

Hospitality Ltd

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Once upon a time, Airbnb's story of creation goes, thousands of designers from across the world were flocking into the magical kingdom of San Francisco to attend the biennial conference of the International Council of Societies of Industrial Design. Two local designers, struggling to afford their rent, decided to supplement their income by renting out three airbeds in their shared home to fellow conference attendees. They designed a simple digital platform, offering fellow conference attendees to round their little lives with a good night's sleep on an airbed. The rest, as we know, is the stuff of which dreams are made — a dream come true. Our protagonists live happily ever after in cloud-capp'd tow'rs and gorgeous palaces in San Francisco. The platform they constructed enables millions to overcome barriers to entry, to ['monetize their extra space and showcase it to an audience of millions'](#), to share their ['unique hospitality with well-matched guests'](#).

But how do jurists and legal theorists read and write Airbnb's story? Do they narrate it as a Cinderella story, the fairy-tale rise to power and glory of three drudges? Do they recount the story of a rare and fantastic 'unicorn', a start-up company that reached a \$1 billion valuation? Do they retell the ballad of Robin Hood, a heroic outlaw, who robbed the rich to give to the poor, a model of ingenuity, altruism, and popular justice? Do they adopt the economic rhetoric of competition, describing the relations between Airbnb and hotels, and between Airbnb and states, as David-and-Goliath battles between stodgy giants and an innovative newcomer? Do they warn Little Red Riding Hood against the Big Bad Wolf? Or do they caution the three bears about Goldilocks, the gentrifier?

The first question jurists and legal theorists debate is whether the conduct of the platform provider, or the conduct enabled by the platform, is 'lawful' or 'unlawful' under 'existing law' (mostly, tax law, business licensing regulations, and planning and zoning laws). The second bone of contention is the appropriate or most effective legal response. If the conduct is unlawful, should more active enforcement steps be taken? Should new regulations be introduced to support, assist, and strengthen enforcement efforts? The third matter under debate is the 'welcomeness' of the developments in question. What should be the legal status of the conduct engaged in by the company and by users? If it is considered lawful, should it be made unlawful? If it is unlawful, should it be legalized? Should recent developments be welcomed and accommodated?

The various participants in debates about Airbnb may take different positions, but, I would like to suggest, they nonetheless share common ground. What they disagree *on* forms a platform for exchange. And what is being debated is not Airbnb; it is its legal status. Framed as a question or, rather, a set of questions, the concept of 'legality' makes possible, grounds, underpins, and informs the discussion. It creates an opening for and welcomes disagreement, but also structures, orients, contains, and limits it.

Rather than deconstructing, looking back, inward, the interlocutors interrogate a 'new arrival'. They [frame](#) the '[foreign](#)' subject as a question of law, calling its status into question. They submit it to investigation, assessing compliance with principles, criteria, or conditions of hospitality. They determine its status. The [question of hospitality](#) remains unwelcomed, the generation of surplus value through the assignment of value/meaning to 'hospitality' uninterrogated.

To problematize the valuation of hospitality, this blogpost examines the interplay between different *dispositifs* that, so to speak, value 'hospitality' – tourism, and also migration and citizenship. The economic discourse, as [Teubner's contribution to this symposium](#) suggests, is not the only discourse that reproduces, transforms and authorises itself by generating surplus value. All discourses do, self-referentially, by imbuing terms with meaning. Various discourses, in other words, value 'hospitality' differently, but their internal processes of valuation make use other discourse's processes of hospitality valuation as material for construction. The economic discourse on hospitality, in other words, indirectly influences political discussions about hospitality, but it is also, indirectly, '(in)formed' by these.

In recent years, a growing [body of literature](#) has been discerning and critiquing the commodification, marketization, and neoliberalization of migration and citizenship – the so-called '[politics of belonging](#)'. This blogpost focuses on not only the indirect effects of economic discourses on political exchanges, but also the indirect effects of the politics of belonging on the economic valuation of hospitality. It illustrates this relationship of [structural coupling](#) by investigating how Airbnb generates surplus values by imbuing the term 'hospitality' with meaning/value.

Open to the public since 2007, Airbnb is an 'online marketplace' that enables registered 'hosts' to publish 'listings' on the platform and to communicate and transact directly with registered 'guests', as stipulated in section 1 of Airbnb's [Terms of Service](#). And, indeed, in early years, the company presented Airbnb as a platform for short-term renting, emphasizing the economic benefits of hosting. Users were invited to '[monetize](#)' extra space and generate supplementary income. The term 'hospitality' was used namely to denote '[what's expected of hosts](#)', the '[basic requirements](#)' they must meet. For example, hosts are expected to be responsive, avoid cancelling on guests, and maintain cleanliness.

Through the years, however, the platform has been self-constituting itself as a [political platform](#) for promoting 'hospitality' and 'belonging'. And it is, I suggest, the iterative construction of these terms, their imbuing with meaning/value, that engines this process.

Since at least 2012, [section 14 of the Terms](#) has prohibited inhospitality in the form of discrimination and harassment. Pursuant to [section 15](#), the company can decide unilaterally that the provision has been breached and may impose a variety of sanctions, including '[excommunication](#)' – termination of its agreement with the user and removal from the platform.

In 2014, the '[entire Airbnb experience](#)' was redesigned to '[better reflect](#)' what Airbnb '[really](#)' is and is '[really](#)' about. The transformation of Airbnb into 'something bigger

and more meaningful than we ever imagined', the company's co-founders [explained](#), made them realize that 'the Airbnb community has outgrown the original Airbnb brand'. The way Airbnb had been represented to the world had not 'fully captured' what made the platform 'a little different and special'. Airbnb is '[really](#)' a *community* '[united by the universal, powerful, human desire to connect, to understand, and to belong](#)' – '[the desire to feel welcomed, respected, and appreciated for who you are, no matter where you might be](#)'. And Airbnb is '[really](#)' about promoting a '[shared vision of belonging](#)' and '[creating a world where everyone can belong](#)'.

Two years later, in June 2016, the company initiated a '[comprehensive review](#)' of its platform to help ensure that it is doing '[everything \[it\] can to fight bias and discrimination](#)'. The following September, a series of policy and product changes was [announced](#), including a new [Anti-Discrimination Policy](#). The Policy declares 'inclusion' and 'respect' as the community's 'foundational principles'. All members of the community, including all Airbnb representatives, agree to do 'everything' they can 'to help eliminate all forms of unlawful bias, discrimination, and intolerance' from the platform. In addition, use of the platform was made conditional on acceptance of a '[Community Commitment](#)' to 'treat everyone in the Airbnb Community – regardless of their race, religion, national origin, ethnicity, disability, sex, gender identity, sexual orientation, or age – with respect, and without judgement or bias'. More than [one million users](#) who declined the Commitment have been denied the ability to use Airbnb.

These developments have mostly followed accusations of discriminatory behaviour on Airbnb's platform and [increased media scrutiny](#). A 2015 [study](#) conducted by researchers at the Harvard Business School revealed widespread discrimination against Airbnb guests with distinctly African-American names, further finding that Airbnb's design choices facilitated discrimination. In 2016, [thousands of users took to social media](#) to share (with the hashtag [#AirbnbWhileBlack](#)) their negative experiences and to report the discriminatory conduct of other Airbnb users. [One of them](#), Gregory Selden, later filed a [putative class action suit](#) against Airbnb Inc under the Civil Rights Act and the Fair Housing Act, though Airbnb's motion to compel arbitration and stay litigation was [granted](#).

Until late 2016, the focus on discriminatory conduct by users against other users – the being-in question of discriminatory behaviour on Airbnb's platform – has framed and (in)formed the construction of terms such as 'belonging', 'inclusion', 'respect', and 'hospitality', as well as the service provider's powers and obligations. The US perspective of the company has further affected processes of meaning/value generation. The conceptual framework of US antidiscrimination law was not only translated into the 'language of Airbnb', but also used to distinguish the platform and persuade us of its 'added value'. Changes introduced by the service were celebrated for holding 'community members', as well as Airbnb representatives, to '[a standard that goes above and beyond what is required by \[US\] law](#)'.

Terms such as 'belonging', 'inclusion', 'respect', and 'hospitality' are, however, less and less [cited](#) to evaluate behaviour on the platform or to determine the scope of the company's responsibility to prevent and sanction 'inhospitable' user conduct.

Since 2017, the service provider has been invoking its ‘commitment’ to promoting ‘belonging’ to oppose the imposition of political borders, legal barriers and conditions to entry, and travel restrictions, primarily by the US government. ‘Airbnb’s purpose is to make it possible for anyone to belong anywhere’, the company [reiterates](#), and at its core is the belief ‘that you should be able to travel to, and live in any community around the world, regardless of your race, religion or ethnicity – that the power to travel makes us all better’. ‘[B]elonging is fundamental to supporting community’ and ‘the freedom of travel foundational to advancing the human condition.’ [To restrict travel is to limit human potential](#). In addition to supporting various IGOs and NGOs and using its website to [raise donations](#), the company launched its [Open Homes](#) program, inviting and assisting members to host (for free) [refugees, asylum seekers](#), and people in need of [emergency housing](#). Following the issuance of Executive Order 13769 (the ‘Immigration Ban’), it [announced](#) that it would provide free housing to refugees and anyone recently barred from entering the United States. In February 2017, together with 96 other companies, it filed an [amicus brief](#) in [State of Washington and State of Minnesota v Trump, 847 F3d 1151 \(9th Cir 2017\)](#), challenging the validity of the Executive Order. In November 2017, it filed an amicus brief in [Trump v Hawaii 585 US ____ \(2018\)](#), unsuccessfully challenging the constitutionality of Presidential Proclamation 9645. In April 2019, it [declared](#) its support of the National Origin-Based Antidiscrimination for Nonimmigrants (NO BAN) Act and, in January 2020, it issued a [public announcement](#) opposing the expansion of travel restrictions.

At the same time as the ‘commitment’ to belonging has been invoked to advocate for [unconditional hospitality](#) and the dismantling of political barriers to entry, it has also been deployed to demonstrate that Airbnb values, strengthens and empowers localism. Especially since 2016, the commitment has been cited in response to claims that the platform facilitates [gentrification](#), [fragments communities](#), and [upends local markets](#). Construing it as including a commitment to lowering barriers to entry, supporting ‘[greater economic and social empowerment](#)’, and promoting [economic participation](#), *the company has been highlighting the [empowering potential](#) of the platform, its [positive impact on local markets and communities](#), and its continuous efforts to live up to its mission. An ‘economic empowerment engine’, the [About Us page](#) today declares, Airbnb ‘help[s] millions of hospitality entrepreneurs monetize their spaces and their passions while keeping the financial benefits of tourism in their own communities’.*

Airbnb’s domain, this blogpost has argued by illustrating, self-reproduces, transforms, and authorizes itself by iteratively generating surplus value, and this is done by imbuing ‘hospitality’ with value, meaning. Its political discourse deploys hospitality and so does its economic discourse. Each values hospitality differently, but uses the other’s processes of valuation as material for surplus meaning generation. To value hospitality, furthermore, is to pose it as a political and economic question, as what needs to be assessed and determined. It is, finally, to simultaneously include *and* exclude, open up *and* keep in.

