she still considers that “several levels of government are necessary to coordinate social relations and promote justice” (Young, 1990, p. 253), Young nevertheless agrees with proponents of autonomous municipalities on the fact that “democratic participation means that authority cannot be concentrated in a center, far away from the majority of people who are affected by it” (Young, 1990, p. 252).

If communalism does not and should not go without raising questions concerning the institutions and the laws that should prevent old and new forms of exploitation and domination, it seems promising to explore the potentialities of seeing the municipality as the main locus of self-government, where humans could associate in order to give themselves their own norms. However, this could not be separated from the project of seeing how the law could be envisioned as an emancipatory tool in this system both to constitutionalize freedom – in the spirit of Arendt’s *constitutio libertatis* – and to strive for equality by precluding the oppression of the most vulnerable. My normative claim is that the projects of autonomous self-government through the institutionalization of public freedom and of equality are in fact mutually reinforcing, if not necessary conditions for one another. I am deeply skeptical as to the capacity of the framework of the state, with its inherent bureaucratic, hierarchical, categorizing, standardizing (Scott, 1999), power-centralizing, and coercive logic, to create alternative legal, political, economic, and social institutions capable of fostering and combining, in a non-hierarchical and emancipatory way, the human inclination towards solidarity, mutual aid and cooperation with the normative demands of equality, dignity, and freedom. I share Robert Paul Wolff’s optimism regarding the possibility of alternative forms of associations, which must continually engage in self-criticism to avoid replicating the state’s pitfalls: “When rational men, in full knowledge of the proximate and distant consequences of their actions, determine to set

private interest aside and pursue the general good, it must be possible for them to create a form of association which accomplishes that end without depriving some of them of their moral autonomy. The state, in contrast to nature, cannot be ineradicably other.” (Wolff, 1970, p. 78).

1.4. *The rise of municipalist movements*

Even if one would agree with the premises of the communalist project, ideal theories about the role of municipality as the fundamental unit for a citizenry to give themselves their own norms would be worthless at best, pretentious at worse, without examples of municipal social movements exercising their self-government by creating democratic ways to directly fulfill the needs of the community. But communalism does not only exist in the world of ideas. Around the world, communalist and municipalist movements have developed to try to change local institutions from mere decentralized statist structures to popular democratic assemblies¹⁵, whether by creating a citizens’ list to run for local elections¹⁶, by organizing alternative neighborhood assemblies to address specific issues of communal life (from housing to xenophobic violence)¹⁷, by creating institutions allowing for the political and economic participation in municipal life¹⁸ or by federating grassroots urban social movements taking part in different struggles¹⁹. The most advanced communalist experience is probably the revolution in Syrian Kurdistan, since the political, legal, social, and economic order in the cantons of Rojava now rests on the model of democratic confederalism, inspired by Bookchin’s communalism (Knapp et al., 2016).

¹⁵ See the 6th issue of the journal ROAR in the Summer 2017 called “The City Rises”.

¹⁶ See for example *Barcelona en Comú*, a citizens’ list that has emerged from the *Indignados* movement and won the election of Barcelona in 2015 on the basis of a municipalist agenda, as it happened in other Spanish cities (Rubio-Pueyo, 2017). A movement that has presented a list with the explicit purpose of giving municipal power to the popular assembly, partly inspired by Bookchin’s ideas of communalism, is the list *Vivons et Décidons Ensemble* in Commercy (France), constituted in the aftermath of the Yellow Vests movement which organized locally through popular assemblies (Fradin, 2020; Van Outryve, 2020).

¹⁷ See for example the communalist organizations Olympia Assembly, Portland Assembly, and Seattle Neighborhood Action Coalitions, which explicitly tie their political activity to the communalist project and organize popular assemblies based on direct democracy to deal with the main issues faced by the city (gentrification, housing, violence, racism, economic and social injustice).

¹⁸ See for example Cooperation Jackson in Jackson, Mississippi (USA) (Akuno & Nangwaya, 2017). Another representative example is the mechanism of participatory budgeting that have spread throughout the world but that originated in Porto Alegre (Brazil). There is also the concept of the “city of the commons”, such as in Napoli or Bologna (Italy), in which public utilities and services are considered as commons that should be managed communally.

¹⁹ See for example the initiative to confederate municipal movements for real democracy in North America: <https://www.symbiosis-revolution.org/>. The English collective “We are Plan C” also proposes to federate municipalist movements for a radical municipalism: <https://www.weareplanc.org/>.

Among this constellation of urban social movements²⁰, this article focuses on the theoretical stakes raised by movements challenging states' deficiency in the welcoming and the integration of migrants, which will be detailed later.

2. The sovereign and the immigrant

2.1. The nation-state and the immigrant

The fate of the immigrant is tightly linked to the nature of the polity welcoming her. Classically, the control of the borders of a nation has been understood as the expression of this nation's sovereignty, where the state would act towards its territory as a landowner towards its property, the immigrant being seen as a trespasser without rights as long as she does not receive the unilateral authorization to enter the given territory. Though this analogy of state sovereignty with individual property rights should be nuanced according to the strength attributed to inalienable rights of immigrants in the legal order and to the rise of communitarian values (Schuck, 1984, p. 6)²¹, it nevertheless sets the framework in which the relationship between the sovereign and the immigrant is understood. Those who argue that the state has no obligation to provide more than the most basic human rights to immigrants justify it by the fact that "they are not party to the social contract which binds the national community"²². It is important to specify here that international human rights law imposes on states an obligation to guarantee to immigrants the most fundamental rights, and that, more generally, the enjoyment of rights is highly dependent upon the legal status of the non-nationals in the immigration system at hand²³.

²⁰ Though some social movements are overtly declaring themselves municipalist or communalist, many other urban social movements are engaged in more concrete struggles, whether for environmental, economic, social, economic or migratory justice, and do not affirm that their goal is to constitute the municipality as an autonomous entity. In my opinion, this does not undermine the claim that urban social movements contribute to the municipalist movement, as they defy the classical conception of citizens as mere voters and consumers and show how individuals organized in collective act in the political sphere to change their conditions of living and the ones of others.

²¹ Though Schuck depicts the evolution of American immigration law, which has its own specificities due to its history as both an immigrant country and a state with a strong vision of the defense of its own borders, the actual treatment of immigrants in European countries does reflect a similar understanding.

²² The view of these scholars is explained by Linda Bosniak when she exposes the sides of the debate on the rights for undocumented immigrants. However, the same exclusion of the social contract exists for documented immigrants or refugees, though sometimes with differences in degrees (Bosniak, 2004, p. 326)

²³ Though surveying the various national immigration systems to understand the respective regimes of rights that each category of immigrant enjoys is out of the scope of this article, it is important to specify that the legal status of immigrants leads to the enjoyment of considerably different rights. To illustrate the radical differences of situation among which the various categories of immigrants find themselves in, which this leads to different relationships to the polity welcoming them, I will make a very general distinction among the different categories of rights immigrants enjoy in the European Union (EU) according to their status (I exclude mobile EU citizens in the EU as the right to freedom of movement guaranteed by the founding treaty is one that makes the European Union and its economic functioning prevail over the traditional logic of nation-state's sovereignty). In the EU, documented immigrants have a relative access to some social, cultural and economic rights (though not the same

Moreover, immigrants enjoy the right of due process and equal protection in the United States, or prohibition non-discrimination in Europe, though, again, the scope of this protection varies depending on whether immigrants are documented or not²⁴. However, international law does not require nation-states to grant the same rights to immigrants as those they grant to their citizens, which often leads, among other things, to the restriction of their political and economic rights (Bosniak, 2004, p. 330).

Indeed, insofar as the immigrant does not fit in the model of unity and likeness, on which the nation-state bases its power (Wolin, 2016), the nation-state model considers the non-nationals as having no say on the exercise of this power. The inherent link between the model of nation-state and the oppression of immigrants can be understood in light of the exercise of sovereignty – only limited by the human rights to which the state has accepted to submit – over the one that is not seen as belonging to the sovereign: “in the sphere of international law, it had always been true that sovereignty is nowhere more absolute than in matters of ‘emigration, naturalization, nationality, and expulsion’” (Arendt, 1951)²⁵. Arendt analyzed the recuperation of the law by

as the ones citizens enjoy) as well as civil rights, but no political rights (apart from a few exceptions). Each status – refugee, other humanitarian reasons connected to the principle of non-refoulement (illness or subsidiary protection), family reunification, labor migration, study visa – has various regimes of rights attached to it. For example, people with a permanent stay have more rights than others, so do citizens from third countries who are family members of EU citizens. Moreover, the scope of rights immigrants enjoy has also proved to be dependent upon their socioeconomic status (Ganty, 2021a, 2021b). As an illustration, seasonal workers have limited rights (for example, no rights to be joined by their family), while highly qualified workers enjoy more rights. For a complete overview of the various categories of immigrants in the EU, and the rights attached to it, see Ganty, 2021b, and Groenendijk, 2004. For accounts of the various regimes of rights of immigrants in the US, see Motomura, 2020 and Aleinikoff, 1995. When it comes to undocumented immigrants, they generally enjoy very limited rights, and only those connected with their direct survival. Moreover, the exercise of these already restricted rights is seriously damaged by the risk of deportation when they come under the purview of justice.

²⁴ Concerning the United States, all immigrants on the US territory benefit from due process, including undocumented immigrants who cannot be deported without adequate hearing (*Yamataya v. Fisher*, 189 U.S. 86 (1903) (at 521-522)), unless they seek entry in the territory for the first time (*Knauff v. Shaughnessy*, 338 U.S. 537 (1951) (SM)). Equal protection applies to documented immigrants, though differently than to US citizens. For example, in *Graham v. Richardson* (403 U.S. 365 (1971)), the Supreme Court ruled that equal protection was violated by statute limiting welfare benefits to US citizens. Concerning undocumented immigrants, equal protection applies in some cases. For example, in *Plyler v. Doe* (457 U.S. 202 (1982) (at 1191-1201)), the Supreme Court has struck down a Texan law prescribing that undocumented children had to pay high fees for being able to attend public school, because it was contrary to the 14th Amendment. When it comes to Europe, article 14 of the European Convention on Human Rights prohibits discrimination in the enjoyment of the rights set forth in the Convention, regardless of national origin or status. This means that immigrants, documented or not, benefit in theory from the protection of non-discrimination for the rights they have a claim to. As seen above, these rights are dependent upon the legal status of the immigrant (see footnote 32). Concerning undocumented immigrants, the prohibition of non-discrimination only applies to the very restricted rights they enjoy, namely those connected to their survival. And when it comes to documented immigrants, this principle also suffers from limitations (Dembour, 2009). For example, in EU law, the European Court of Justice has been criticized for avoiding to tackle the question of discrimination on grounds of race and ethnic origin regarding integration requirements for immigrants in family reunification application (Ganty, 2021c; de Vries, 2021).

²⁵ She cites Preuss, 1937.

the nation as completing “the transformation of the state from an instrument of the law into an instrument of the nation”. To her, the danger of the capture of the state by the nation rather than by the law was “inherent in the structure of the nation-state” (Arendt, 1951, p. 275).

2.2. *The municipality and the immigrant*

In the wake of the crisis of the welcoming of refugees, cities have played a major role in picking up the state’s responsibilities to welcome and integrate immigrants. In recent years, states have refused to live up to their international obligations to welcome refugees, leaving many municipalities²⁶ frustrated of being forbidden by a central authority to show solidarity towards newcomers. Whether it is local governments and courts refusing to enforce deportation²⁷, cities deciding to welcome migrants that the state refused to accept by organizing networks of “cities of refuge” or “cities of transit”²⁸, municipal social movements using direct actions against federal immigration agencies²⁹, creating mutual aid and solidarity network to shelter refugees and integrate undocumented or documented migrants³⁰ and organizing neighborhood groups to

²⁶ Though I know that these solidarity movements originated sometimes on voluntary policies from municipal governments, sometimes only from social movements, often from both (and in some case from social movements organized in citizens platform and elected at the municipal level like in Barcelona or Madrid) and that the use of the term “municipality” should not conflate the two, the fact that the municipality can be the locus of resistance and of spontaneous solidarity in so many different forms justifies, at least intuitively, to bring more attention to this political entity. I should also specify here that I will limit my examples to my understanding of the movements created in the wake of the EU crisis of the welcoming of refugees, and to the ones created in the United States after Trump’s election.

²⁷ I refer here to the “sanctuary cities” in the United States (San Francisco, Seattle, Portland, New York City, Los Angeles, Chicago, Detroit, ...), and in Canada (Toronto, Ottawa, Montreal) which are cities either prohibiting or restricting the cooperation between federal and local authorities on immigration matters (Cameron, 2017). Though refusing the nation-state’s decision to deport immigrants certainly is a necessary condition to ensure their human rights, it is in no case sufficient. Welcoming immigrants in a municipality does not mean that they will not be exploited as a low-wage working force. Indeed, it should be specified here that sanctuary cities present many shortcomings, including, but not limited to, the disposability of “welcomed” or “sheltered” immigrants on the labor market. However, as I do not advocate for sanctuary cities as a normative model (which would be incompatible with communalism as it would suppose the state still exists and that the municipality would not be the main political unit), I do not intend to defend them by addressing this objection, nor any other one.

²⁸ See <https://www.opendemocracy.net/cites-of-welcome-2016>. For more information on cities of refuge initiated by the mayor of Barcelona calling cities to take the responsibility to welcome refugees, see Calbo and Hundal, 2017. Other cities did not organize in network, but voluntarily developed an open door policy for refugees, such as the city of Riace in Italy (We Are Plan C and Russel, 2017).

²⁹ In the US, the movement *Occupy ICE* organized protests and direct actions to disrupt the Immigration and Customs Enforcement’s functioning by occupying its facilities throughout the country, which resulted in Portland to the closing of ICE’s premises for more than a week (Gabbatt, 2018). In Portland, *Occupy ICE* was partly initiated by members of the communalist movement Portland Assembly.

³⁰ In Brussels, social movements organized to create a “Citizens’ platform in support of refugees”, a network that succeeded in sheltering every night hundreds of asylum seekers in the home of citizens of Brussels (<http://www.bxlrefugees.be/>), as the state, rather than providing them with shelter, heavily policed them through planned raids with a quota of people to arrest. Other social movements have helped undocumented immigrants to create squats among the many inhabited houses in Brussels. This is only one of the many examples of the solidarity networks that have been created by social movements to secure the dignity and fundamental rights of immigrants throughout the world.

protect immigrants from hate acts³¹ or from arbitrary arrests from the police³², the municipality has proved to have a peculiar relationship to the immigrant entering it. While lacking the competence to decide on the legal status of migrants, as it is the prerogative of the state to control its borders according to the classical triad people-state-territory (Gündoğdu, 2015, p. 108), municipalities nevertheless have a margin of maneuver to have a real impact on the lives of those who have fled their community to seek hospitality in another. Even though it is not – yet, communalists would say – a place where the law is produced (at least not in immigration matters, and not independently from the state), but only where it is implemented, many cities have used the few powers they had to remedy the state’s violation of respect of human rights of immigrants. Cities have made the right to hospitality³³, if not a normative reality, at least an immanent one. But such actions do not amount to mere acts of charity, confined to “humanitarian reason” (Gündoğdu, 2015); rather, they embody a resolution of communities to act within the political sphere in order to allow newcomers in the *polis* to live in dignity.

Unconditioned by, and sometimes in total opposition with, the framework imposed by the state, this singular relationship between the municipality and the immigrant is fueled by several features inherent to cities that make them a privileged forum for the integration of immigrants in a new *polis*. Firstly, as they are administrative, economic, and social centers, the city is the physical place where immigrants actually arrive in a new community. In cities, immigrants seek a legal status, a shelter, a work, a family, a community – a life. It is at the municipal level that the concrete integration of new members of the *polis* takes place, through housing, work, education, community, religion, and culture (among many other things), but also through the relationships that human beings inevitably create with one another when they meet in a given geographic environment. This immanent encounter brings about its own form of normativity: “If no state carries out the duty that must be coupled with the right in order to make it

³¹ See for example the Seattle Neighborhood Action Coalition (<https://www.neighborhoodaction.info/>), or Portland Assembly and its Neighborhood Action Councils (Hewitt, 2017).

³² For example, in Brussels (Belgium), social movements and citizens converge to create human chains to prevent the police from arresting asylum seekers when the government announces massive waves of arrests (*La Libre*, 2018).

³³ Kant defines the right to hospitality as follows: “a universal right to hospitality that is the right of stranger not to be treated in a hostile manner upon his arrival in another’s territory” (Kant, 2006, p. 82). However, does the right to hospitality extend beyond the principle of non-refoulement, to encompass the right to be included in the new *polis*? While Kant does not grant a right to membership to strangers as part of the right to hospitality, but rather leaves it as a prerogative of the sovereign, it need not be the case. Indeed, “contra Kant”, Benhabib argues that “the right to membership of the temporary resident must be viewed as a human right which can be justified along the principles of a universalistic morality” (2004, p. 42). Though she specifies later that the terms and conditions of such a right should be left to the republican sovereign, she nevertheless extends the universal right to hospitality to political membership, and it is under this acceptation that I understand the right to hospitality.

enforceable, the duty falls upon individuals in instances of interpersonal encounter” (Mann, 2016, p. 211). The municipality is therefore the forum for the phenomenological experience of the “human rights encounter” conceptualized by Itamar Mann, where an “individual’s conscience” can transform the “public conscience” to enforce human rights, conceiving “the dyadic meeting as a conceptual starting point complementary to the social contract” (2016, p. 225). In this sense, they are the best locus of building politics of solidarity, not only towards newcomers, but also between the entire community.

Secondly, and correlatively, the municipality is also where any individual can truly be a “participator in the government of affairs”, transforming the face-to-face encounter into a face-to-face democracy. From the communalist perspective, participating in the community affairs is open to any individual, as she is the best person to make decisions on what affects her in her daily life (Dewey, 1954). The right to political participation is therefore grounded in the lived and shared experience of the community, and not in the abstract decision of a central administration – often ignorant of the practical daily reality of immigrants, as evidenced by the many cases of deportations of immigrants who were separated from their actual family and community. While the condition for the rise of the nation-state is the likeness of natives, source of the unity of the nation (Wolin, 2016), the homogeneity of the population, and the rootedness in the soil (Arendt, 1951, p. 270), the condition for establishing a municipality under a communalist paradigm would rather be a shared engagement towards participation in public affairs, the recognition of the fundamental heterogeneity of a *polis*, and the need for a face-to-face democracy to handle this heterogeneity so that it does not give rise to patterns of domination among different groups. The demos of the municipality is not prepolitical, it is constructed throughout the communalist project.

3. Self-government and human rights: towards a municipal cosmopolitanism

3.1. The mutually reinforcing relationship of municipal self-government and human rights

Drawing on the communalist understanding of self-government and on the specific features of the municipality previously exposed, I believe that communalism offers a fecund framework to think the inherent tension “between cosmopolitan norms and democratic self-determination” (Arendt, 1951). For Benhabib, human rights and self-government enter into a process of mutual interpretation: the exercise of democratic sovereignty entails the interpretation of human rights

principles. To be respected, cosmopolitan norms are dependent upon a *polis* that is self-governed, on institutions through which a demos can recognize itself as a popular sovereign. But they are not dependent on the nation-state (Benhabib, 2008).

My thesis is that since the right to self-government can be best exercised at the municipal level as proposed by communalism, and since “the right to self-government is the condition for the possibility of the realization of a democratic schedule of rights” (Benhabib, 2012, p. 35), communalism could be the most promising way to secure human rights, especially in the migration context. Indeed, as it ties popular sovereignty to the participation of citizens in the *polis*’ affairs through popular assemblies gathering all the residents of the municipality, communalism avoids falling in the pitfalls of conditioning human rights to the goodwill of an authority. “Human rights cannot be separated from the right to self-government, because when they are, they no longer are “rights” but “privileges” granted to one by some higher authority” (Benhabib, 2012, p. 35), thereby highly precarious as always dependent upon the state’s contingent interpretation of the demands of “humanitarian reason”.

A self-government allowing for the securing of human rights requires a “less unitary and hierarchical” model of democratic authorship (Benhabib, 2008, p. 36). Based on the direct exercise of public power by the people gathered in face-to-face popular assemblies making political decisions, later executed by delegates endowed with imperative and recallable mandates, communalism proposes such a model. It nevertheless remains necessary to prove that the realization of human rights is not a contingent feature of the municipality, as it is currently for the state, but, rather, that communal self-government qualitatively differs from the classical nation-state representative democracy in that it is the privileged locus to secure “the rights to have rights”.

Before diving into the capacity of communal self-government to secure immigrants’ rights, it is important to note here that this article has presented cases of municipalities that are welcoming to migrants, leaving in the shadow those of municipalities that are sectarian, discriminatory, and rejecting immigrants. Seeing the past and present history of discrimination and racism in colonial nation-states, it is certainly the case that some municipalities would behave in a more exclusionary way regarding immigrants than even some states would. Since this objection based on reality potentially undermines the thesis of this article – that the municipality is the best locus to secure human rights because it ensures the right to self-

government – it needs to be answered with one feature of communalist theory that has not yet been stressed enough, that of the confederation of municipalities. Indeed, in Bookchin’s thought “the confederation also prevents the practice of local autonomy from exhibiting itself in a reactionary way. According to Bookchin, the interdependence of municipalities for satisfaction of their material needs and for the realization of common political goals means that the confederation also serves as a bulwark against parochialism and exclusivity. Indeed, it gives the confederation the power to rein in a community that tries to deny certain members their rights.” (Bookchin & Van Outryve, 2019). As such, confederalism, which is in essence opposed to statism since the power flows from the base, is an essential feature of communalism. It connects municipalities to one another, thereby precluding parochialism, and it ensures that municipal autonomy does not yield to hierarchical results that would violate human rights.

Another argument answering the objection of a possible municipal hostility towards immigrants is that the physical meeting and deliberation among individuals that the format of popular assemblies enables would secure the recognition of individuals as equals, despite the places where they originally come from. These regular interactions between residents of the same geographical space would create a sense of shared fate that would not be based on the abstract belonging to a nation, but on the concrete necessity to manage their communal affairs together. Though it cannot be guaranteed that every municipality functioning on the basis of direct democracy would, as soon as they exercise their autonomy, enact policies favorable towards immigrants nor include them at the outset (but, as stated, the principle of confederation is a corrective to this risk), it constitutes for me the best hope of a form of self-government to secure immigrants’ rights.

3.2. *The securement of “the right to have rights” by the municipality*

In her analysis of the conditions of stateless people, Arendt claims that there is “only one *human* right, and that [is] ‘the right to have rights,’ to be recognized as a member of an organized political community” (Arendt, 1949; 1951, pp. 296-297). From that right, the stateless are deprived, which has consequences for their political being: “the fundamental deprivation of human rights is manifested first and above all in the deprivation of a place in the world which makes opinions significant and actions effective” (Arendt, 1951, p. 296). Though contemporary rightlessness does not entail the absolute loss of rights as was the case for the stateless, it constitutes a “fundamental condition denoting the *precarious* legal, political, and human

standing of migrants” (Gündoğdu, 2015, p. 93), keeping in mind that this precarity depends on the legal category to which the immigrant belongs.

When identifying the absence of the right to have rights as the cause of the rightlessness of the stateless, Arendt considers that the equal securing of this right has to be guaranteed by the community: “Equality . . . is not given to us, but is the result of human organization insofar as it is guided by the principle of justice. We are not born equal; we become equal as members of a group on the strength of our decision to guarantee ourselves mutually equal rights” (Arendt, 1951, p. 301). This “strength of our decision” is dependent both upon the institutional structure of decision-making – which is more equal when all participate in the government of the *polis*, as is the case in a communalist perspective – and upon the nature of the phenomenological encounter with the other members of the groups. If amounting to a “human rights encounter” following Mann’s account, for which the local level constitutes a privileged forum, such an encounter will be at the source of the obligations members of the group owe to each other. Therefore, if the municipality can be seen as the locus for realizing human rights by securing the right to have rights, it is because communalism proposes an organization of the *polis* that makes the municipality the “place in the world which makes opinions significant and actions effective”. Indeed, it considers individuals as equal participants in public affairs where they can display their *opinions* and their *actions*. If we follow Arendt’s view, such opinions and actions simply cannot be represented (Arendt, 1963, p. 268; see section 1.1). Yet, due to its historical tradition, its size and its understanding of democracy, representation is the only political modality the nation-state is capable of.

By contrast, communalism could secure the existence of such a place, thanks to its conception of the municipality as the main political unit, to the fact that it does not condition participation in public affairs on the belonging to any prepolitical ethnos, as well as to its attention in ensuring power belongs to the assembled people and in preventing its capture by representatives. In opposition to the nation-state’s exclusion of immigrants, both undocumented and, to a major extent, documented, from the sphere of political rights, communalism ensures that immigrants can participate in the political life of the municipality, that is, the *polis*³⁴.

³⁴ However, as stated earlier, the municipality in its present form is highly dependent financially, administratively, and politically from the state, with very little power of its own to secure the right to have rights. It is therefore important to recall that “the municipality” defended here as the best locus to secure the right to have rights is not the one that exists today, but the one that should come to light in a communalist society. In such a society, not only would the municipality be the main political unit deciding on political, social, and economic affairs, thereby the

3.3. *Democratic iterations by the municipality: a communalist conception of citizenship*

“Today we are caught not only in the reconfiguration of sovereignty but also in the reconstitutions of citizenship” (Benhabib, 2011, p. 111). Part of this wave of reconfiguration, communalism challenges both classical conception of sovereignty and of citizenship. To fully capture what the rise of municipalist movements entails for our understanding of communal self-government and for the redefinition of citizenship, I will now apply Benhabib’s concept of democratic iterations to the activity of the municipality³⁵. Democratic iterations are “complex processes of public argument, delineation and exchange through which universalist rights claims are contested and contextualized, invoked and revoked, posited and positioned throughout legal and political institutions as well as in the associations of civil society” (Benhabib, 2012, pp. 41-42). Moreover, “[t]hrough such iterative acts a democratic people, considering itself bound by certain guiding norms and principles, reappropriates and reinterprets these, thus showing itself to be not only *subject* to the laws but also their *author*” (Benhabib, 2011, p. 112). My claim is that such processes of democratic iterations are today operated by the municipality on the conception of citizenship³⁶.

Indeed, citizenship is reinterpreted through “jurisgenerative” processes towards the law at the municipal level. According to Robert Cover, who authored this concept, “there is a radial dichotomy between the social organization of law as power and the organization of law as meaning. . . . The uncontrolled character of meaning exercises a destabilizing influence upon power; Precepts must “have meaning”, but they necessarily borrow it from materials created by social activity that is not subject to the strictures of provenance that characterize what we call formal law-making” (Cover, 1983). The distinction between “law as power” and “law as meaning” has been proved in reality at the level of the municipality, where citizens acted not

siege of popular sovereignty. But it should also exercise such power through the mode of direct democracy, that is, through popular assemblies gathering the residents of the municipality and meeting, deliberating, as well as deciding face-to-face on public affairs.

³⁵ Again, though it would deserve a separate analysis, I will not differentiate between the political activity of the local government from the one of social movements, especially since there can be a porous line between the two, whether it is because social movements have won local elections or because they put a sufficiently important pressure on local government. Rather, I will use the generic term of the municipality to explain how “jurisgenerative” politics are operated in the context of the welcoming of immigrants, beyond and against the limits set by the state.

³⁶ I am well aware that the actions operated by the municipality towards immigrants are not consciously directed at changing the legal status of citizenship, but are most of the time only aiming at addressing the securement of rights of immigrants and at making their opinions and actions effective. What interests me is that these are competences that are classically left to the nation-state, and not to the municipality, let alone to social movements.

as passive individuals restricted to their private sphere, but as political beings, taking up duties that are not legally speaking their own, namely the securement of immigrants' rights. Since "creative jurisgenerative politics results in *the augmentation of the meaning of rights claims* and in *the growth of the political authorship by ordinary individuals*, who thereby make these rights their own by democratically deploying them" (Benhabib, 2008, p. 49), the municipality's activity can be seen as creating "jurisgenerative" politics, at two levels.

At the first level is the exercise of their right to act in the political sphere without any requirement nor approval from, and sometimes in flagrant opposition with, the state. The actions of rebel cities show how citizenship is not conceived as a passive privilege, but rather as an active capacity to transform one's own environment through self-government. By intervening in the political sphere, social movements reappropriate and reinterpret this right to political participation and replace the understanding of citizen as an a-political being by a political one. Moreover, the municipality renegotiates the understanding of the government of the city by taking decisions on immigration that have traditionally been left to nation-state. It also reappropriates the definition of sovereignty as popular sovereignty exercised at the municipal level, and of legitimacy flowing not from the stamp of the state, but from the decisions emerging from the community acting as a political entity with respect to human rights. Such renegotiation impacts not only the political and legal status of immigrants, but also their life, and sometimes, for undocumented immigrants, their survival. However, these iterations are not only the results of the action of "national citizens". Within urban social movements, the boundaries between nationals/non-nationals are not as clear-cut as the state, with its restricted understanding of the right to political participation, would want it to be³⁷.

As the context in which they try to reinterpret the political nature of the municipality is the one of the welcoming of migrants in a new *polis*, the second level of "jurisgenerative" politics is that the municipality did not wait for the state to approve the legal status of immigrants, and its ensuing securement of rights – or lack thereof –, to give meaning to the concept of the right to hospitality³⁸. Far from being mere "compassionate others" (Gündoğdu, 2015, p. 93), the

³⁷ Indeed, it is important to specify here that it is not because the state does not give political rights to immigrants that they do not act in the political sphere. It is even the case for undocumented immigrants, for whom any involvement in the political sphere puts them at risk of being under the radar of the state and be subject to deportation, as evidenced for example by the collective hunger strike and occupation of more than 400 undocumented immigrants in Brussels from May to July 2021 to seek collective regularization (Rankin, 2021).

³⁸ See for example, the mayor of Barcelona, elected from the citizens' party *Barcelona en Comú*, who created "a network of 'shelter cities' engaged in the field of welcome and social inclusion policies, openly defying the closed-

“human rights encounter”, inevitable at the level of the municipality, made them take up the state’s duty to secure immigrants’ rights³⁹. Through the recognition of the “opinions” and “actions” of immigrants and their protection from their “bared nakedness” in front of the state, the municipality shows how it can renegotiate the frontiers of citizenship and how they understand their shared fate, not only with those with whom they constitute an *ethnos*, but with those who seek to enter their *demos*. In this sense, it operates iterations on the definition of the boundaries of the *demos*: “the democratic people can reconstitute itself through such acts of democratic iteration so as to enable the extension of democratic voice. Aliens can become residents, and residents can become citizens” (Benhabib, 2008, p. 68).

Both levels of democratic iterations operated by the municipality lead not only to a new understanding of rights, but also of citizenship, of what it is to be part of a *polis*, based on “the modern and revolutionary tenet that all inhabitants of a given territory are entitled to be admitted to the public, political realm” (Arendt, 1963, p. 271). It therefore challenges the classical model of citizenship, where “participation rights and nationality are strictly bundled together in a community of fate” (Benhabib, 2008, p. 64). As such, I side with the “[s]upporters of cosmopolitan democracy” who “envisage the widening of the boundaries of community so that insiders and outsiders are associated as equals within radical experiments in political participation” (Linklater, 1998, p. 124). Being a citizen does not mean receiving rights by the state on the basis of the belonging to a prepolitical *ethnos*, but rather acting in the political sphere and mutually securing rights among the members of a *demos* at a given moment in time.

Resolutely post-national, this new understanding of citizenship created by these “jurisgenerative” processes could also be communalist, as the municipality is both its forum and its political mode of being. By considering that a community is not “constituted on the basis of shared histories, values, culture, and language” (Bosniak, 2004, p. 326), but rather is built on the basis of a political project, communalism supposes a different understanding of the boundaries of the *demos*. While “modern nation-states typically rest on the social solidarity of an *ethnos*”, which is “a community bound together by the power of shared fate, memories,

door choices taken by national governments and European institutions. Here is an extensive and inclusive idea of citizenship, because to decide that all residents in our cities, disregarding their origin and their status, can enjoy equal rights and duties is currently disruptive.” (Caccia, 2017)

³⁹ However, the difficulty to secure these rights, including political participation, is highly dependent from the legal category the nation-state has ascribed to the immigrant at the outset: it will prove the most difficult for undocumented immigrants, who, for the most part, spend their lives trying to avoid any confrontation with the state.

solidarity and belonging” (Benhabib, 2008, p. 65), communalism depart from the notion of *ethnos* as a ground for this solidarity. To the focus on the “political community of fate” on which the exclusion of foreigners from political participation is based (Benhabib, 2008, p. 63), communalism substitutes the focus on “the political fate of the community”, namely on the fact that a community is fated to be political, and that it should concentrate on the modalities of its self-government in order to effectively give itself its own norms.

Communalism could embody this political project of construction of the *demos* at the level of the municipality, as it has been previously argued that it is the most appropriate one for self-government. The communalist conception of popular sovereignty would therefore side with the conception of democratic self-government developed by Arash Abizadeh as “the exercise of political power conform[ing] to the collective will of those *subjected to it*” (2012, p. 878) and legitimated by the exact overlapping between its authors and its subjects. It is the perfect overlapping of these two groups that is put into question when one considers the welcoming of new members of the *polis*. It is therefore my claim that the communalist project would answer this interrogation by considering that all members of the *polis*, from the moment that they enter it and are subject to the exercise of its self-government, are entitled to be the author of such self-government⁴⁰.

Conclusion

The communalist conception of citizenship presented in this article is not new. Many aspects of this conception were already present during the most famous historical communalist experience, that of the Paris Commune from which it takes its name. “The Paris Commune opens citizenship to immigrants: ‘Considering that the flag of the commune is the one of the universal Republic; that every *polis* has a right to give the title of *citizen* to the immigrants who serve her’”⁴¹. Indeed, in a communalist vision, the right to give the title of citizen is not the

⁴⁰ It is important to note that this article is limited to the extension of another understanding of citizenship to a given group, that of immigrants. However, such limitations to participate in the self-government of the *polis* would still affect various other groups who are subjected to the exercise of political power without taking part in it. Indeed, importantly but non-exhaustively, prisoners, homeless people, people with mental disabilities, people in psychiatric asylum, children, are all individuals subjected to the authority of the *polis*, who do not have a say in its self-government, and whose participation in such a self-government is not tackled in this article. However, it is my belief that the application of democratic iterations in a communalist perspective could also address these fundamental questions.

⁴¹ Elections commission of the Paris Commune, March 30, 1871, about Léo Fränkel (cited in Demélas & Boscus, 2000, p. 177) (my own translation).

prerogative of the nation-state, but rather of the *polis*, which is the entity where popular sovereignty should be exercised. Correlatively, citizenship is not a bundle of rights dependent on the membership to any pre-existing ethnos. Rather, it is linked to the political participation in the demos constructed throughout the realization of the communalist project, that is the construction of a self-governing *polis*. Moreover, by considering that the commune has the same flag as that of the universal Republic, communalism commits to cosmopolitanism, as it assesses the legitimacy of its organization with regards to universal human rights.

While some consider communalist experiences to be relics of the past, a series of interesting historical events at best, anecdotal anomalies at worse, Hannah Arendt rehabilitates the legacy of what she called “the lost treasure of revolutions” as fundamental to any project of *constitutio libertatis*. This spirit is embodied in the communalist and municipalist movements that have arisen around the world in recent years. Based on these real-life examples, I contend that considering the municipality as the locus of self-government offers fecund paths to think through one of the major contemporary issues, namely how the sovereign deals with the immigrant. While the relationship of the nation-state to the immigrant is one of “continuing assertion of sovereignty”, the relationship of the municipality to the immigrant is radically different from a communalist perspective. The municipality engages with the immigrant as a potential member of the self-governing *polis* in ever-lasting construction, not only as objects of its laws, but also taking part in its authorship: “the democratic ideal of collective self-rule is grounded in the notion that securing the conditions of individuals’ autonomy and standing as equals intrinsically requires that they be the joint authors of the terms governing the political power to which they are subject” (Abizadeh, 2012, p. 878). This article demonstrates that, if one considers the municipality as the locus of self-government, and if one sees self-government and human rights as mutually reinforcing, communalism proposes solutions for securing human rights that are worthy of theoretical and practical explorations. Indeed, since it allows the participation of all in the *polis*, and since it is the forum where the “human rights encounter” can occur, communalism has both the political and the normative potential to organize the *polis* in a way that it makes “opinions significant and actions effective”, not only for those with the legal citizenship status, but also for those whose “right to have rights” has not been secured by the state.

The communalist understanding of authorship rooted in a vision of the individual as a “participator in the government of affairs” has been forged through “jurisgenerative” processes

operated by the municipality, which redefine sovereignty as popular sovereignty exercised at the municipal level, and assert the municipality's political autonomy in securing the rights of immigrants that the nation-state has failed to provide. These democratic iterations lead to a communalist conception of citizenship, which not only understands the citizen as the locus of the power and responsible for leading the construction of the *polis*⁴², but also does not exclude the immigrants from the demos as the national conception currently does. Indeed, the legitimacy of power depends on the fact that the person over whom it is exercised has authored it. Therefore, communalism posits that, as soon as an individual is subject to the exercise of communal self-government, she is entitled to be a member of this self-governing *polis*.

⁴² It is important here to warn against any interpretation of this conception as making citizenship conditional on the political participation of people. In a society ruled by global capitalism wherein power is not only political but also economic, cultural, and social, such a conditioning would simply reproduce the same patterns of domination, but through different channels. Moreover, communalism does not impose the obligation to participate in public affairs, but rather creates institutions that would make such participation possible. Linking the membership in the demos to participating in the realization of the communalist project is rather a way of understanding how a demos is political.

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