

Some scholarly friends have recently invited me to discuss the theme of the border. The first thing that came to mind was the ambiguity and danger of the concept of border.

Already starting from the definition given by the Italian encyclopaedia Treccani, we realise the duplicity of the concept of border:

*The border is the line that separates one state from another. The concept, however, has a different origin and above all has a much wider use: we also need "boundaries" to organise our thoughts. The concept of the border is one of the tools we use to master reality (...) the word end comes from the Latin finis and, as in Italian, it indicates the conclusion of something (in Latin it was used precisely to indicate the border); "Con-finis" means that that conclusion is common, it is the same for both territories or lands. Each of the two territories ends, has an ending point, is limited, and ends up on the same border.*

A first observation arises spontaneously for me: the border delimits the self and preserves one's identity but at the same time it prevents reunification and exchange.

The cognate and synonymous concept of boundaries is, moreover, a common heritage of various branches of knowledge. We have deep traces of it in the myths of the Greek world, but we find the concept of border in the history of philosophy, in the biological sciences, in psychology, but above all, the concept has been widely explored - in the field of study closest to me - in law, both classical and modern, and finally in international law.

The border in the Greek and the Latin worlds separated order from chaos, the known from the unknown, the right from the wrong. You can always go beyond the border, however, as long as you have a good guide with you, a new Virgil.

For Heraclitus, the soul has such remote boundaries that it is not possible to reach them.

Horos in Greek is the border that separates two lands but also the stone that concretely signals their limit. Horos defines both a concept, an experience but also the norm that separates and defines. Horos also has a normative power; it represents a necessity guaranteeing an order. To raise a boundary means to recognise a difference, an otherness, to regulate the relationship with it.

In Hesiod's *Theogony*, the boundary is the original delimitation between heaven and earth starting from primordial chaos. The limit is an ordering element through which to get out of chaos. The limit is a barrier to man's fear of the infinite.

Heracles, during his journey in search of Geryon's herds, defeats monsters and monstrous creatures, sets a physical boundary between the known world and the world where human beings must not go, placing the border with two columns placed on the two shores of the Strait of Gibraltar. And this limit, if you think about it, resisted until Christopher Columbus' voyage to the Indies. For Christians for centuries, on the other hand, the edge of the world was Santiago de Compostela on the Portuguese shores of the Atlantic Ocean where the remains of St. James the Great arrived.

But the boundary seems to exist to be crossed, as Dante's Ulysses teaches, even at the risk of death (see verse 119 of Canto XXVI of the *Inferno*, known as the "Canto of Ulysses", which reads: "You were not made to live like brutes, but to follow virtue and knowledge").

It should be noted, however, that Hermes (not surprisingly the protector of travellers, merchants, and thieves), the deity who protects borders but at the same time encourages them to be overcome.

The boundary marks a dividing line that establishes a relationship of inclusion/exclusion. At the border, you can make two choices: either stand at the threshold or cross it.

The border is always defined but at the same time open. It has in itself the idea of limit and difference, of otherness and passage as a link between the inside and the outside, between the known and the unknown. It is not a locked door but a passage to be crossed, possibly with good moral guidance.

### **The concept of boundaries in the natural sciences**

In biology - although the statement should be taken with approximation as the writer is not an expert on the subject - the so-called primordial cell has been hypothesized, and

subsequently reproduced in the laboratory, a cell with a circumscribed environment, separate but in communication with the outside world and with the potential to increase its complexity; Going beyond the boundary of the cell produces new life; reproduction occurs only by penetrating the other cell, mixing and splitting the DNA of the mother cell so that the daughter cell contains part of the DNA of the two fusing cells.

It is well known that the structure of the cell is formed by the cell membrane, the nucleus and the cytoplasm. For the cell to reproduce, it is necessary to penetrate the cell membrane, reach the nucleus and then allow the DNA to be mixed.

A French psychoanalyst, Didier Anzieu, in his work “The nomadic epidermis and the psychic skin”, borrowed the behaviour of cells, and elaborated the metaphor of the skin, an imaginary metamorphosis of the skin: the skin as a “psychic envelope” that ensures protection against excess stimuli, allows the development of the senses, and acts as a support and containment to the feeling of self.

### **The sphere of law**

In Roman law, the “*limes*” in Roman law marks the boundary between Roman civilisation and the barbarians who cannot be integrated (barbarians are those who stammer, who do not speak Latin, the language of the fathers).

Throughout the *Middle Ages*, during the Empire and during the Papacy, the border did not represent something essential because all the space belonged to the Emperor thanks to the investiture of the Pope.

It was only with the *Treaty of Westphalia in 1648*, which put an end to the Thirty Years’ War and effectively created the modern absolute state, that the concept of the border returned and the modern border *as it is understood today was born*.

In Roman civil law, property, the “*dominium ex iure Quiritium*”, was recognised only *to “cives” and only on Italian soil; defined by the classics as absolute law that extended “usque*

*ad coeleum et ad inferos*”, it was protected by robust actions to defend the borders (*“actio finium regundorum”*). It was often granted as a war prize, but with the disintegration of the Roman Empire small property almost completely disappeared and already with the barbarian invasions, in the Middle Ages, everything had returned to the property of the occupying sovereign.

With the fall of feudalism, private property was reborn as a positive concept for the emerging bourgeoisie (according to the French Civil Code of 1804 *“the right of property is that which belongs to every citizen to enjoy and dispose of his goods, his income, the fruit of his work and his industriousness”*); already in the Napoleonic Code it is stated that property is recognised within the limits of laws and regulations; and also in the Italian Civil Code of 1942 property is recognised *“within the limits and with the observance of the obligations established by the legal system”*.

After all, feudalism dies when it is reborn and private property is recognised. The border divides what belongs to the Prince from what belongs to the bourgeoisie. Among private individuals, *“u limmitu”* (a word from the archaic Sicilian language), acts as a boundary, it is what separates my property from the property of others.

And yet, in modern civil law, the concept of property has always had limits, it must have boundaries and it must be crossable in the general interest. This is stated in art. 832 of the Italian Civil Code of 1942. According to art. 42 paragraph 2 of the Italian Constitution of 1947, the right to property is not a right without limits, it must be based on the principle of solidarity, and it is necessary to impose limits on private property for purposes of social solidarity (the so-called social function of property), these limitations must allow society to grow economically beyond the selfish needs of the individual owner.

### **The border as a place of separation within our society**

Be careful, sometimes borders have crept into our own society: what else are prisons and asylums? They are confined places where the inside/outside exchange is difficult, complex, sometimes hindered and marginalised. The best sociology and the most modern psychiatry,

however, indicate that the resocialisation of the prisoner passes through the exchange with “the outside”; just as mental distress is cushioned by social inclusion (see the illuminating pages of Franco Basaglia on this point).

Turning to modern international law, it is noted that the ambiguity, and above all the danger, of the concept of the border that delimits the nation is back. That of nation is an idea of romantic derivation: as a unity of language, religion and traditions, but it is an equally dangerous idea because it is at the basis of nationalism and its authoritarian drifts: think of the exaltation of the Aryan race by the Nazis, of the magnificent roots of the Roman Empire exalted by fascism and the examples could unfortunately continue. In the early 1900s, this concept of the nation was opposed, without any success, by the utopia of socialist internationalism, the borderless homeland of workers all over the world, an idea, in turn, sadly exploited by the Bolshevik revolution and Stalinism.

*Borders are often drawn for political reasons, as often for economic reasons, and the economic question is often deliberately confused with the religious or historical-political one. Think of the border disputes over international waters for the exploitation of marine resources, or more recently, the war for the conquest of space. On the other hand, we cannot fail to point out how difficult international negotiations are for the protection of the seas and the atmosphere from pollution, where seas and atmosphere cannot but be considered as universal goods, without borders, functional to the very existence of the human race.*

*For the conquest of the border, wars are fought and deaths are caused, and this is why I am increasingly beginning to distance myself from the concept of border, as is now openly outlined in this article.*

## **The open society**

*I can say without hesitation that the border must be crossable: the border that can be crossed is functional creating of an open, multicultural, multiethnic society.*

And yet, despite having taken sides, I cannot ignore that this ambiguous and dual concept of border also has limited positive aspects: it allows the preservation of traditions, cultural heritage, the teachings of the fathers, it is a barrier to the vulgarity of the world and resistant to the so-called liquid society described by Zigmunt Bauman.

*According to Zigmunt Bauman, in fact, we Westerners live in a "liquid society": an environment without definitions, where everything mixes and merges with something other than itself, producing a single media soup. Liquids dilate, mix, have no boundaries.*

After all, respect for other people's traditions and cultures is respect for the border.

Integration is therefore the solution that is perhaps not definitive and perhaps not a salvation: it represents the virtuous fusion between two cultures without one becoming hegemonic over the other: this is how the United States of America was born and became great, mixing Irish, Italians, Germans and Jews.

But the West is burdened by the sin and the unhealed wound of colonialism that is still at the root of the Third World's serious backwardness and at the root of continuous and ever dormant disputes and claims. In fact, it is difficult to talk about integration in countries where poverty still reigns and where the economic and cultural disasters of colonialism are still visible.

Recall that for years the American colonialists denied the culture of the American Indians and the Spaniards did the same in South America. More recently, think of the extermination of the Armenians or the Kurds. The systematic eradication of indigenous cultures has sometimes been carried out by genocide. It is difficult for the West to allow us to forget such outrages.

A dominant culture must not only respect minorities but must also be able to tolerate aspects of "other" cultures that are often not easily understood.

There are many examples: think of the problem of the veil of Islamic women resolved in a heterogeneous way within the EU, often banned because it is seen as an intolerable harassment of Islamic women, while in the perspective of the Parisian "banlieues" it

represents the affirmation of an identity. In Iran, on the other hand, the imposition of the veil remains an authoritarian act of rejection of Western culture, considered dangerous for religious customs, so a real civil war is being fought in which women are the absolute protagonists. In modern Turkey, until the advent of Erdogan, the state, which wanted to be secular, forbade women to wear the veil at public activities and in universities because there was a desire for modernisation and integration. Today in Turkey, the veil is back in fashion. It is equally difficult in our eyes to accept certain forms of "*jus corrigenda*" typical of certain patriarchal cultures. Think again of the controversy over the ban on the use of pork in state school cafeterias or the practice of circumcision.

Beyond easy and populist slogans ("immigrants must respect our rules and must adapt to our culture..."), we "dominants" must also have the ability to set limits that are often not always shared by the majority: just to give an example, think of the ban on displaying the crucifix in public offices. Of course, the crucifix identifies a large and millenary community such as the Christian one, but if we want to be truly "open" and affirm the secularity of the state and the equality of all religions before the state, then we need to take a small step back.

However, efforts must be made to understand and the best Western models must be promoted, without imposing them. There is, in fact, a non-negotiable core of Western values, encapsulated in the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms, which we must be proud defenders of. And here the border once again takes on a positive value of defending fundamental values that characterises us as a virtuous community that, after the disaster of the two world wars, recognises itself and is founded on those values inscribed in the Convention.

*The only boundaries we must preserve are those of the freedom of others, of property, culture and the language of others.*

In this sense, applying the principles of the Convention, and of other national and supranational fundamental charters, means attributing to positive law an educational function. The same thing happened in Italy when "reparative marriage" was abolished or the so-called abandonment of the marital roof was decriminalized.

## **The issue of immigration**

The concept of border leads us to confront the great, pretended border that perhaps never existed represented by the Mediterranean Sea, which has always been a place of exchange of civilizations: from the Phoenicians, to the Greeks, to the Romans to the Arabs.

Today we want there to be an undrawn border beyond which many peoples fleeing war and famine must not cross. Syrians fleeing a bloody internal war that has already caused more than 430,000 deaths must not pass; Eritreans and Somalis who are weakened by years of wars, famines and dictatorships that in Eritrea impose an endless military conscription on men and women must not pass; sub-Saharan or Pakistanis whose living conditions are miserable must not pass through (just think that the annual per capita income in countries such as Pakistan stands at \$1,505, in Ivory Coast at \$2,549 or in neighboring Tunisia at \$3,800, compared to \$35,657 for the annual per capita income in Italy and \$43,658 in France); The Bangladeshis in their country of 170,000,000 inhabitants live crammed into a space that is three times smaller than Italy, afflicted by floods, where there are 50,000,000 people living in poverty and where 40 % of the population lives on less than two dollars a day.

But before accusing ourselves of populism and giving ourselves the usual handy lesson, "let's help them at home", I want to recall some positive norms only formally signed by almost all the states of the world:

*Article 13 of the Universal Declaration of Human Rights of 1948: "Everyone has the right to freedom of movement and residence within the borders of any State. Everyone has the right to leave any country, including his own, and to return to his own country."*

*Art. 14 c. I Dec. Univ.: Everyone has the right to seek and to enjoy in other countries asylum from persecution "*

And what can be said of our Constitution, which not only recognises a broad right of asylum (art. 10 of the Constitution). *"a foreigner who is prevented in his country from effectively*

*exercising the democratic freedoms guaranteed by the Italian Constitution has the right to asylum in the territory of the Republic under the conditions established by law") but recognises the right of our citizens to emigrate (Art. 35 c. III "... recognises the freedom of emigration, subject to the obligations laid down by law in the general interest...).*

If, therefore, there is a positive right to emigrate, if you will allow me to provoke you, there are no borders, no frontiers, no barriers, no walls. And as Pope Francis said on the 25th anniversary of the fall of the Berlin Wall: we need bridges, not walls!

And how odious it is the distinction that we Westerners strive to emphasise between those who can be recognized as "asylum seekers" and those who are only "migrants of necessity" who must be rejected.

Of course, this is not to deny the right of each individual state to regulate immigration, but as the Italian Constitutional Court pointed out in its judgment no. 105/2001: "*... Although the public interests affecting immigration are manifold and however much they may be perceived as serious problems of security and public order linked to uncontrolled migratory flows, the universal character of personal freedom cannot be affected in the slightest, which, like the other rights that the Constitution proclaims inviolable, cannot be affected in the slightest. It is up to individuals not as participants in a particular political community, but as human beings.*"

### **From the border to the ghetto**

Allow me now to make one last comment on what I have now revealed to be my negative judgment on the border: how much horror is emanating from the Gaza Strip, which is nothing more than the violent imposition of a border that tightens like a noose around the neck of the Palestinian civilian population and has caused as many as 20,000 deaths to date, including at least 8,000 children.

This is not the place and the time to reflect on the causes of the war between Palestinians and Israelis, but it seems paradoxical to me how Israelis have forgotten the suffering

inflicted on them by the Nazis in the Jewish ghettos of half of Europe: today the new ghetto is the Gaza Strip! The extremes connect.

Fortunately, it leaves me with a glimmer of hope, which comes, as always, from culture and dialogue, and I am referring to the so-called Israeli writers of dialogue: Abraham Yehoshua, Amos Oz (who already in 1967 said “even an inevitable occupation is an unjust occupation”); David Grossman, advocate of coexistence between Arabs and Israelis.

*Two peoples in two states, it is hoped:* at this moment, the impassable border is not the one defended by tanks and barbed wire, but the one erected by religious absolutism and economic selfishness. The certainties of the Jewish religion against the absolutism of Islam; the Western wealth of Israel and the poverty of the Palestinians; the arrogance of the Jewish settlers and the lack of water and arable land of the Palestinians... and we could go on...

But now it is time for me to stop after rambling on too much.