

A NEW BOOK BY HANS LINDAHL

GIANFRANCESCO ZANETTI

Department of Jurisprudence, University of Modena and Reggio Emilia

fzanetti@mac.com

ABSTRACT

Hans Lindahl's new book is an extremely valuable contribution. It offers a fresh notion of globalization processes, grounded in a sound social ontology. Lindahl's theory is described on the background of most of the contemporary debate, painstakingly scrutinized in the book. The sobering conclusion is that no Great Emancipation is truly possible: the only contingency-burden solutions are those normative practices that Lindahl calls "restrained collective self-assertion".

KEYWORDS

Inclusion/exclusion, borders/limits, recognition, equality, bio-cultural rights.

The Argentinian writer Jorge Louis Borges stretched his wild imagination beyond the usual boundaries that even phantasy writers set to themselves. Among the labyrinthine, mind-bending ideas his fertile mind was able to conceive, there is of course the notorious *Book of Sand*, an enchanted volume whose pages, each of them, can always split into two different pages, in a seamless process, and whose not-reachable, unthinkable central page has no back¹. One does not have to delve into the optical paradoxes by Escher or by Victor Vasarely to enjoy the thrill of an intellectual challenge of this kind. It is possible to experience a sort of healthy, theoretical bewilderment even in the mundane, analytical field of contemporary legal and political philosophy.

¹ *El libro de Arena*, Buenos Aires, Emecé, 1975; Norman Thomas Di Giovanni translated it into English for *The New Yorker*.

The new book by Hans Lindahl² is in fact, among other things, a daring exploration of a puzzling, intriguing subject – can there be an inclusion that does not exclude, a political space that has only an inside, but no outside? That sounds like a highly abstract, rarefied subject. This seems to be, nevertheless, “the most fundamental issue raised by the notion of global law, namely, whether a legal order is possible or even actual that has an inside but no outside, hence that could realize a unity that includes without excluding” (p. 87). This is, again, “the central conceptual and normative question about the globality of global law: is an emergent global order possible or even actual that has an inside but no outside?” (p. 140). This is “the single question that drives this entire book: can legal (alter)globalisations mean anything other than the globalization of inclusion and exclusion?” (p. 177).

Spoiler alert, it cannot. Some of us would like such an ozonic notion to be reasonable, and such a program to be feasible, but Lindahl’s scrutiny of the subject, although compassionate and respectful, cuts quite deep – and what gets cut and sliced in the process, is a large part of the contemporary discussion on global legal orders. The book is more than four hundred pages long, but despite the repetitions, which I actually found useful, it makes for quite a compelling reading.

There are several reasons for this, and one is Lindahl’s style. The author effortlessly surveys the debate on globalization issues, but has also a solid philosophical background; the style, neither intimidating nor fastidiously sparkling, is therefore often quite technical, but occasionally colloquial expressions pop up in a sudden rhetorical change that grabs the reader’s attention, usually when an important point is at stake.

Beside the official structure of the book, described in the *Introduction*, there is, I submit, an underpinning, but transparent, incremental strategy in Lindahl’s book.

For example, early in the book the reader is told the tale of a Gandhian movement, active in India, the so called Karnataka State Farmers’ Association, KRRS (Karnataka Rajya Raitha Sangha; I am not sure that the acronym is explained in the book – “sangha” is an interesting notion for those who study encompassing groups).

KRRS took action in order to occupy and destroy fields of Genetically Modified Organisms, owned by Monsanto (readers may find interesting to know that Monsanto, after the green light by US antitrust authority, was acquired by Bayer in 2018; the brand will therefore soon disappear), as a way to assert and revalorize Indian peasant ways of life, against measures of trade liberalization under the aegis of the WTO. The tale is told at page 24. From that moment on, the resilient members of the KRRS, their point of view, the implications of their actions, and so on, keep cropping up in the pages of

² Hans Lindahl, *Authority and the Globalisation of Inclusion and Exclusion*, Cambridge, UK, Cambridge University Press, 2018.

Authority and the Globalisation of Inclusion and Exclusion on a regular basis. I counted sixty different pages where KRRS troubles are mentioned, bibliography not included; their last apparition is on page 391. Virtually each chapter teaches something about that tale. The meaning of KRRS'S deliberate, collective action gains weight and scope, and some of the most powerful positions in the contemporary legal-philosophical debate are conjured up in order to shed light, from different but related points of view, on it. Lindahl goes deeper and deeper, unveiling several layers of complexity. Needless to say, the action taken by KRRS members against Monsanto property is just an example, although an eloquent and emblematic one: nevertheless, it becomes possible step by step to grasp what is truly at stake in this apparently oh so mundane chapter of a local political struggle.

Another example of such an incremental expositive strategy is a more theoretical one. In order to make his point, Lindahl needs to offer an original model of law – something that could be *per se* the subject of another book and of another review. Such a concept of law is dubbed Institutionalized and Authoritatively mediated Collective Action, IACA (it is first mentioned on p. 46). While attempts to capture law as some kind of collective action are not necessarily a brand-new strategy (Finnis's "law as coordination" may be deemed as bearing some vague resemblance to IACA³), Lindahl's proposal is, all in all, an original one.

The main tenets of this model are illustrated by a simple, down to earth example: a bunch of students cooking a common meal together in the college dormitory (such a "manifold of students" is first mentioned on page 48, but the cooking activity in a kitchen enters the stage on page 20). The happy fellows will come back time and again (a total of twenty times, the last one on page 305), conjured up to explain different details of Lindahl's legal-philosophical proposal, and at the same time their cooking enterprise is exposed in its rich, sometimes fascinating, complexity. While it is perfectly legitimate to be glad to be past those nerdy cooking nights, it must be acknowledged that this consistent harping on that culinary activity does smooth the understanding of a rather complex train of thoughts.

On one occasion (p. 287), Lindahl is so aware that the philosophical nuances of his text can test the reader's motivational factors that he actually warns about it, and suggests which paragraphs can be skipped if one is not sincerely interested into the highly theoretical details of the issue at stake.

Another formal feature of the book is the structure of each chapter. The *Introduction* provides a road map, and each chapter starts with a synopsis of the problem, and with the description of the next steps, the inner formal structure of the chapter itself.

³ John Mitchell Finnis, "Law as Co-ordination", *Ratio Juris*, 1989, 2 (1): 97-104.

There is a point of view, however, from which every single chapter is simply about Lindahl sparring and fencing with some of the main characters of the contemporary debate, basically testing his own philosophical position against those held by other thinkers. These other positions are sometimes refuted (although acknowledged in their important role: e.g., Negri and Hardt on the notion of multitude and its implications), and sometimes absorbed as at least syntonetic with the one he is advocating for (e.g., Saskia Sassen's sociology of globalization).

Even those authors with whom Lindahl vigorously disagree are refuted with respect and good philosophical manners: on a single occasion one can get the feeling of a mild yet simmering impatience, when he slips in that dreaded formula "whatever this might mean", which usually implies that in the writer's humble opinion there is no serious meaning involved under the circumstances (it's about Castells' "space of flows", p. 83).

It must be said from the outset that, just because of the above mentioned reasons, this is a very good book: it is a sound, structured text, with a clear position, extremely well documented, readable and sometimes compelling, supported by a first rate philosophical background, and indeed useful.

One of the reasons *Authority and the Globalisation of Inclusion and Exclusion* is specifically useful is, of course, that it provides an original vision of globalization problems, but on the other side it also lets the reader see, as it were, the forest through the trees, it offers an help to better survey an often complex debate - always within the frame of an original reading of such issues.

It is nonetheless possible, of course, to offer some criticism: a *good* book is never wholeheartedly beyond reproach. Some books are like Monteverdi's *madrigali*: you may like them, and if you like them you like them a lot, because they are exquisite tokens of a difficult genre, or you may dislike them, because madrigals are an acquired taste, and perplexity is an acceptable reaction to the *Selva Morale e Spirituale*. If the reader is looking for some ready-made, brilliant and ground-breaking solution, he may find *Authority and the Globalization* occasionally dazzling, rather than intriguing. The flavor of the book is that of an embraced, and harnessed, complexity.

A good example is the notion of territory and space. That territory is a notion that does not belong exclusively to geography is something known at least since Hannah Arendt famously challenged (in some passing remarks) the traditional view in *Eichmann in Jerusalem*⁴.

In recent years, spatial concepts have been exposed in all their normative potential, a potential that can involve dangers and risks. The notion of *cyberspace*, emphasis on

⁴ Hannah Arendt, *Eichmann in Jerusalem: A Report on the Banality of Evil*, New York, NY, The Viking Press, 1963.

space, led some courts of justices to conceptualize the first hackings into private websites as *trespass*: a legal notion that for many reasons was not appropriate. Websites are no fenced estates, they are no spaces with clear borders that can be drawn in a map. Yet, as Mark Lemley, of Stanford, summarized back in 2003, if we buy into the metaphor of cyberspace, we may expect very concrete, very real legal effects and consequences⁵.

Lindahl is, on this point, extremely effective. He starts from the distinction between a position and a place, that can be tracked all the way back to the first Heidegger of *Sein und Zeit*. A geometrical space is a thing of positions, each of them identified by a set of coordinates. An everyday space is a thing of places, and often one is not truly aware of the “region of a place” until he fails to find something in its place. From this starting point, Lindahl is able to show why de-territorialisation does not and cannot mean delocalisation, in other words why globalization must be a specific way to localize action. “Succinctly, if (global) law is defined as a specific sort of social order, then (global) law must be a spatial [...] order that differentiates and interconnects places into a unity of sorts: a network of places” (p. 21).

Now, on the one hand, this is a refreshing insight. Lindahl is aware of the novelty of his approach: “most, perhaps all, contemporary discussions of globalization processes share a common assumption” (p. 10), “[s]ociologists of globalization often argue that law is becoming increasingly de-territorialised” (p. 21). Lindahl’s program is to debunk this narrative, together with the lofty claim that a global order that includes without excluding can exist. Even a global order requires a spatial closure, and if there is a closure there is, somewhere, somehow, an outside – an exclusion.

Borders are spatial boundaries that join and separate what is deemed as domestic and what is labeled as foreign. Borders, although a controversial notion (Italy is a country that came to existence as such by conjuring up the narrative of the oxymoronic “natural borders”, the Alps and the Sea, shaped as a Boot), are something easy to grasp. They follow our primary intuitions, supported by centuries of cartography (ancient Greeks, on the other hand, would have probably used Greek Language as the main factor to define *Hellas*).

Borders are reassuring, not just in a quasi-irenic scenario where good fences make good neighbors, as Robert Frost most famously put it, but even on a dystopian background. In *Elysium*⁶, an elitist Jodie Foster prevents humans living on earth to join the aristocracy of those lucky few men and women who live in a separate artificial environment, orbiting Earth, whose expensive health technology grants them an extraordinarily

⁵ Mark Lemley, “Place and Cyberspace”, *California Law Review*, 2003, 91: 521-558.

⁶ *Elysium*, by Neill Blomkamp, 2013, with Matt Damon and Jodie Foster.

long life. Needless to say, Elysium already exists, but in a less reassuring way: it is not far from us in outer space, it is among us, because life expectancy has dramatically grown, although the last ten years of a quality life are way more expensive, from a Medicare point of view, than all the years needed to reach that point. The growth of life expectancy is probably one of the driving forces that motivates global discrimination.

Limits, on the other hand, are far from being reassuring. They are truly another kettle of fish: they are spatial boundaries that join and separate “the own” and “the strange”. Their philosophical ancestry dwells in the phenomenology of Husserl. A global legal order can have no borders, but cannot exist without limits, without some kind of inclusion and exclusion (they can be “borderless but not limitless”, p. 43), although of a rather different and abstract kind. Global legal orders imply a “limited” (in this technical meaning) spatial unity, in the mere sense of a given interconnection of “places” that necessarily excludes many other (theoretically available) ways of organizing those places.

This implies a globalization of inclusion and exclusion. “The IACA model of law substantiates the conjecture that whereas (state) borders and their attendant distinction between domestic and foreign places are a *contingent* feature of legal orders, limits, hence the distinction between own and strange places, is a *structural feature* of a range of legal orders that claim or might come to claim global validity. Indeed, nothing in the concept of IACA requires that this spatial unity be bordered in the form of state territoriality” (p. 64, italics added).

This is tantamount to stating that legal orders, both global and otherwise, *must* have spatial boundaries, although globalization processes seem to be specifically responsible for legal topographies that are “significantly different from the bordered territoriality of states” (p. 145). For example, *lex constructionis*, a sectorial form of the new merchant law, is revealed to be endowed with a *spatial* unity that is pragmatic, rather than geographic - and the reason is that it is grounded on an interconnection of *places* that are physically removed from each other (pp. 144-45). Lindahl’s concept of place (this was Castells’ mistake, p. 148), as far as globalization processes are concerned, does not therefore imply physical proximity.

So far so good; and it is sound, valuable and rich philosophy. The poison may be found in the very same brilliant strategy that made such achievements possible in the first place.

Once the meaning of all the key words has been (wisely) changed, of course the theoretical outcome will be different. Global orders can be conceptualized as all inclusive, when the “globe” one has in mind is the spherical surface of planet Earth, because that turns space into a surface - national states are bounded extension, global legal orders can therefore be unbounded extension. But a world is not a thing, not even a

planet or a universe, a world is a *kosmion* of meanings enlightened from within (as Eric Voegelin would have put it⁷), a nexus of meaningful relations (Lindahl's favorite formula), a necessary background for all things and events that dwell in such a world. It makes possible an horizon of inter-subjective experience, that exposes itself as limited when challenged by and from another point of view, by and from a strange place, by and from a different world: "different worlds – partially different worlds – intersect [...]; legal globalisations attest to the entwinement of worlds, where entwinement means both interference and interconnection" (p. 36).

This is possible because behind a world, behind each world, there is a group of some kind and its narrativity – individuals can perceive and conceptualize themselves as a group mostly because such narrativity is able to embed that group in a "*wider* plexus of social relations and meanings – a *world*" (p. 69).

This certainly is, in my opinion, a much more interesting way to look at the problems of global legal orders. But I am not sure it is, strictly speaking, a *debunking*: if words are given a (very) different meaning, then the outcome will be different. Inclusion/exclusion is a now an inescapable feature of legal orders, included global legal orders, but that is because the new meaning of the words is so different, so thin and at the same time *wide*, *broad*, so far away from the usual and intuitive sense we usually attach to them (even in the scientific discussion among academia dwellers), that Lindahl's thesis is validated.

Lindahl's "space" is so abstract as to be inescapable. Obviously any personal authority and jurisdiction has to be *territorial* – "in the *wide* sense" Lindahl has "defended in this book" (p. 153, italics added). At this point even cyber law is but a variation on the "phenomenologically inspired IACA model of law" (p. 153). eBay, for example, has no access that is not also a *spatial* access, although "a *spatial* access in the sense of joint action that interconnects places by bringing near what is far: goods and payment" (p. 155) – and this is, literally, eBay's own legal topography.

Once his premises are accepted, and words are correctly translated into Lindahl's phenomenological English, the outcome is almost certain. My opinion is that *it is worth the effort*: that Lindahl's philosophy of global orders is subtler, more interesting, more instructive, and much more appealing than most of the contributions one reads on this subject. It is, however, also a reasoned departure from the usual way to organize the Western conceptual lexicon on the subject. The pleasant risk, in these cases, is to make such strong assumptions that the result seems to be already implied, built in them.

Armed with this "phenomenologically inspired IACA model of law" Lindahl is able to come to grips with several scholars of different orientations, fleshing out at the same

⁷ Eric Voegelin, *The New Science of Politics*, Chicago, University of Chicago Press, 1952.

time his very same IACA model, and providing precious insights on several hot issues in the field of legal and political philosophy.

The book is so rich that even an overview is simply impossible, but it is probably fair to mention a few random sub-subjects, just to give a hint of the food for thought to be found in *Authority and the Globalisation of Inclusion and Exclusion*.

Once Lindahl's lexicon and its implied theoretical consequences are accepted, it must be acknowledged that between state law and emergent legal orders there are both similarities and key differences. Emergent legal orders do not certainly enjoy the "bordered territoriality of states". But they certainly share with traditional and bordered states Lindahl's "*broader sense*" (p. 158, italics added) of a truly "transhistorical" (Sassen) territoriality that is implied, as hinted above, by *lex constructionis* or by eBay.

Even this kind of spatial territoriality, however, implies a constitutive exposure to forms of contestations in which *spatial* boundaries (again, it is not about geographic borders here) are conceptualized as the limits of collective action. This perception is the direct outcome of experiencing the un-removable *outside*, an outside that can be boiled down to a fan of practical options, marginalized options, possibilities bracketed away as "strange" and not validated as our "own". This exposure, this vulnerability, is a crucial aspect of legal orders. It is "here" that the rather abstract and theoretical notion of an inescapable "outside" morphs into a politically relevant issue.

Lindahl deftly conjures up the famous DDoS attack of PayPal's website by Operation Payback. Such an attack can be conceptualized in two ways, namely both as a healthy normative challenge, in order to change the own/strange configuration, and as a simply, merely malicious or even criminal act. This has to do with the "lexical warfare" described by Peter Ludlow: is 'hacktivism' related to social change, or to sinister, immoral, criminal activities? Lindahl nails it: "For there is no independent position, no bird's-eye view, that allows for establishing whether an act is simply (il)legal or whether it also raises a normative challenge that authorities should heed [...]" (p. 159).

This is a remarkable features of legal orders. It is visible, for example, in the civil disobedience phenomena. Legal systems cannot absorb or include civil disobedience, as a special norm whose ratio would be, say, that of catalyzing a (from a given point of view) "necessary" legal reform, a normative change. There are specific procedures to determine legal change, but by definition civil disobedience cannot be one of them.

Legal systems, however, have no way to *prevent* civil disobedience phenomena: phenomena that aim precisely at such a change. Any act of deliberate disobedience can always be conceptualized as the outcome of a selfish attitude, as a reluctance to bow before the majesty of those rules that are obeyed for the sake of collective freedom, as

Cicero would put it⁸. The point of view of those who practice civil disobedience is obviously different, and such as that it is always possible to take that position and claim for such acts a different and so loftier ratio. There is no independent position, no bird's-eye view, that allows for establishing whether an act of civil disobedience is a normative challenge carried out in order to make the legal-political system fairer and therefore *stronger*, more bent to the values of, say autonomy and equality, or that act is simply mere illegal disobedience, whose outcome is a *weaker* and less fair legal-political system – whether authorities should at least listen to it, or rather harshly repress it.

The IACA model of law is no natural law system; it offers no moral absolutes; it embraces complexity at the expense of any kind of normative *Gemütlichkeit*.

There is no world, there are only worlds. And this has far reaching consequences for counter-globalization movements, well-intentioned as they may be: there can be only emancipations in the plural “rather than an emancipatory process in the singular”; legal orders cannot be transparent crystals, pure normative pyramids, because ambiguity is inherent to them from the very beginning, when they emerge by including and excluding at the same time (p. 199).

This is true even when Lindahl turns his attention to a very special domain of law, that seems specifically apt for justifying “the idea of forms of legal globalization which are strongly global by dint of having an inside but no outside: human rights” (p. 207). Again, this could be the subject of another book and another review – although the gist is simply that human rights are simply no exception to Lindahl's (general) rule.

On the most basic level, even establishing what should be deemed as a massive human rights abuse implies a *local* set of shared value. Is an extermination of unborn babies by abortion such an abuse? This is not Lindahl's example – but I get very different results if one theorizes the notion of massive abuse of human rights aiming at human beings independently from sex, religion, “race”, and sexual orientation, or if the same notion is theorized aiming at human beings independently from sex, religion, “race”, and stage of development (so that embryos are included). The former list leads to Senator Clinton's famous statement: gay rights are human rights⁹. Most conservative, white evangelical, MAGA hats Americans, can safely embrace the latter. It is a pity that Lindahl does not directly address the issue of equality in any specific chapter (there are, however, important hints *passim*, for example on p. 248 ss).

This is, therefore, my first remark. Global orders that allegedly create an inside without an outside, an inclusion without exclusion, are linked to a narrative of borders and

⁸ *Pro Aulo Cluentio Habito*, 146: legum servi sumus, ut liberi esse possimus.

⁹ In a well known speech on December 6, 2011 at the UN in Geneva.

surfaces – a narrative that played an important role in Western history, but whose explicative power is all but spent. Lindahl’s book provides the conceptual tools that can help us to conceptualize global orders in a subtler way. According to this different, and more appealing, narrative, however, an exclusion of those who dwell outside is impossible to avoid. Try as we may we end up excluding. There can’t be a (the) Great Emancipation, the Last Emancipation. We can only have partial, situated, context-dependent, contingency-burden *emancipations* (what I call Lindahl’s sobering thought). One would expect a direct scrutiny of the notion of equality, but there is no chapter, in Lindahl’s book, directly devoted to such a notion. We cannot, most likely, realize any Equality with capital E. We can detect a specific *inequality*, and then fight in order to make sure it is removed, so that the given “difference” which was the ground for discrimination has no longer any legal impact. *Vico’s famuli*, the serfs of the “heroic” age, fight for universal equality, and universal citizenship. Such an universal inclusion does not include women, of course – yet what they must claim, what they have to claim, is universal equality. Women are not *foreign*, they are “somewhere else”. Those *heroic* plebeians cannot demand “equality for each and all except women”, they just do not consider women an issue to begin with. This could be the logic of equality: it is always about the removal of a given inequality, and yet it *must* claim to be about universal equality, for each and all.

Contingency cannot therefore be expunged, it is a radically built-in feature of (global) legal orders; “it is an ineradicable feature of legal orders”¹⁰. Now, while it is true that it is a “contingency that those very same orders conceal when claiming universality for themselves” (p. 225) one wonders if this is not a performative condition of an emergent legal order. It has been pointed out that a scientist perfectly knows that his theory will be, sooner or later, falsified, but “has to” claim that his theory is correct. Alexy’s well-known thesis is that a legal system cannot claim to be unjust, even if every such system is more or less unjust. Contingent emancipations (in the plural) “must” perhaps claim to be *the* universal emancipation they cannot be. This could be the latest incarnation of Makinson’s Preface Paradox¹¹; this would shed light on a haunting line by Lindahl: “Certainly, representation *must* claim to be able to articulate who and what we *really* are about; yet this articulation is premature and contestable [...]”¹². It is perhaps, at bottom, a Nietzschean theme: representation is always *mis*representation because contingency makes the represented at least partially inaccessible to an impossible “authentic” representation.

¹⁰ Hans Lindahl, “Inside and Outside Global Law (Julius Stone Address)”, *Sydney Law Review*, 41, 1, 2019: 23.

¹¹ David Clement Makinson, “The Paradox of the Preface”, *Analysis*, 1965, 25: 205-7.

¹² Lindahl, “Inside and Outside Global Law”, cit.: 12 (italics added).

This is, by the way, consistent with the “irreducibility of political plurality to the unity of global legal order” (p. 227), because a self-identity grounded on a (false) notion of *universal* emancipation, on such a daring claim, makes that (each) position specifically difficult to absorb or dilute, or blend in another equally self-styled universal identity. Claiming a universality without an outside dramatically ends up reinforcing a pluralism of contingent emancipation identities.

This train of thought is consistent with a social ontology that prevents any absolute legitimacy of any representation. Representation acts (the best part is of course the *grana fina* of Lindahl’s analysis, that makes use of the distinction between representation of and representation as by Nelson Goodman), that are necessary to collectives, always take for granted *something*, and for this reason they are, again, always, “contestable” (p. 233). They are, as it were, essentially contestable identities.

The problem is that identities do not exist in a vacuum, and there can be no self-identification without an other-identification – a collective is included and the rest is excluded – this is about boundaries, not necessarily about borders. This is, in a nutshell, Lindahl’s social ontology: a group closure into an inside (self-identification) confronts it with an outside (the “rest”: other-identification) that, as long as it is conceptualized as unorderable, challenges the power and the order that dwell “inside” (and such an outside does exist within the collective, too, shaped as a resistance force against what is determined as the “point” of that given collective action, see p. 301).

This is my second remark. “Questionability is a constitutive element of the mode of beings of collectives” (*Inside and Outside ...*). So far so good. The practical outcome of such a position seems to be that legal orders are inherently exposed to legitimate contestation – a contestation radiating from that outside that gets marginalized by the order, and bracketed away by the necessarily false narrative of universal equality. Granted: groups, “collectives”, cannot be deemed as endowed with absolute legitimacy because they always take “something” for granted – Vico’s *famuli* would not consider half the population. This exposure, this vulnerability, nevertheless, is probably a condition of their value (a la Nussbaum) for human beings; it is not a regrettable feature of our human condition. An unquestionable collective, an unquestionable legal order, would strike us as inhuman and nightmarish¹³.

This is a major contribution to social ontology, and a most needed one, after Searle¹⁴ (it somehow resonates with the notion of nested encompassing groups, versus

¹³ Martha Craven Nussbaum, *The Fragility of Goodness*, Cambridge UK, Cambridge University Press, 1986.

¹⁴ John R. Searle, *The Construction of Social Reality*, New York, NY, The Free Press, 1995.

“larger society”, by Raz¹⁵: built-in pluralism, incompatible options, a social barometer stuck on unsettled weather).

There is no way out. Even “ignoring” the rest (outside), or some of it, is indeed a response. 0 Celsius temperature is a temperature just like the others, actually an important one. Ignoring can be an effective response, and it is for this reason that political struggle takes the shape of a *demand for recognition*.

The pages on recognition are perhaps among the most compelling in Lindahl’s book. His articulate, philosophical analysis percolates ultimately into (one could even write: boils down to) a dry, sober vision of politics: “political plurality is [...] irreducible to the unity of one legal order – not even in the indeterminately long run” (p. 286). Recognition problems are so complex that the only reasonable way to deal with them, far from any universal solution, is what Lindahl calls a restrained collective self-assertion, i.e., the constant searching for situational, context-oriented generalizations (in the plural) rather than the dreaming the impossible dream of (singular) universalization – and that can sometimes be achieved by suspending the full application of the law in order to protect those who struggle for recognition, the “other (in ourselves) as other than us” (p. 287).

Recognizing the other in ourselves as other than us is like dancing on eggshells. “There is an irreducible tension in reciprocity that it is either concealed or underestimated by theories of reciprocal recognition: recognition of the *other* as one of us is recognition of the other *as one of us*” (p. 319).

There is no way out from a *theoretical* point of view. But there is perhaps a way in-between in and out from a *practical* point of view, or at least this seems to be Lindahl’s position

There are at least three different modes of “collective self restraint”, which are, at the end of the day, the concrete politics endorsed by Lindahl’s philosophy: and again, it is impossible now to discuss them. I would have, however, expected Lindahl –*and this is my third and last remark*– to discuss bio-cultural rights: can such rights be deemed as a form of self-restrained action? The current environment crisis makes the discussion (not the acceptance) of any normative device that may help to contrast it an issue of critical relevance.

One could ask, at the end of the day, if this is not a case of great mountains giving birth to a little mouse (*parturiunt mutes egreditur ridiculus mus*). After all this strutting and fretting on the legal-philosophical stage, is all what we are left with a sober collection of seemingly unsystematic political devices, a bunch of exercises in moderation, a few

¹⁵ Avishai Margalit, Joseph Raz, *National Self-Determination*, in Joseph Raz, *Ethics in the Public Domain*, Oxford, UK, Clarendon, 1994, pp. 125-145.

techniques of political wisdom, “strategies that defer acts of setting the boundaries of (il)legality”)?

Yes, but this is no mean feat. There can be only “provisional responses” (*Inside and Outside ...*, cit.), true, but provisional responses are first and foremost responses. These provisional responses are grounded on a sound philosophy, one that validates political virtues - listening skills, one that enables the listeners to acknowledge and respect the “scream” of counter-globalization movements, and maintain a compassionate attitude toward the marginalized ones - self-restraint turns out to be a key virtue for political entities.