DISCOURSES ON ASYLUM ISSUES AND STRATEGIES OF GOVERNMENTALITY OVER ASYLUM SEEKERS IN CROATIA

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ABSTRACT

This thesis focuses on the Croatian asylum system and analyzes how the particular implementation of the asylum law and a peculiar interpretation of statistics serve as the ground to deal with and govern the population of asylum seekers. While the state actors legitimize their strategies on a very restrictive reading of the existing law, the discourses of the non-state actors (UNHCR, NGOs, the media) outline the particular socio-cultural setting in which governmental strategies are embedded in. Using Foucault's concepts of 'governmentality' and 'discourse', this thesis questions how discourses used by different state and non-state actors shape the Croatian public attitudes on asylum issues and explores how strategies of governmentality are enacted. The media portraying and officials' categorization presents asylum seeker in Croatian society as profiles who are in opposition to imagined national identity. Thus, in Croatian case the specific public response on these categorizations, or the lack of it, provides a tacit agreement for the interpretation and the implementation of the law in a particular way and results in the restrictive granting politics. Although this governmental responses could be understood as strategies of non-control and non-governmentality regarding asylum seekers, I argue that this way of 'not dealing with the refugees', should be understood as a specific form of governmentality.

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1. INTRODUCTION

On the 15th of November 2006 Croatia granted the refugee status for the first time. This act has opened new space for implementation of the national asylum law and protection of refugees in Croatian society. As a candidate for joining the European Union, and follower of international laws and agreements, Croatia provided protection and shelter for the refugee according to standards and practice deeply rooted in the legal and cultural heritage of many countries in the world. Not so long ago Croatia found ways of dealing with numerous refugees and internally displaced persons during the war in 1990s, and nowadays it is looking for the ways of dealing with asylum seekers.

This first case recognized is still the only one granted with status among the 750 of other cases that were rejected, in last ten years.[1] This fact raises several important questions: How the law has been implemented and who are the actors involved in its interpretation? What does this statistics illustrate – deficiencies of Croatian asylum system, restrictive granting politics or peculiarity of applicants' intentions? What are the state's strategies in dealing with asylum seekers? What is the specificity of the first case granted? What media reports and public opinion could tell us about levels of inclusion/exclusion of asylum seekers, and how attitudes towards asylum seekers influence the state strategies of dealing with them? Acknowledging some of the issues derived from abovementioned puzzles, this thesis focuses mainly on the state's strategies employed for dealing with asylum seekers in Croatian society. However, this thesis does not go into description of technicalities of asylum granting procedure, but rather analyzes the strategies of dealing with asylum seekers in Croatia in attempt to explain the phenomenon of such an insignificant number of recognized statuses. The major analytical focus is put on the analysis of

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[1] For statistics on number of applications and rejected cases see Table 1 in Appendix

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discourses used by major actors involved in asylum system (primary, the Ministry of Interior, United Nations High Commissioner for Refugees, NGOs) when discussing about contested nature of the asylum law implementation and strategies of dealing with asylum seekers.

If the law is understood as an instrument of categorizing and governing the population of asylum seekers, the present literature (Sack and Aleck, 1992; Bigo, 2002; Lippert, 1999) does not provide the definite answer how this strategy could be converted into its seemingly paradoxical opposition – implementing the law as the way of not dealing with asylum seekers. As I argue in this thesis, in Croatian case this governing of asylum seekers has been inverted into peculiar form of non-governmentality, the tacit policy of the State to ignore and avoid an actively dealing with *refugees*. This thesis also examines social preconditions of this strategy, by analyzing the media reports, as well as the perception and opinion of public towards asylum seekers, as potential inputs to this strategy. This level of analysis opens the space for thinking over the contextualization of "non-governmentality strategies" within the broader society.

1.1 Legal background and present landscape of Croatian asylum system

As the EU accession country, the Republic of Croatia is a follower of international obligatory laws and legal protocols on refugee, human rights and fundamental freedoms issues. These questions play an important role in the processes of adjustment and harmonization of Croatian legislative system with the EU legal heritage[2]. Croatian asylum law was brought by the Croatian Parliament on 18th of June 2003, and it entered into force on 1st of July 2004 ("Narodne

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[2] Concept of "acquis communitarie" refers to adoption the entire set of existing rules and legislation of the EU which is not negotiable but definite and necessary process.

novine", 76/2004).[3] After finalizing the proposal for the new asylum law, it was announced that it will enter into force on 01st of July 2007. Due to adjustment of the new law to European Council Directives it is to expect that Croatia will more and more share EU common politics and standards towards asylum and immigration issues.

Without going into deeper analysis of procedural steps it is needed to present very succinctly the process of asylum applying; after declaring the intention to apply for asylum, the foreigner is escorted to the Reception Centre for asylum seekers placed in Kutina[4], where s/he is accommodated for few months during the whole procedure. The first instance which decides on application is Section for Asylum within the Ministry of Interior.[5] Asylum seeker could appeal on final decision before the Governmental Commission. If the decision of this second instance body is also negative, the last possibility is to appeal before the Administrative Court, but this appeal will not cancel or postpone the Ministry's decision on deportation of rejected asylum seeker.[6] Ministry represents the main actor in charge for handling, accommodating and deciding upon asylum seekers' cases. Nonetheless, different non-state actors are involved in Croatian system of asylum.

Besides UNHCR as international organization with well-known mandate and role (see Geoff, 1998; Steiner, 2003), leading NGO for asylum issues is Croatian Legal Centre (CLC), which provides free legal help for asylum seekers. Personnel of Croatian Red Cross (CRC) care

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[3] Before that, starting from 1997, one could have got the refugee status according to the old "Law on Movement and Residence of Foreigners (Aliens)", (»Narodne novine«, br. 53/91., 22/92., 26/93., 29/94.)

[4] Exceptions are those who as 'illegal aliens' have already been situated in the Reception Centre for aliens in Jezevo (by its character it is actually Detention centre where aliens wait for their deportation). Second exceptions are those asylum seekers who can be accommodated on their own expense on any private address in Republic of Croatia.

[5] Position of the Asylum section within the Ministry could be mapped as: Ministry of Interior – Administration for inspective and administrative work – Department for aliens and asylum – Section for Asylum

[6] According to space-limitation of this paper it is impossible but to present this shot and simplified version of asylum procedure. Here is important to stress that final decision could be: positive (status approved), negative (status rejected), but application could also be ceased (if, for example, asylum seeker leaves the country before the procedure ends), or dismissed (for example, if s/he was already rejected earlier, or comes form the 'safe country').

for accommodation and daily activities of asylum seekers in the Reception Centre. Employees of state centers for social and health care, school personnel, provide services through organizing programs for reception and integration of asylum seekers.[7] One important body that brings all actors together is the Coordination for the Asylum, where the Ministry's representative as well as UNHCR and other actors (ombudsman, NGOs, lawyers, CRC representatives, other ministries) meet together three or four time a year and discuss about relevant and current asylum issues. [8]

These non-state actors are also involved in on-going discussion about changing of the asylum law, by proposing their amendments. Even if basic principles of the law are not significantly negotiable, the present debate suggests that refugee law itself is not an immanently static legal document but an actively implemented and contested legal act, subjected to changes and various interpretations of different actors. Changeable and dynamic character of the law is revealed through contested discourses that question its proper interpretation and implementation (Starr and Collier, 1989; Mundy, 2002). Rather than looking in depth how the present asylum law is formulated, I analyze the dynamics of exercising the law through discourses and practices of its interpreters and implementers. I assume that essentially contestable nature of the law could serve as one of the instruments of "governmentality" over the asylum seekers population.

1.2 Discourses on interpreting statistics as a tool of non-govermentality

[7] This personnel work under authority of competent Ministries, among all, the Ministry of Health and Social Care, the Ministry of Science, Education and Sport and the Ministry of Economy, Work and Entrepreneurship.
[8] Some aforementioned NGOs are involved in different activities of dealing with asylum seekers, and lobbying for affirmation and protection of their rights. Centre for Peace Studies runs courses of Croatian language for asylum seekers. Croatian Legal Centre, Centre for Peace Studies and some other NGOs (Croatian Helsinki Committee, Human Rights Centre) have conduct programs of educing and sensibilizing the public about asylum seekers (rights) organizing workshops, round tables, conferences, media and public campaigns, art exhibitions, etc. in order to improve legal and living conditions for asylum seekers in Croatia.

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As already mentioned, one of the main purposes of this thesis is to examine how does this strategy of (non)governmentality function and which are some of the legal and social preconditions that allows it. In order to set down a stage for discussion about strategies of dealing with asylum seekers in Croatia I employ the concept of "governmentality" as defined by Foucault (in Burchell, 1991:104):

"The ensemble formed by the institutions, procedures, analyses and reflections, the calculations and tactics that allow the exercises of this very specific albeit complex form of power, which has as its target population (…) and as its essential technical means apparatuses of security."

According to this, I understand governmentality of asylum seekers in Croatia, as *complex form of power* for governing and controlling asylum seekers, which is exercised through and within intertwining set of *strategies, procedures, tactics* used and legitimated by many different actors. In previous section I delineate the conceptual approach crucial for understanding the law implementation as the instrument of governmentality, or like in Croatian case, non-governmentality. In order to move this analysis further I discuss about different categorizations of asylum seekers, mapped within discourses of different actors. Commenting on statistics, different actors' discourses bring in the first plan some of the prevailing images of asylum seekers. I assume that these discourses become the field for constructing categories of immigrants and their imagined identities, with meanings subjected to interpretations of particular actors. Some of these conceptualizations (particularly about asylum seekers movement and their intention for applying) are analyzed for purpose of targeting negative perception towards asylum seekers as a threat, *undesirable* and *unwanted* categories of immigrants (see Vukov, 2003; Malkki, 1995; Ceyhan and Tsoukala, 2002).

Thus, I assume discourses used by different actors have uneven potential for shaping specific public responses and social practices towards asylum seekers, as suggested by Tazreiter (2004). But in some cases non-state actors (UNHCR, NGOs, ombudsman), actually urge for the

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more active and inclusive practices of governmentality, as I will prove.[9] I discuss that the feed-back of the public, or lack of it, inversely influence the strategies of (non)governmentality, through the implicit consensus on the ways the law has been implemented so far. Therefore, for the purpose of this thesis it is important to analyze how prevalent categorization and perception of asylum seekers could strengthen the state's strategies of (non)governmentality over asylum seekers. More than analyzing deficiencies of refugee law itself, this thesis examines the implications derived from law reinterpretation and usage of it as an instrument of governing and controlling population of asylum seekers and immigrants.

1.3   Obsolete national identities as a tool of governmentality

The influence of prevalent discourses used by major actors (first and foremost, the Ministry of Interior) on public and the media level was addressed in previous section. Also, it was indicated that reaction of the public could have supportive effect towards self-legitimating of Ministry for exercising particular law implementation and strategies of (non)governmentality. Those labeling and attributing discourses used by state-actors and reflected in the media intertwine within the public sphere shaping the public attitudes towards inclusion of immigrants, as argued by some scholars (van Dijk et al, 1997:144-180; Joly, 1993:115-123). I am particularly keen to analyze specific connotative fields that asylum issues are embedded in. The extent to which the public opinion goes alongside prevalent discourses, which present almost all of asylum seekers as economic and illegal migrants, is to be analyzed. For that matter I conducted a small

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[9] Competing and alternated discursive fields create the specific site in which asylum seekers are perceived in somewhat negative light. This does not neglect the existence of the positive discourses that have existed before among NGO level, and emerged in the public, especially in the last year or two. However, my focus is on prevailing, still negative discourses and connotative fields on asylum issues in Croatian society.

survey with the local population of the town Kutina, where the new Reception Centre for asylum seekers is located.

All notions of discourses, categorizations and strategies of (non)governmentality do not come up in historical and socio-political vacuum. The capability of the Croatian state to exercise and obtain particular strategy of dealing with asylum seekers has been embedded in specific political context. As mentioned at the beginning, this context is related to obligation of meeting the standards of international community towards refugee protection for the purpose of accessing the EU. But if we extend the level of analysis acknowledging the historical perspective, an interesting question could be raised; how historical and national narratives about the Croatian past experience in *dealing with* and *belonging to* refugee flows shape the present discourses on asylum issues in Croatia?

This thesis will not go into deeper analysis of historical trajectories of the Croatian state, but it will sketch some of the lines for the possible further approach to the issues on asylum in Croatia. It will analyze the historical narrative about Croatia, as bordering and emigration country, with a vast population of everlasting exiles, emigrants and refugees. From the image of immigration and receptive place for numerous of refugees (mainly during the war in 1990s), Croatia is claimed to be today; the 'transit territory for asylum seekers on their way to the West.' I will also analyze discourses built around the first case recognized and compare them to some other cases rejected, in order to explain specific categorization of asylum seekers (as threat, as social and economic problem/burden). I will look how particular strategies of governmentality meet the idea about interpretation of the law as an instrumentalized discourse, imbued and legitimated within specific narratives about Croatian national identity. This analysis will show what profile of asylum seekers the Croatian state looks for, in order to maintain a particular

imagining of national identity. Discourses are that essence that bounds together all three levels of my analysis and investigation.

By analyzing the aspects and preconditions of specific law implementation and strategies of governmentality scholars explain the institutional mechanisms of dealing with refugees in particular socio-political context. But moreover, I think that scholarly knowledge should induce and support broader personal and professional involvement of a scientist in discussions about asylum issues and policies towards inclusion and integration of newcomers. Haraway (1989) has developed idea about academic knowledge being a *relational process*, produced in theoretical and methodological contexts. As such, 'situated knowledge' concept promises that a person can embody the role of *scientist-activist* with moral dimension, personal reflection and potential for further socio-political action. My engagement into inquiry about asylum system in Croatia was on the track of these reflections. This is my moral commitment and possible contribution to affirmation of asylum seekers' and refugees' rights in the Croatian society.

After presenting the main puzzle of only one case recognized refugee status in Croatia, among more than 750 cases rejected, I indicated the legal and political background of Croatian asylum system and set the frame for the investigation of phenomenon of such an insignificant number of statuses granted. I discussed how the law, interpreted and implemented in peculiar way could be understood as discourse itself, and moreover, how it could be exercised as a particular instrument of governmentality over the population of asylum seekers. Furthermore, I suggested different discourses are brought by different actors involved in system of asylum, and these discourses are employed for constructing particular categories of asylum seekers treated as unwelcome, threatening immigrants. These categories are in the same time reproduced in the media and discussed in the public, giving the feed-back or tacit agreement to the Ministry of

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Interior to continue with peculiar strategies of (non)governmentality. I argued that discourses on first cases approved indicate particular imagining of Croatian national identity, in the same time fostering the images of asylum seekers being an economical and political threat and obligation to Croatian state. In the following chapter I will situate my work across the boundaries of anthropology of the law, refugee and governmentality studies, also acknowledging some of the media and nationalism studies approaches.

In short, I could hypothesize: Croatian state is able to exercise restrictive implementation of the asylum law and peculiar strategies of governmentality according to specific set of discourses about asylum seekers in Croatian society. This set of discourses is embedded in contested interpretation of the law and statistics by many actors involved in the system of asylum, as well as in the socio-cultural context that seek for maintaining of particular imagining of Croatian national identity. Reversibly this is what enables peculiarity of the law implementation and strategies of governmentality.

2. ASYLUM AND REFUGEE THEMES - INTERDISCIPLINARY TAKING

Forced migration, refugee and asylum issues have been extensively studied in recent years. Refugee issues have been subjects of interdisciplinary investigation for very diverse fields of social and political science, legal studies, philosophy of ethics, public policy and other disciplines. As Malkki (1995) emphasized interdisciplinary approach towards 'refugee studies' has significantly emerged in contemporary anthropology, geography and developmental studies. Migration studies have been more oriented on looking at voluntary migrations and contemporary flows and patterns of 'economic' migration, not always considering involuntary or forced migration as an important part of global movements of people.

As Castles (2003:15) stresses; after the Cold War ended forced migration increased in volume and political significance, as an "integral part of North-South [post-colonial] relationships and processes of global social, political and economical transformation". Therefore, sociology and anthropology of forced migration should be a 'transnational and interdisciplinary undertaking' linked to "an emerging sociology of global social transformation" (ibid.), with reflections on the social, cultural and political dimensions of asylum seekers and refugees experiences. All this is not to suggest that forced migration and asylum seekers are modern phenomena. However, it is the 20th century that the international refugee regime was established, and old-known terms of asylum and refuge have become parts of legal terminology (Loescher, 1993; Lippert, 1999).

In following sections I present some of the theoretical approaches crucial for the investigation of the initial puzzle. Since this thesis discusses couple of different concepts and ideas, it is necessary to approach it interdisciplinary. Thus, I delineate useful theories and

paradigms which will help me in my analysis; first and foremost "legal anthropology perspective" and Foucault's notions of governmentality will be discussed. Additionally, and not less important, concepts of labeling, securitization of immigration, as well as theories from media and nationalism studies will be acknowledged and related to refugee studies. Within this literature, I argue, one useful framework for understanding Croatian asylum system could be set.

2.1 Law as discourse, its insufficiencies and instrumantalization in dealing with Refugees

The modern institution of refugee and asylum seekers protection was introduced with the 1951 United Nations Refugee Convention (the 'Geneva Convention') and the 1967 Protocol Relating to the Status of Refugees. The terms 'asylum seekers' and 'refugee' have turned into complex social determinants describing human experience for particular categories of people. In legal terms these concepts define persons as subjectivities before international and national laws. Article 1 A (2) of the 1951 (Geneva) Convention Relating to the Status of Refugees defines the term refugee as that one which shall apply to any person who:

> "...owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it."[10]

Discussing the past European experiences in dealing with refugees, one can not miss the historical background of the Geneva Convention in the Cold War period, when refugees were conceived as a highly politicized matter and what Loescher (1993:48) calls 'East-West controversy'. Without going into deeper historical analysis of the concept of refugee, it is

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[10] As an international standard this definition of the refugee is included into the Croatian asylum law. Furthermore, according to Croatian asylum law, asylum seeker is a foreigner who has applied for refugee status and still in the procedure of recognizing (waiting for final decision).

important to stress that in the post-Cold War period the number of refugees in Europe has increased, especially with the mass influx of exiles of the war in ex-Yugoslavia during the early 1990s. But comparing to the period of ten years ago current statistics point towards stagnation and even decreased number of refugees in the European, as well as in the global frame (UNHCR, 2005). However, in this decade the number of internally displaced persons (IDP – people who as displaced never cross the borders of their own country) has been rising. Estimates of exiles vary, but statistics approximate about 23 million refugees and around 30 million IDPs (UNHCR report, 2005:15). Being a territory from which many people fled to ask for shelter, and in the same time the place where many refugees found the shelter during the 1990s, Croatia has also been part of this statistics. Furthermore, current statistics of asylum seekers on the European Union level display a number of 227 425 applications for the year 2005[11]. When compared to number of 403 465 of applications in the year 2000, it is arguable whether a decrease of seeking for asylum has been a real consequence of a lesser need for protection, or merely an effect of more restrictive regulations at the EU level. However, other authors state that there is an "increase in asylum seekers movement to developed countries" (Castles and Miller, 2003, [1993], pp x), which is the fact definitely applicable to the situation in Croatia.[12]

The legal scope on asylum issues has been concentrated on varieties of articulations and (re)interpretations of international humanitarian and refugee law and regulations. While some scholars and international lawyers, like Goodwin-Gill (1996), understand the Geneva Convention and refugee law as essential ground and potential for refugee protection, others are more critical on the possibility of its effective protection. Criticizing refugee law, Tuitt (1996:23) shows that the Geneva Convention has existed to limit the obligations of the state to asylum seekers and

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[11] Source EUROSTAT, see table 2 in appendix
[12] See Table 1 in Appendix

refugees. In her view, the refugee law has been manipulated by Western states in order to fulfill their political aims. One could easily agree with Tuitt (1999), that today's restrictive interpretation of refugee law slowly erodes the concept of asylum. Perpetuating the fixity of the 'refugee' concept, stated in the Convention, refugee law today guarantees minimal protection to a very limited population of people.

It is almost paradoxical fact that Contract countries, which have ratified the Geneva Convention, exercise enough space for maneuver in its interpretation and implementation.[13] Many times the conception of refugee law as an obsolete institution of human rights protection has been criticized by scholars (Hathaway, 1997; Tuitt, 1999; Warner, 1999; Sztucki, 1999). Tuitt (1999) asserts the asylum law could be manipulated by states in order to fulfill their political aims of controlling the migration flows into or through their territories and to combat against inflows of 'unwanted' immigrants. Thus, the asylum law does exactly the opposite – it becomes a subtle tool of a Government for creating not only asylum and integration policies but also politics and contested practices for managing the immigration, for securitizing the borders and to some extent, for excluding specific categories of 'undesirable' immigrants and asylum seekers (Vukov, 2003). All this reveals inequalities inherited in legal systems, and power relations between its implementers and those subjected (Starr and Collier, 1989). Interactional perspective of legal anthropology emphasizes law is not passive document, but active discourse and instrument for groups to exercise power (Mundy, 2002). In this sense I propose to understand the law as discourse; within its contested interpretation by many actors, and its

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[13] Weiss and Colins (1996:128) stated correctly "the persecuted are guaranteed the right to seek asylum but not to obtain it: it is sole prerogative of the recipient state to recognize refugees and grant them asylum on its territory". In this way, the state could justify the low rate of status recognizing by "hiding behind the narrowest possible interpretation of Conventional definition of refugee" (ibid).

instrumentalization by those with power and authority, for the purpose of governing and controlling population. To what extent is this applicable in Croatian case is to be analyzed later.

2.2   Governmentality and control over the 'threatening' categories of immigrants

Interpretation of asylum law by state officials and stakeholders does not happen in social and political vacuum. The implementation of the law is embedded in specific legal, political, social and cultural context. Discourses being used when discussing the law connect asylum issues with the notions of security, abuse of welfare system, and questions of national identity. Steiner (2000:56) emphasizes the power of discourses in construction of social and political realities of asylum seekers between "national interest, international norms, and universal morality". Not only the media and public sphere but also the law becomes a field for the material and ideological production of identities of asylum seekers. The categorizations of asylum seekers constructed within connotative fields become a pretext for the controlling techniques in dealing with immigrants and asylum seekers.

Employing Foucauldian governmentality perspective, I examine how different discourses (could) influence the process of granting the status. An idea of governmentality is not limited to state politics alone, it includes a wide range of control techniques, and it applies to a wide variety of objects, which in the final instance are concerned to control the whole population (Foucault, in Burchell et al. 1991:100-104). Drawing on this idea of the population as an object of governance, particular connotative fields will be analyzed as the pretext in which techniques of governmentality are embedded. Foucault's concept of political power of the state (in Faubion, 2000) points to governmentality as the state practice (or a succession of practices) animated,

justified, and enabled by a specific rationality and exercising over an entire population. I consider articulation and reinterpretation of asylum law itself as strategy of exercising political power over category of immigrants, in this case asylum seekers.[14]

Furthermore, that asylum seekers are often perceived as a threat and social problem for the host societies has been well addressed in the literature. The authors such as Bigo (2002), Ceyhan and Tsoukala (2002), Vukov (2002) and Huysman (2006) analyze different socio-economical and political contexts in order to see why immigrants and asylum seekers are more and more subjected to an emerging corpus of negative labels. These labels then become utilized for the expansion of techniques of governmentality and securitization. But as Bigo (2002:76) asserts "immigration does not bluntly become a security problem", so therefore we need to look for the specificities of Croatian context, past experiences and future expectation, in order to understand the categorization and labeling of asylum seekers. But if we look at the context in which Croatian case is situated, one could find in Croatian discourses some of the negative perceptions, as present on global scale.

For the European context, framing the immigration with notions of illegality and criminality was discussed by Duvell (2005). As he argues opening of the borders at the end of the 1980s engendered the vast numbers of immigrants from former "East block" migrating to the West. Only after the initial euphoria and welcome the West European countries started to perceive them as a threat, a danger to the nation-state, its economy and its nationals. In this

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[14] That language and discourses should be understood not only as a means of communication but also as a medium of power was well asserted by Bourdieu (1991). Through 'speech acts' of many actors and stakeholders, categories of asylum seekers in Croatia are constructed and presented in public discourses. According to Bigo (2002:64) "[t]he primary problem, therefore, is ideological or discursive in that the securitization of migrants derives from the language itself and from the different capacities of various actors to engage in speech acts". Immigration and asylum policies are highly connected with issues of 'illegal/irregular', 'undocumented' immigration especially in the context of recent concerns about national security and discussions about loss of state border control (Loescher 1993:126, Düvell, 2005:19-34). Concept of governmentality suggests that instrumentalization of law becomes one of crucial mechanism for securitization.

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constellation "criminalization of refugee flows" takes place, and immigration and asylum issues are often related to discussions on organized crime (Humphrey, 2003; Ceyhan and Tsoukala, 2002), smuggling of people (Nadig, 2002), drug trafficking (Duvell, 2005). Ceyhan and Tsoukala (2002:22) analyze how immigration into Western countries in the *last decade* has become associated with crime, unemployment, social exclusion, discrimination, racism in public discourse: "Introduced in public debates as a political hotbutton topic, migration is thus transformed into a threat not only to the state but also to the security and the identity of host society".

How refugees and asylum seekers are perceived as potential terrorist in the post 9/11 era has been discussed by some scholars (van Selm 2003, Steiner 2003, McMaster 2002, Huysman 2006, Vukov, 2003). What was in the post WWII period welcomed as needed labor force of guest-workers in some European countries now has become perceived as the disruptive element for the security and identity of the Western states (Ceyhan and Tsoukala 2002, van Selm 2003, McMaster, 2002). Vukov (2003) upholds similar view: "Framing immigration as an implicit security concern, the [state] policy articulates a whole new series of categories of 'undesirable immigrants', particularly the very broad and undefined category of terrorism".[15]

As a particular 'type' of *strangers* (Simmel, 1950), asylum seekers are *labeled* (see Becker, 1973) and *stigmatized* as threatening immigrants. The stigmas (Goffman, 1963) immigrants carry on, or resist to, become a ground for exercising varieties of techniques of securitization and legal and social exclusion in host societies. Immigrants become a sign of danger, an "inverted image of good citizen" (Bigo, 2002:70), those categories of people who enter the country 'illegally', 'irregularly', 'undocumented', and for that matter represent factor of

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[15] In the post 9/11 world it is easily to imagine that many "Third World" immigrants who come onto European borders become suspected and subjected to various securitizing treatments of control, especially those of Muslim religious belonging.

uncertainty and insecurity for the nation (McMaster, 2002; Huysman, 2006). Prevailing images that portray asylum seekers as illegal or irregular, undocumented immigrants, who cross the borders without documents, are reflected in tighten European politics of control and securitization of borders, in the last decade (Duvell, 2005; Huysman, 2006). Helton (2002:165) stresses how "asylum is coming under increasing pressure by states which are concerned about the arrival of unauthorized migrants and ability to distinguish them in a timely fashion from genuine refugees".[16] According to the Croatian asylum law, an asylum applicant will not be penalized for the illegal and undocumented entry, but the question remains open whether this *irregularity* could be used for discrediting of their claims for status.

2.3   Debates over the genuine vs false asylum seekers

Refering to UNHCR report (2000) on situation of refugees, Marflee (2006:12) states: "[w]hat was once perceived by the receiving countries as a refugee flow is redefined as a movement of economic migrants." Scholars have argued how asylum seekers also become conceived as economic immigrants 'in disguise', *false* asylum seekers: "Governments frequently issue generalized blanket rejections to asylum seekers on the grounds they are all 'economic migrants', not political refugees." (Loescher, 2002:96). While in the previous section I indicated the patterns of connecting the asylum issues with control of the immigrants perceived as a security, political and physical threat, here the notions of insecurity are correlated with economic rationalization and idea of constraining the benefits of welfare state for foreigners-abusers. Ceyhan and Tsoukala (2002:34) argue "[there has been a] reversal of the image of migrants and

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[16] However, this perception is foremost applicable for the conditions in the countries of western democracies (including Australia and South-East Asia), according to increased immigrant inflows over the last decade or two. Not assuming the other areas are immune to these conceptualizations and labeling patterns, I map prevailing patterns applicable for Croatian case, by contextualizing it in broader frame.

asylum seekers in the public space… The securitarian debate focused on asylum seekers perceived as false applicants. They are said to be migrating for economical reasons and to benefit from the welfare system**.”** Similarly, Joly (1993:118) states: "Perhaps they [governments] like to believe that many asylum seekers are false, thereby conjuring away the need to accept more than a small proportion of total. Finally, many governments have yielded to certain strands of public opinion which favor control over all immigration, particularly in times of recession." One possible explanation of official attitude of the Croatian state to not grant more statuses may lay in the idea that government very often uses narrative about problems one society in transition goes through, namely – higher rate of unemployment. Thus, state politics of reception of immigrants and recognition of refugees become highly politicized and disputed controversial topics.

Getting back to the idea that interpretation of the law is a specific discourse, which perpetuates the fixity of the refugee definition, stated in Geneva Convention, many scholars have challenged the idea about necessity of distinction between *economic* as false, and *political* as genuine refugees. A doubt that someone might be politically persecuted and in the same time driven by economical motives has been addressed in refugee studies (Joly, 1992; Loescher, 1993; Malkki, 1995; Nyers, 2006; Bigo, 2002). Very often is hard to distinguished between political and economic reasons of fleeing, and as Joly (1992:94) emphasizes "most asylum applicants are fleeing mixed situations involving violent conflict, economic hardship, and political uncertainty." Indeed, poverty and political oppression very often go along simultaneously, as Malkki (1995) suggests.[17]

No doubt, a State still plays important role in shaping structural preconditions for migration flows. But as Zolberg et al. (1989:260) have noted correctly, it is all too easy to

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[17] Malkki (1995) stresses that conditions of exile from the country of applicant origin, are still conceived as the main factor whether the person could apply and be recognized by the other state.

oversimplify the relationship between poverty and refugee movements: "The simple notion that poverty produces refugees is inconsistent with the fact that situations of extreme economic deprivation usually have not generated population outflows claiming international refugee status"[18]. Significance of this debate for the Croatian case is consisted in the fact that huge majority of asylum seekers are rejected *since they could not have proven being 'genuine'*, but rather economic migrants, as the Ministry asserted. I will challenge this presumption relying on debate in existing literature and analyzing discourses of many actors involved in Croatian asylum system.

2.4   The media, public and notions of national identity

In line with the aforementioned discussion, Brettell (2000:50) emphasizes correctly that "all migrations include elements of choice and pressure". Economic migration could have some coercion and not all forced migration is without calculation, planning and decision-making. The process of forced migrations could be mediated by 'push' factors, essentially by fear of some form of persecution, a threat to life and freedom of the individual. But it is almost an unspoken rule that one could find in some extent in the media of European countries (see Baumgartl and Favell, 1995) that asylum seekers are not real victims of persecution, but simply economic migrants in disguise.

Immigrants, refugees, exiles, and expatriates are persons who cross borders more or less permanently (Gupta and Ferguson, 1997:34). They stress that politics of 'Otherness' are not reducible to a politics of representation, and that anthropological concepts of 'culture' and

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[18] Presuming that failed economies generally mean weak states, with lots of human rights abuse, and the non-protection of citizens Nyers (2006) comes with one very daring idea. He proposes to reconsider 'forcible displacement for economic reasons (a kind of well founded fear of poverty)' into legal definition of refugee, and as such, to become one of the grounds for the protection to be granted.

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'difference' could be appropriated into *the repressive ideological apparatus of immigration law* and could be followed by the popular, mostly negative, perceptions of "foreigners" and "aliens" in public. Public perception of asylum seekers as undesirable immigrants are socially and culturally constructed categories within different connotative fields of security, national and ethnic belonging and economic opportunity issues. These discourses have profound effect on level of social inclusion/exclusion and implementation of integration policies (Ceyhan and Tsoukala, 2002:35).[19]

For the analysis of categorizations of asylum seekers as a threat and social problem for Croatian society one more perspective should be addressed. Considering the first status approved, it is necessary to address gender perspective on asylum issues. Since women and children are becoming increasingly percentage of the whole migrant and refugee population Spijkerboer (2000:113), it is important to look how different strategies of governmentality refract on the gender basis. And secondly, related to Croatian case, I discuss what category/image of asylum grantee the Ministry needs to present to public in order to justify the first status granted. Malkki (1995:11) suggested that "the visual prominence of women and children as embodiments of refugeeness has to do not just with the fact that most refugees are women and children, but with the institutional, international expectation of a certain kind of *helplessness* as a refugee characteristic".[20] This actually very much corresponds with the discourses and practices of 'humanitarianism', 'emergency solutions' and 'crisis management' that have been criticized by

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[19] Saying this is not to negate there are alternative portraying of asylum issues presented by non-state actors, such as NGOs, academic scholars, advocacy and support groups. But this thesis confront with prevalent discourses present within dominant political structure in comparison with opposed, or complementary discourses brought by non-state actors and the media. Here the focus is on institutional strategies as "mediators of exclusion and xenophobia… as more subtle forms of exclusion intertwined in the discourse of society" (Hjerm, 2001:43).

[20] Pupavac (2006:14) writes: "Typically the pictures [of an asylum seeker] will be of a helpless woman perhaps with a child. Men are out of sight, only reappearing as economic migrants, bogus asylum seekers or human traffickers." Moreover, Vukov (2003) demonstrates; the articulation of immigration with questions of sexuality, fertility and management of bodies, is also drawn on Foucauldian idea of governmentality. Therefore, it is implied in some literature that women are more likely to be/become category of desirable refugees and immigrants, rather than men.

many (Kumar Rajaram, 2002; Nyers, 1999, 2006; Malkki, 1996; Bigo 2002). The social construction and moral imagination of refugeeness, as well as humanitarian discourse is itself a by-product of the securitization process (Bigo, 2002:79). It is important to see how these socio-cultural discourses influence the interpretation and implementation of the law, as well as strategies of governmentality.

Moreover, as it will be discussed later, it is relevant to think why does the Croatian state need specific sort of image or identity of asylum seekers. The Croatian state's efforts to categorize asylum seekers according to gender, nationality, religion, their intentions, reveals as a necessity for maintaining a particular sense of Croatian national identity. Katunaric (1997:17) writes: "[t]he Croatian national identity was gradually formed within a more limited and realistic political framework and it became more exclusive, self-referential and antagonistic." Through political and social discourses and practices of dealing with asylum seekers, nation, as *an imagined political community* (Anderson, 1983), shape and foster the symbolic boundaries around *Croatian national being* (Kale, 1993). Existing literature of nationalism studies point further directions one could follow in investigations of identity and nationalism issues (Brubaker and Cooper 2000, Smith 1991, Bellamy, 2003). For the purpose of this thesis it is convenient to address these issues in order to better understand embedding of the contested law implementation, particular strategies of governmentality, and peculiarity of discourses on asylum issues in Croatian society.

Relying on the literature that ties different disciplines, I map specific theoretical background that has to be appreciated when discussing asylum in Croatia. Acknowledging the legal anthropology approach I will discuss about contested law implementation. Within Foulcadian perspective I analyze peculiar strategies of (non)governmentality. Media and

nationalism studies theory allow me to tell something about public discourses, labeling and categorizations as well as national identity problematic. I will try to bridge these approaches connecting them within broader literature on asylum and refugee studies. In the next chapter I discuss methodological approaches and strategies needed for this research.

3. RESEARCH STRATEGIES AND METHODOLOGICAL APPROACHES

After discussing some of the possible theoretical approaches and concepts employed, in this chapter I discuss the methodology used for the investigation of the phenomenon of only one recognized case and for analyzing strategies of (non)governmentality. As it was indicated earlier, for the understanding of complexities of strategies for dealing with asylum seekers in Croatia, one has to acknowledge the role of many actors. The major methodological approach in this thesis is qualitative analysis of discourses. For this matter I use two specific methodological techniques; an interviewing and the press-clip analysis.

In order to collect information needed, seven semi-structured interviews were conducted during April 2007, in Zagreb and Kutina. Two interviews were conducted with two Ministry of Interior representatives; the Head of the Asylum Section and the Head of the Asylum Seekers Reception Centre. As the main actors, Ministry's representatives have provided necessary and useful information on asylum procedure, statistics, and implementation of the asylum law. The Head of the Asylum Section, as the first instance was the most important respondent, for understanding of legal and political aspects of asylum issues in Croatia. The Head of the Asylum Seekers Reception Centre was an important respondent for gaining information about reception, accommodation, and integration practices for asylum seekers.

Bringing the perspective of non-state actors I was curious to get an insight into alternative, competing or maybe even complementary discourses on asylum issues in Croatia. Two interviews were conducted with members of the Non Governmental Organisations, Croatian Legal Centre (CLC) (with the coordinator of program providing feel legal help for asylum seekers) and the Centre for Peace Studies (CPS) (with an activist actively involved in issues of

asylum in Croatia. An interview was conducted with the UNHCR representative, and also with the Deputy Public Ombudsman (a lawyer involved in the work of Coordination for asylum). In order to analyze the perspective from the representatives of the media I conducted an interview with a journalist who has reported on the topic of asylum, for the "Jutarnji List", a national, daily newspaper. Five of the interviews were recorded. Because of a specific request of Ministry of Interior representatives I was not allowed to record interviews with them, thus I relied on the method of note-taking (see Kvale, 1996).

The thesis does not analyze final decisions made by the Ministry and by the Commission for Appeal. Upon the request of CPS to look over these documents, for the purpose of monitoring of decisions made, access was forbidden by the Ministry. First and second instance final decisions have been proclaimed as 'confident official secret', and as such, inaccessible to the public or interested third parties, not included in the asylum granting process.[21] To me, as a member of CPS team, who planned to work on the monitoring of final decisions, the access to these data was also forbidden. Thus, I rely on data accessible which I find as very reliable sources of information.

3.1   Specific methods and methodical concepts employed

Since the main methodological concern is the analysis of prevailing discourses used when discussing asylum, interviewing is employed as the primary method of investigation. I anticipated that actors being situated in the institutional, state or NGO and international positions

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[21] The Ministry's decision was to some extent justified. The protection of the asylum seeker's and grantee's identity and integrity should be the first major concern in the granting process. Due sensitivity of the cases and specificity of their background and experiences, it is absolutely necessary to keep their identities covered.

would illuminate the issues on asylum from different standpoints bringing attention to some similar issues with more or less distinct perspectives. Interviews focus on the following themes:

a) *The law and its implementation* – in order to see how the law has been interpreted and exercised by state-actors, and questioned by the stakeholders, my respondents were asked to comment on the present law and its contested implementation. I invited them to compare the present law to some regulations in the proposal for the new asylum law. Since non-state actors (stakeholders - UNHCR, NGO representatives, ombudsman) are included in the process of articulating the new law, through commenting on its articles, I was keen to look at the perception of future Law-*implementation,* discussed by non-state actors.

b) *interpretation of official statistics* – all actors are asked to interpret the official statistics on a number of cases according to nationality of applicants and statistics on final decisions. I asked them to comment some peculiar assumptions used when discussing asylum, for example, notions which relate asylum issues with economic migration. In the same time, I analyze their discourses when presenting or commenting on statistics and the first case recognized. This approach helps me to map some of aforementioned connotative fields in which the asylum topic is embedded. A respectful space is dedicated to analysis of discourses around the first recognized case, in comparison with some other rejected cases.

These methods are used first and foremost for gaining the valuable data which will enable me to test my hypothesis. Discursive analysis of interviews helps me to map the field for understanding the law interpretation and implementation, as contested discourse, disputed by some non-state actors. On the other hand, the discourse on statistics provide me with the insights into particular categorizations of asylum seekers needed for subjecting them to various strategies and practices of (non)governmentality.

Foucault has indebted us with understanding of discourses as processes of construing and presenting knowledge, which are inseparable from power issues (Foucault, 1972). Acknowledging his idea, I assert that "asylum issues" *are produced* within discourse(s), and *are subjected* to discourse(s) of diverse actors. To relate the discourses to the practical field in which they are deployed, it is necessary to see how actors use particular categorizations when describing asylum seekers. Furthermore, getting back once more to Foucault's idea of governmentality (in Faubion, 2000:219), I analyze how peculiar categorization of political and economic intention of asylum seekers are employed for justification of strategies of (non)governmentality over asylum seekers population.

In order to analyze the socio-cultural background for the very existence of this strategy, I move from the analysis of discourses on the law implementation and reinterpretation of statistics, to the analysis of the media and discourses within the public. Not assuming these discourses are monolithic, homogenous and unifying ones, I rather suggest that the media discourses and public opinion provide more or less implicit consent to the law's peculiar implementation and strategies of (non)govermentality. Therefore, it is necessary for the state to present to use particular categorization of asylum seekers and present it to the public in order to get positive feedback on their actions and strategies.[22]

I use two more methods supplementary to the discourse analysis in order to see how this reversible mechanism operates. The media analysis incorporates mostly press-clip analysis of news/articles on the asylum issues for the period of 1st of September 2005 till 30th of April 2007 (in sum 20 months). Since lots of press material has been collected I select some of the articles which I find the most relevant to my research. Particular topics were concerned – reports on

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[22] "Discursive activity becomes socially 'real' if it has real social consequences" writes Van Dijk (1997:11). Thus, public and the media discourses expand the space for peculiar law implementation, categorization and labeling of asylum seekers, and particular strategies of governmentality to be exercised.

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official statistics; reports on locating of the Reception Center in Kutina and local public opinion towards asylum issues. However, I especially concentrated on press-clips on the first case approved and some other cases rejected, in order to see which stories were brought up in the public, portraying asylum seekers in specific ways. Some of my respondents were asked to comment on the media reports, respectively, on the reports about the first case of status approved.

Van Dijk (1997) argues the media has power in managing the images to the public, and the potential to shape and to beam the public interest. Therefore, I compare and analyze media reports on asylum issues that captured the most interest of the media, in order to see whether the media present asylum seekers identity, fostering or opposing the prevailing categorizations created by state and non-state actors. This level of analysis show as well how the imagined asylum seekers' identities could be juxtaposed to the perception of Croatian national identities. The contrast of these concepts and identities will be discussed with special concern on discourse analysis on the first recognized case. As suggested, it is necessary to include this sphere in order to map out the preconditions that enable existence of particular law implementation and practices of (non) governmentality.

More then twenty respondents participated in the small survey I conducted in the town Kutina. Kutina is the town located 80 kilometers from the capital – Zagreb, populated with around 15000 inhabitants. On the 1st of June 2006 the Ministry opened the new Reception Centre for asylum seekers, located on the periphery of the town, slightly set aside from the local settlement. All intermingling discourses could be powerful tool for instrumentalization of the law and governmentality of asylum seekers, but the real-life experience of the local population, who

meet asylum seekers daily on the streets, could point to embeddings of these discourses among Croatian citizens.

Evidently, for the purpose of this research discourse analysis incorporates several techniques (interviews, press-clips, survey). Nevertheless, brief analysis of statistics on asylum applications will be presented. These data are included for the more precise illustration of facts and figures about asylum system in Croatia. After presenting theoretical background and methodological approaches, following chapter analyze the data collected in order to test the initial hypothesis.

4. CROATIAN SYSTEM OF ASYLUM – ANALYSIS OF DISCOURSES

Interpretation of the law, asylum granting practices and dealing with asylum seekers have brought lots of contrary arguments and opposing attitudes in discourses of non-state actors. The law interpretation and implementation reveals us variety of intermixed discourses that connects asylum themes with broader issues of immigration policies, national identity and perception and inclusion/exclusion of asylum seekers in society. The first case approved together with some publicly exposed rejected cases was commented by respondents. Analyzing information provided and data collected, I excerpt three research topics as particularly valid; the idea about the *law implementation as particular discourse*, contested by many actors. Secondly, I correlate this scope with the analysis of discourses on statistics, interpretation of which is employed for legitimating the peculiar *strategies of governmentality*. Thirdly, discourses about the first acceptance allow me to analyze *imagining of* particular type of *Croatian national identity*. This scope will help me to see in what particular socio-cultural context these two practices (the law implementation, strategies of non-governmentality) are embedded in. Analysis of these discourses brought together will allow me to understand and explain the complexity of the initial puzzle; that only one status has been granted among many others rejected.

4.1 Law implementation as dynamic and contested discourse

Different discourses used in discussions about asylum systems in Croatia almost always start with the debate about the interpretation and implementation of the asylum law. In this section I analyze discourses on the law implementation in order to see, how it is subjected to

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formal changes and different reinterpretations. I show that the law, as an evidently predominant legal act, shapes the practices of governmentality over asylum seekers population. Many actors stress that law has many lacks and fallacies[23], which could be understood as one of the reasons for its insufficiencies in providing any kind of legal protection for all but one asylum seeker in Croatia.

Although the new law proposal leads to harmonizing with EU acquis and Directives prescribed by the European Council, NGO and UNHCR representatives stressed they have opted for including more than minimal standards stated in Directives. According to non-state actors' words, the Ministry decided to implement only minimal standards and solutions, and not some good practices proven as effective in other European countries. So NGOs fear this would mean even more restrictive interpretation of Convention than presently. One of the novelties that was welcomed by all actors, and questioned by some, is introducing the institution of "subsidiary protection" (Article 7 in the final proposal). As the Head of Asylum Section stated; this institution will bring broader possibilities of protection.

We greet it because specific categories of people the Ministry otherwise would not recognize will get at least subsidiary protection. We think it is good improvement. (…) It could be understood as substitution for de facto asylum, of course, but in this situation with only one recognized case, we hope more people will get at least subsidiary protection. **(CLC)**

Subsidiary protection will arrange help for some numbers of applicants that don't meet the Convention criteria but deserve our help. (…) If this institution was implemented few years ago several cases would have been granted with subsidiary protection. **(Ombudsman)**

All actors welcomed the introducing of "benefit of the doubt" principle.[24] However, these two novelties, which were welcomed, stand in opposition to some new regulations that were harshly criticized by non-state actors. "Speeded up procedure" (Article 56 of the proposal) and

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[23] NGOs mostly have criticized following lacks of the law; non-existence of subsidiary protection, non-existence of 'benefit of the doubt principle', and lack of well defined steps during the conduction of interview.
[24] Principle defines criteria for taking applicant's statement into account as trustworthy, even if s/he can not prove evidences for some facts in his/her testimony.

"Obviously unfounded applications" (Article 61 of the proposal) are disputed, since non-state actors assume that 90% of applicants will be processed according to these principles. In reality, non-state actors assume many of asylum seekers could be perceived as applicants with unfounded claims, therefore their cases will be processed in speeded up procedure with most likely negative decision. In other words, UNHCR and NGO representatives fear that some of the potential applicants will not even have a chance to apply for asylum, or to wait till the end of procedure, because they might be deported before, due to Ministry's discretional decision. Similarly, Loescher (2003:97) argues how states by "adopting restrictive practices and deterrent measures such as making on-the-spot eligibility decisions at the border, want to curb new arrivals." [25]

The role of non-state actors in articulating the new asylum law, which should be entered into force on 1st of July 2007, has been exercised through commenting on proposal and suggesting amendments. Even through this process the law is understood as dynamic, negotiable discourse, the final word will be on behalf of the Ministry authority. Thus, as one of respondents stated; the Asylum law is the *police law,* whose implementation is realized as discretional decision of the highest instances within the Ministry of Interior. In that sense, that respondent asserted, we might think about 'institutional blockade in granting policies', because "officials do their jobs well on all levels, *but* final authority has the final word". Everyone asserted the law's normative dimension is one realm, but its implementation in reality is something else.

We only stick to the Law… We only 'conduct' the law. **(The Head of the Asylum Section)**

The laws are dead letters on the paper if they are not implemented, even if they are inadequate laws. Needless to say that after all improvements included in the new law, its implementation is what makes it efficient or not. **(HPC)**

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[25] This argument could be correlated with one more novelty in the law "Procedure on border or in transit area" (Article 67 of the proposal), which state that "Stranger who expresses the intention for submitting the application for asylum on border-cross point [or transit area – airport, seaport], will not be allowed [in Republic of Croatia] if following conditions are met: (…) application is obviously unfounded or it could be solved in speeded up procedure."

After all, it is a question of interpretation of legal regulation. Ministry perceives Law too formalistically; it is sometimes rather a bureaucratic apparatus than benevolent, assertive administration. **(Obdusman)**

What is missing it is flexibility in law's implementation. Though it is very difficult to decide on positive case but the more flexible reinterpretation and implementation is missing. **(UNHCR)**

"[H]iding behind the narrowest possible interpretation of the Convention's definition of refugee" (Weiss and Colins, 1996), leaves some inconsistencies in providing answer how is it possible for Croatia to balance in the Convention reinterpretation. It is needed to address this problem by looking at the Croatian specific obligations and perceived expectations from international community, first and foremost, the EU. This thesis delineates contours of this approach; many respondents stated that in the process of negotiation for Croatian membership in the EU, Croatia will be pressed to make more positive decisions and "share the burden". Unfortunately, what analysis of some scholars show - international norms and sense of morality can enable a state even to tighten asylum system (Steiner, 2003; Hathaway, 2005). From this perspective, peculiarity of Croatian asylum system and future projection of more cases granted leave ambiguous feeling towards providing of protection perceived as some necessary *compulsion for the state*. As indicated by Aleinkoff (1995) and Soysal (1998) it is possible to have such a huge gap between internationally proclaimed values on the one hand, and implementing standards of particular states on the other, exactly because implementation of asylum and refugee laws continues to be tied to the specific nation-state and its institutions.[26]

In my respondents' answer it was clearly apprehended the possibility that new proposed law, could make more difficult the point at which a person could even apply, if not be granted with status. And the risk is evident; it is possible to imagine that many of really persecuted persons will not be able even to apply for the status, if more restrictive regulations will be

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[26] We can see in Hathaway (2005) and Tuitt (1996, 1999) that the refugee protection regime is criticized of being state-centered, going more for protection of states (from refugees), than for protection of refugees.

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applied. Non-state actors uttered their doubts about these new regulations which tend to make asylum granting policy even *more restrictive*.[27] Some of the new regulations convey new ambiguities. However, exercising the Law, first and foremost by very act of making final decisions, several arbitrary decisions of the Ministry of Interior were disputed and questioned by UNHCR, and NGOs. Debate on the law interpretation and implementation show; the law could be also understood as dynamic and disputable discourse, but the boundaries of power relations and authority for its final implementation are visibly drawn.

In this constellation of power it is possible for the law to be implemented in particular manner allowing peculiar control over asylum seekers. Rejection and detention practices could be understood as extensions of govermentality and securitization of immigration, as Bigo (2002) suggests. In this sense 'instrumentalization' of the law, through its rigid interpretation and introduction of more restrictive regulations becomes one of the tools of governmentality (Hunt and Wickham, 1994). For further elaboration of this idea in Croatian context it is necessary to discuss perception and categorization of asylum seekers. The way how asylum seekers are perceived and categorized by many actors, will tell us about the background in which they could be subjected to specific forms of (non)governmentality.

4.2 Perception and categorization of asylum seekers through the interpretation of statistics

This section discusses how discourses over interpretation of statistics disclose perception of asylum seekers in Croatia, by Ministry and non-state actors. Particular discourses engender

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[27] It is not specificity of the Croatian state to be in position to interpret the law narrowly. Within European context "the calls to harmonize asylum in Europe, to uphold the UNHCR definition of a refugee, and to fight asylum abuse for the sake of 'real refugees' are excellent examples of a state's ability to tighten control over asylum and to limit the number of people it accepts as refugees". (Steiner, 2003:192)

arguable conceptualizations about genuine intention of applicants when seeking for asylum. Also, discourses tell us about imagining of Croatian geographical position according to migratory trends. Nevertheless, they pinpoint on governmentality practices of (not) dealing with asylum seekers. Statistics are presented in order to situate Croatia in the broader European context.

The Ministry's Head of the Asylum Section emphasized decreased number of asylum seekers in the EU as well as in Croatia. She stated that out of all number of asylum applications, 7% - 11% are approved on EU level, which is actually in disparity with data provided by UNHCR and EURODAC. UNHCR (Statistical yearbook 2005) and EUROSTAT assess that Convention recognition rate amounts to an estimated 27 % of all decisions taken during 2005, while the total recognition rate (some sort of status granted) raises up to 36 % at the global level. In European Union about 22% of individual refugee statuses were recognized and 17% granted with other kinds of protection, in sum 38.65%, for the year 2005. Comparing to number of asylum applications in EU countries (see the appendix, Table 3), Croatia has relatively small annual rate. But if we look at the general statistics about positive decisions (which is 0.13% of all applications, starting form 1997), Croatia ranks very low among European countries. Even if we consider that out of 88 cases in 2006 this one approved makes 1.14% of approvals in 2006, it is still low rank.

According to Ministry's representative 95% of immigrants who enter Croatia have no documents of any kind. Due to Ministry's assessment, 95% of migrants and asylum seekers have some plan, some goal to reach, before they departure; their journey is to some extent previously organized. Migrants are well connected and informed from their friends or relatives who already reached the West. What is stressed here is that 'immigrants', influenced by 'push' and 'pull'

factors use 'social networks' (see Castles and Miller, 2003) in their attempt to emigrate, and this model is perceived as transposed to the 'movement' of asylum seekers. This point of view is arguable, but it is not hard to imagine that potential asylum seekers leave their homes for diverse reasons, under various conditions, and using different strategies to flee from persecution. As Brettel (2000:50) emphasizes correctly "all migrations include elements of choice and pressure", thus the forced migration, too.

When asked to comment on the statement of Deputy Minister[28] that those who seek asylum in Croatia can not prove fear of being persecute and generally are economic migrants, the Head of the Section for Asylum confirmed that as the fact. She added that many of asylum seekers leave Croatia before final decision is made.[29] In her opinion, the very fact of relatively small number of asylum application illustrates Croatia as being *transit country*, and huge majority of asylum seekers as being illegal migrants pulled by economic reasons. In her words, asylum seekers' credibility is disputed according to fact that many of them seek for asylum when being caught in attempt to enter illegally Slovenian border, moving towards West. In that sense it is just 'buying time' for them, before the final (presumable negative) decision and final deportation. Answers provided explain the fact of insignificant number of recognition from Ministry's point of view. However non-state actors explained the phenomenon as follows:

Statistics illustrates three things; there is no guarantee of justice procedure, since one can not monitor Ministry's decisions. Secondly, Croatia has restrictive politics of granting asylum. Thirdly, there is no sufficient public pressure on institutions to make more positive decisions. (…) It is obvious there is broad agreement on state level to restrictively reinterpret the Convention, approving status only for border-line cases, when it could be visible that otherwise we break convention. (…) I believe that many of them don't meet the narrow criteria for Convention, but it can not be 99.5% of them are economic migrants, the statement one could hear over and over. **(CPS)**

There were some cases before for which we assumed they should be granted with status. Unfortunately, applicants did not wait for the second instance decision [appeal before the Commission] and many of them did not even wait till the first decision, but left the country. (…) In last ten years there were cases of applicants rejected in Croatia and

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[28] Jutarnji List 01 Feb 2006, p11, "From 1997, the Ministry has not approved the status."
[29] The Head of Asylum Section asserted it is sometimes hard to distinguish between political persecution and economic driven motives, but during the procedural interview many of asylum seekers admit they just wanted to arrive in western countries.

then granted in other countries of Western Europe so the statement that all of them are economic migrants is incorrect.[30] According to what we know there were genuine refugees, at least those who were recognized by us.[31] (...) Moreover, some of asylum seekers rejected in Croatia, later were granted with statuses in some other European countries. **(UNHCR)**

The fact that some of asylum seekers rejected in Croatia, later were granted with statuses in some other European countries, is contrary to EU policy which goes for the prevention of 'secondary movement of asylum seekers' (see Legomsky, 2003). CLC and ombudsman asserted there were four to six cases for which they assumed applicants should have been granted, but unfortunately, the persons left the country before the first instance decision so accordingly their applications failed/ceased. Non-state actors assume many of asylum seekers do not know much about Croatia, and that many of them crave to get into EU, which could support the idea that Croatia is still mostly transit country. Nevertheless, this perception of Croatia being a transit territory for almost all asylum seekers was questioned by Ministry's representative himself, illustrating a different perception of trends present in statistics.

What does it mean Croatia is *transit country*? It means nothing, since that could be stated for any country on mainland. But the thing is that migrants tend to arrive in those countries, where they already have cognates, relatives, or people of same origins and ethnicity. That might be one of the factors why we are not aimed country for them, but who knows, maybe in future we will become more interesting to them. **(Head of the Asylum Seekers Reception Centre,** *paraphrase***)**

We are transit country, first and foremost for the reasons that we do not grant the asylum so easily, which asylum seekers are aware of when apply for the status, or they become aware of during the procedure. After the negative decision on the first instance, or on second, they look for the chance to move towards West, and they do leave. In official discourse, this is emphasized as an excuse for not granting statuses to those who might have met the criteria. **(CPS)**

While Western Europe continues to tighten its borders, it is obvious that numerous immigrants, who are transiting to their aimed destinations, will be trapped in Croatia, if caught in irregular border-crossing. Like in past, some of them will ask for asylum, if the asylum

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[30] Several times UNHCR criticized the Ministry politics towards not granting practice, pledging for more recognitions, especially of Iraqi nationals, like one could find in article brought by Jutarnji List ("UNHCR – Croatia is unwilling in asylum granting". 24 Mar 2007)

[31] Before the Ministry's first positive decision, UNHCR approved, so called, UNHCR mandatory refugee status to one person form Sudan, one from Afghanistan, and to one six-member family from Kosovo. All of them had later been resettled to Western countries.

mechanism is the only one available as suggested by Helton (2002). Discourse analysis on interpretation of statistics unveil the prevailing perception of asylum seekers as economic migrants 'in disguise', for whom Croatia is mainly a 'transit country' on their way to West, and who accidentally 'found themselves' on Croatian territory. But if this assumption is true, then how to explain the fact asserted by UNHCR representative that in the past there were few cases that deserved to be granted, and after rejected, some of them were granted status in other European countries? Ministry did not have an answer on this question.

As addressed by scholars (Joly, 1992; Loescher, 1993; Malkki, 1995; Bigo, 2002), blurred line between refugee movement and 'economic immigration' constrains possible responses for refugees. In Croatian case, these presumptions about false nature and economic intentions and motivations of asylum seekers perfectly meet the criteria from the asylum law, ones that negate the status to those who are driven by economical reasons. Since the final decisions are inaccessible for the public, it is hard to say in how many cases the Ministry made wrong decisions, but at least few of them were disputed by non-state actors.

Acknowledging this fact it becomes interesting to look and to analyze the first case recognized to see how it fits into this categorization scheme. Moving further to the next section I like to discuss about significance and specificity of that case dismantling various discourses built around it. I get back to statistics in the final sections in order to see how what it could be employed as a tool of (non)governmentality.

4.3   The first case approved – more desirable and less threatening refugee?

The first asylum status was approved on 15th of November 2006 to one 27-year old girl from Sudan, who was persecuted for the religious reasons and having a fear of genital

mutilation.[32] The Ministry sensibly presented information paying attention to the sensitivity of the case and omitting the name of the person for the protection of her identity. In the official statement one could recognize multilayer of entangled discourses in that document, which describes what it is like to be a Christian (precisely, Catholic) girl, raised up in 'radical *as* hostile Muslim environment' (my term).[33]

The first decision was warmly welcomed in public. This very first case was greeted by all my respondents; all actors agreed, no doubt, the applicant totally deserved to be granted since many criteria for positive decision were met. Not questioning this particular case, which all agreed is a 'clear case', non-Ministry actors were rather debating about context in which decision was made, the reasons for peculiar articulation of the statement and some controversies that were brought up in the media about this first case. UNHCR and NGO representatives stress the very act of granting asylum to somebody is always a political attitude/decision, but the question was whether the Ministry has had the attitude that the very first should be granted to a specific and 'clear' case, like this one. They emphasize this trend should be continued not only for justifying the basic statistics, and presenting Croatia as the follower and (minimal) implementer of international norms.

It was very convenient since she is a woman, catholic, that has means for life here, all which contributed to the attitude for positive decision made. Nevertheless, she deserved the protection. (…)The Ministry has found one very good example, paradigmatic case of the refugee. (**CPS)**

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[32] At the beginning of official document Ministry stated (my translation): "Ministry of Interior of Republic of Croatia made a decision with which the right (status) of asylum was approved/granted. An application for the status was submitted by female person from African territory, for the religious reasons and for reasons of genital mutilation."
[33] Further precise information and 'facts' presented were articulated in peculiar tone. Paraphrasing the statement, Sudani-girl was insulted in school by professors and pupils, who had offended and insulted her, telling she was an impure person, a heretic who wears a cross. Instead, she was pursued to wear a veil, convert to Islam, praying and visiting Church was forbidden for her, and so on. I would like to quote final part of the document (my translation): "According to that [her statement], fact is established that in refugee's country of origin [Sudan], different measures of islamization are conducted. Churches are often shut down, destroyed, or their construction is not even allowed (…)." The rest of the document brings not so detailed description of genital mutilation practices as "deeply rooted tradition of her country of origin".

Obviously, she is a perfect prototype of the refugee, which contributed to making the positive decision. But such a perfect cases are not many, so I hope that it won't be the only practice for search for these cases in future. **(CLC)**

Official statement was also disputed by many non-state respondents as a bit inappropriate. Going into details which oppose the idea of a Catholic being persecuted by 'intolerant Muslim', Ministry probably expected to get public positive reaction of public, on this first case, as it was argued by NGOs and the journalist. In this case, sort of positive discrimination was exercised since majority of Croatian population could have 'identified' itself (on basis of same-religion belonging) with her case. Though, that feeling of togetherness is strongly opposed to biased images of 'other', of stranger, who, being male, criminal, economic migrant, persecutor, etc, is perceived as a threat.

The tone of formulation is a bit questionable. For my personal taste it was not so properly and tactically articulated, with slight potency of fostering prejudices of already present antagonism between Christians and Muslims, existing during the centuries. But it is not insulting or disputable either. **(Obdusman)**

It is arguable articulation; the Ministry wanted positive reaction of public, they [officials] knew they would gain emotional empathy and compassion of public. That's why they emphasized solidarity on religious basis with her… With articulation as such they tried to protect themselves against possible additional questions from the media. **(Journalist)**

Two months after the case was approved there were some insinuations in the media[34] which relates this positive decision with the influence of the highest political structures for this case to be granted. As one of the non-actors stated, the applicant already had lived in Croatia with a relative and even had a job, before she applied for asylum. Therefore some journalists questioned the regularity of this first case. The Ministry representative did not negate these facts, by saying that Croatia was the aimed country for the asylum grantee, and that case met the criteria stated in the law.[35] Discourses of different actors reveal again highly politicized

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[34] Glas Istre, 08th Jan 2007: "Truth in exile"

[35] Ministry representative said that the first approval was not 'political decision per se' since the person fulfilled the criteria of the Geneva Convention, thus, there was no doubt she deserved the status. The Head of the Asylum Section does not find the tone of the statement questionable in any sense, since the information stated presents 'facts

perception on asylum issues. But here is more important to look what this first case could tell us about the law implementation and categorization of asylum seekers.

As it was stated by some actors, it seems that the Ministry has looked and has found 'the perfect case', 'a paradigmatic refugee'. Prevailing cultural image of a refugee as "feminised, traumatized victim" (Pupavac, 2006:1) perfectly fits in this case. On the other hand, in Croatian situation where adult female asylum seekers represent around 11% of all applicants (see table 4 in Appendix), this one case should contextualize in broader context. Distinction between threatening male, economic driven immigrants (Spijkerboer, 2000; Vukov, 2003), and genuine persecuted refugees leads to valid question if in the Croatian case, this repulsiveness to 'undesirable' male asylum seekers serves as one of the ground to approve the status to a woman. This issue was also addressed by some non-state actors. Moreover, the facts that Croatia was aimed country for the applicant (since she utilized 'social network' to come here), and that she has already been employed, were definitely convincing side-arguments for approving the status. But should this be criterion that all other asylum seekers have to meet has been questioned by non-state actors.

4.4   Imagining Croatian national identity

Moreover, further analysis of the official statement reveals us which portrait of asylum grantee the Ministry presented in order to get positive feedback from the public. But more than that, it discloses the imagining of Croatian national identities in relations to refugees as 'others'

and evidences proved in granting procedure'. Media reports on irregularities of the procedure are dismissed as 'media sensationalism and false assumptions'.

standing in opposition to 'us'[36]. As some respondents asserted this first case was welcomed and gained lots of sympathy in the public, because people could sympathize and maybe even 'identify themselves with her case'. And these processes of identification "emerge, crystallize, and fade away in particular social and political circumstances" as Brubaker (2000:47) suggests.

It is easily to imagine that after the war in the 1990s people can feel compassion for someone being persecuted because of his/her religious affiliation. But here I address the idea that this first case could perfectly fit into the scheme of Croatian national identity as *Mitteleuropean* and Catholic in its very essence (Katunaric, 1997:16). As such, the state and the church have always been strongly connected. The official statement was questioned by ombudsman for having "slight potency of fostering prejudices of already present antagonism between Christians and Muslims, existing during the centuries". One part of Croatian national identity was historically built on this antagonism. Starting from the 15th century's fight with Ottomans "Croatian historical narrative contains dominant determinants [and one of them is] a story about *antemurale christianitatis* that had for centuries been 'tatooed' into the consciousness of people…" (Meznaric, 2005:357). As 'antemurale christianitatis', a 'bordering society' (Paic, 2005:322), Croatia has generated vast number of 'everlasting exiles and refugees' (Kale, 1999), and that imagining of Croatian ethnos also has become a part of national narrative. In the last few years, this narrative in Croatian society has reemerged in a new particular form; opposing more desirable refugees against threatening societies they have fled from. By non-systematic and sensationalistic way of reporting on asylum issues the media also contribute to this picture as the journalist himself confirmed.

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[36] Daniel Warner (1997:62) writes that the states today are concerned with "the emotional identification of those within its jurisdiction. To establish that there are refugees and outsiders is to confirm that there are insiders with an identity different from those outside."

Public opinion many times identifies and perceives asylum seekers as illegal and economic immigrants, and these portrayals are present even in media. (...) Negative images of asylum seekers and public stereotypes that they are terrorist, criminals, drug dealers and HIV spreaders which should be detained, imprisoned are in my opinion mostly effects of lack of proper information, and ignorance in general. **(Journalist)** [37]

Nevertheless, in the post 9/11 era old and new prejudices intermix together fostering intolerance towards 'Other'. How these sentiments are unintentionally induced from the institutional level was shown on the case of the first recognized case. Previously discussed issue of categorizing contemporary Croatian territory as only a *transit* area, is also embedded in particular historical and socio-cultural context. The narrative about Croatian hospitality and reception of people in need, and the 'burden' that Croatia had to take with the numerous refugees from Bosnia during the 1990s (Bellamy, 2003), somehow has inverted into a discourse of Croatia being only a 'transit territory', one passing spot for (illegal) *transitients* from the 'global South-East' to the West. As suggested by Feldman (2005:337) many problems to which some Croatian transitional society passes, firstly, higher rate of unemployment, as the consequence of economic restructuring, influence the orientation of the population towards 'our own problems'. Furthermore, there are still some refugees of the war in 1990s living in Croatia, as well as IDPs.

By conducting a small survey in Kutina, where the Reception Centre is located, I was curious to find out what the local citizens, who once could have been and were refugees and IDPs themselves, think about their new-coming neighbours – asylum seekers, whom they can meet on the streets of Kutina. Almost all of respondents were informed to some extent correctly who asylum seekers are and what do they seek for.[38] Feelings of locals towards the asylum seekers and placing the Centre in Kutina, were diverse – in range of attitudes against that

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[37] However, all actors assessed that in the last year the media have reported thematically and systematically on asylum issues, especially after the series of workshops for the media representatives, organized by the Ministry.
[38] All of my non-state respondents agreed that in case of relocating the Reception Centre in Kutina, the Ministry, the media and NGOs have done good job on educating local population and raising awareness and levels of sensibility towards asylum seekers. The media played positive role, in more real and objective portraying who asylum seekers actually are.

decision and negative sentiments, over ambiguous, neutral and disinterested answers, towards more assertive, tolerant and inclusive discourses. However, majority of the latest confirmed the attitude that Croatia has to protect refugees since many of Croatians found protection in other countries. Thereof this imagined paying of historical debt was recognized as the main incentive why the state should provide the protection. Only within this context could Croatian population identify with the first asylum grantee; only through discourses which more or less implicitly employ narratives about imagined Croatian national identities.

That media allow people 'a space of identification' is addressed by Erjavec (2003): "The media foster collective identities the role that labeling and policy play in the building of bureaucratic identities, through which the political system manages and categorizes the other". The reversal effect is the public agreement on governmental strategies of dealing with asylum seekers. Historical narratives become support to the discourses of 'burden sharing', that invokes asylum protection as something imposed, in the situation where we have 'our' own social and economical problems (first and foremost – unemployment). All of these discourses become a soil for particular law implementation and peculiar forms of governmentality over asylum seekers which I discuss in the final section.

4.5 Free to go? Palestinian case and (non)governmentality of asylum seekers

In May 2006, the media was reporting[39] extensively on the case of 13 Palestinians and one Libyan national, who, in an old, rusty boat started off their journey from Libya to finally end up at the Croatian coast. It was one big extended family (four brothers, their wives, and six children), who planned to reach Sweden and settle there. They applied for asylum in Croatia,

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[39] 22.05.2006, Novi list, Jutarnji list, Vjesnik

claiming to be persecuted on ethnic/national basis, as Palestinians living in Libya. According to the Ministry and the UNHCR many economic reasons were intertwined. After the final negative decision, and due to the fact that they were an especially vulnerable group (the oldest brother and his wife were blind and she was in high pregnancy; two children were half blind), the Ministry tolerated them to stay in Reception Centre after being rejected. After a while, the oldest blind couple signed the statement for voluntary deportation in Libya and others, group by group, left the country further west or north, while the appealing procedure was still on.

This example illustrates what happens to some of rejected asylum seekers who can not be deported/returned to their countries of origin; according to non-refoulment principle and assumption their life and freedom would be endangered. On this example one could see how discourses of law reinterpretation and its practical implementation clash with the reality. Even if the law does not define exceptional cases, its implementation, or not-implementation allow some *illegal* acts, such as the irregular border-crossing. But not all rejected applicants, who can not be deported, succeed in leaving the country and reaching the EU. Not having any thoughtful policy for this category of applicants is recognized and addressed as problem by all non-state actors.

The Ministry was criticized by the European Commission because they detained rejected asylum seekers and illegal migrants in some cases more than one year in detention centre. Now it is up to 90 days they are detained, and after that they are free to go, but the Ministry doesn't know what to do with them. We need to develop sustainable solutions for these people without any status. (…) Like with Iraqis, the Ministry will not deport them, but they [officials] do nothing, just close their eyes. We need for Iraqi at least temporary protection. It has to be found the solution for them, at least minimal reception and integration help. **(UNHCR)**

The Ministry has one unthankful role, how to deport person without document and nationality identified, in situation when the government has no money and when a person doesn't want to voluntary return. It was mainly financial reason, why Ministry could not deport some applicants rejected to some far Asian or African countries. **(Ombudsman)**

There is, so to speak, 'politic of ignorance' and sweeping problems under the carpet. Ministry let them freely to cross the border towards west. It is a politic of eyes-closing. **(CPS)**

These applicants who could not fit into law's criteria for status to be granted, and who, as rejected, can not be governed in the sense of detaining and deporting, are left over in the empty

realm of out-of-legal and non-protective status. They are not treated as outlaws or illegals, they are just tacitly tolerated, from time to time detained, then free to go again, to wander around or to cross the border illegally. Governmentality practices towards those who are conceived as irregular migrants and 'false asylum seekers' are especially visible in Ministry's handling of those foreigners, who are detained and seek for status in order to avoid and postponed the deportation. At the end they will be deported if the Ministry ensures the financial means for deportation. However, some foreigners and rejected asylum seekers, due to lack of financial means, due to non-refoulment principle can not be returned or expelled. Outcomes of this situation could be a subject for another research. Here is important to say that NGOs and UNHCR actually opt for the governmental response towards these people. In a way non-state actors seek for governing of these cases but the Croatian government remains indifferent to asylum seekers. Therefore in Croatian case, decision of not-controlling some of rejected asylum seekers who illegally *exit* the country reveals an inverted version of governmentality.

According to statistic (see in appendix, Table 5) it is evident that the biggest number of applicants is from Serbia (until recently Serbia and Monte Negro), fled from unstable situation in Kosovo. Even statistic show that many of asylum seekers came form Middle East of Central Asian countries (Iran, Bangladesh, Pakistan, Iraq, Turkey, Palestina), some of them characterized by war-like and conflict conditions, the Ministry's representative stressed that in individual procedure none of them has proven to be persecuted, and that many of them left the country before the first instance decision. However, it is very indicative what one respondent stated: "There are some categories of people which could never be granted with the status… well, don't ask me why it is so. Look at the statistic and try to guess for yourself." Getting back to the issue of categorization of asylum seekers as a threat, we could see that after discussing some of the

labels impinged upon asylum seekers, the abovementioned statement implies that some of asylum seekers are suspected to be potential social, political and especially economic problem[40]. Huysman (2006:7) writes about 'security as technique of government', where the issues of protection of borders, employment of national citizens, and national identity predominate in governmental debates. On this track and employing Foucauldian lens I suggest that the very same debate could shape the law implementation and strategies of (non)governmentality.

As other respondent stated, the Ministry's policy of *closing eyes* means nothing in practice, since rejected asylum seekers are left on their own and tacitly tolerated to stay and to cross borders leaving the country illegally. Notwithstanding this phenomenon, that the interest of rejected asylum-seekers also needs to be protected was addressed by NGO representatives. An overall impression is that politics of securitization and border surveillance are very selectively exercised; they are top priority when related to governing the entry of illegal migrants, but very loose when it comes to border-crossing and leaving of immigrants further west, like in Palestinians' case. This problem of (not)governing the particular immigrants opens space for further investigation. In this context – idea of Croatia as 'transit territory' reveals very ambiguous and disputable connotations. Even if we could agree that statistics point to asylum seekers' wish to reach the West, this attempt is tacitly tolerated and maybe even encouraged for many of them. And in this sense politic of closing eyes, as implicit choice for not to govern those who want to leave inversely becomes the governmentality of particular kind.

That becomes what I call strategy of (non)governmentality – an active involvement to stay indifferent and passive in dealing with asylum seekers *and* refugees. Only one recognized

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[40] For this matter it was very indicative what one respondent emphasized: "Using the discourses of economic problems and recession, and emphasizing Republic of Croatia has no money for reception of refugees, we constantly marginalize asylum topics, among institutional, as well as public level. And it seems that due to that discourse high institutional level doesn't want asylum to become a top story in public, but rather marginalized side-news. That public attitude could only help in present and future practices of the government." (CPS)

status implies that the state uses (non)governmentality to stay unreceptive towards applicants, exercising deportation as the final solution. (Non)governmentally also becomes the strategy to exclude those who were included as asylum seekers in the first stage, by two processes not including them by granting them with status, and secondly by tolerating their leaving the country.[41] Particular law implementation and interpretation of statistics point to direction this strategy is heading to. The state would let the refugees to become 'our' matter of concern, one day when it will be faced with that *duty*, most likely according to international expectation.

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[41] For development of this idea I am thankful to prof. Kumar Rajaram

5. CONCLUSIONS

This thesis has explained some of preconditions necessary for understanding the phenomenon of only one recognized refugee in Croatian society, among many other rejected cases. Firstly, I have discussed the interpretation and implementation of the asylum law, where the law is seen as dynamic and contested discourse that brings together different state and non-state actors. Secondly, I have discussed peculiar categorizations of asylum seekers as preconditions for the Ministry's strategies of (non)governmentality. Thirdly, I have discussed issues of conceiving and perpetuating imagined national identities, refracted through discourses used in discussions about the first case approved.

As Steiner (2003:181) asserted entangled discourses and rhetoric of "national interest, international norms, and morality" construct and configure asylum system in unexpected ways, in many western countries. NGO respondents emphasized, no doubt, one day Croatia will share the same politics and same attitudes towards asylum issues with other members of the EU, but at this moment, decision to include only the minimal standards for refugee protection into the new asylum law does not point that granting politics will be more inclusive. Though understood as dynamic, negotiable and contested discourse, final word on articulation of the new law still remains within institutional realm of highly political structure. Hence, rhetorical implications of the official (state) discourses are present in the realm of exercising symbolic power through practices of not-granting asylum. Some of the exceptional cases (rejected asylum seekers) who can not fit into legal scheme become the subjects of the state's indifferent tolerance - (non)governmetality.

This complex problem about governing particular population of asylum seekers, and in the same time non-ability or non-willingness to deal with exceptional (rejected) cases, has been justified by employing the discourse about 'transit' character of Croatian territory. Nevertheless, it is arguable to which extent blurred categorizations of asylum seekers as being economic migrants in disguise do the real damage to the really persecuted applicants.[42] How thin could be a line between economic and political reasons of exile, has already been discussed by many scholars. The sharp distinction between (economic) migrants and 'real' refugees is disputable perspective itself, narrowing one's vision and willingness to protect 'people in need'. This thesis has argued how this blurred vision could be used by state actors in order to rationalize law implementation and granting practices particularly. Additionally, imagining of transit character of Croatian territory has engendered specific form of nongovernmentality that focuses on securitization of illegal entries but tacitly tolerates illegal exit for those who can neither fit in legal protective scheme nor to be deported.

Furthermore, that interpretation of the law does not come in socio-political vacuum is shown by unraveling different discourses brought around the first approved case. The analysis to some extent has confirmed the idea addressed in refugee studies literature about perception of women as more desirable and welcomed categories of refugees, opposed to threatening, unwanted male immigrants (Pupavac, 2006, Vukov, 2003). The specificity of the first recognized case has revealed how the perception of persecuted person in the same time shape boundaries of imagined national identity.

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[42] In present situation the Ministry may have 'self-justification' for not implementing the law consistently, or to interpret it too restrictively (due to its lacks, due to relatively small number of applicants, and relatively high number of those who leave the country, before the end of the procedure), but it is still weak and disputable excuse, as asserted by many non-state actors. Even if the harsh reality show that many of asylum seekers leave the country heading towards west, it could be argued whether the non-significant number of recognition is the cause *or* the consequence of their leaving.

There have not been many positive discourses how the system of asylum could be perceived as positive contribution to development of Croatian state, though. (...) But let's all try use positive discourses, let's see how it [asylum seekers] could be good for us, what could we gain form them, learn from them, how we could mutually enrich each others, and why is good to have multicultural, heterogeneous society? **(CLC)**

This statement is the pledge for one perspective that has to be more considered in following period of Croatian society, not only from the state position, but also from the thresholds of broader societal and civil scene. There are many positive aspects and improvements for asylum seekers in Croatia, mainly on level of reception and sensibilization of public. This thesis has not discussed about it or about potential and responsibility of civil society in order to contribute to positive changes in asylum system of Croatia. I have rather looked at the discourses used by main actors and institutions involved in politics and practices on asylum. Hence, I have shown how asylum issues in Croatia are subjected to different treatment, open for different kind of interpretation. Further debate on asylum issues in Croatia should take into account complexity of intertwined discourses used by many actors, in order to analyze different aspects of normative level (law, regulations) as well as everyday reality (implementation, practices) of asylum system. This thesis has opened potential space for further thinking and discussion on asylum issues in Croatia.

One statement written in the final proposal of new asylum law[43] raises some hope in more assertive and flexible asylum system: "Due to introducing new form of [subsidiary] protection higher number of asylum seekers is to be expected. Therefore the expenses are planned for at least 200 asylum seekers per year and for at least ten persons with status granted, whether asylum grantee or foreigner under the subsidiary protection." Does this point to more inclusive system and/or to some kind of granting quota, is to be seen in the near future. Would the new law be subjected to the same sort of interpretation as the present one, depends on many

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[43] Appendix of the Final proposal of the new asylum law (2007:40), under the section "Assessment of funds needed for enactment of the law"

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factors. According to my respondents, it is assumable that the EU will make political pressure on Croatia for making more positive decisions, in order to 'share the burden'. In the same manner, some of non-state actors emphasized that Ministry will have to change its strategies of dealing with asylum seekers by controlling their movements more rigid. Non-state actors argue that the Ministry will be confronted with the EU demand for the prevention of 'illegal' border-crossing into the countries of the EU. According to this perception, it is reasonable to expect that the Ministry will have to change present strategies of (non)governmentality, and start to exercise more controlling and inclusive policies towards migrants, and asylum seekers. How these processes will influence contours of imagined national identities, and how they will affect changing and opening of the Croatian society are some of the questions that will have to be investigated. This thesis has outlined some of the potential fields in which we may look for further answers.

APPENDIX

TABLE 1 Adapted statistical table with the **number of asylum applications in Croatia**

1997	1998	1999	2000	2001	2002	2003	2004 (till 1st of July)	2004 (from 1st of July)	2005	2006	2007 till 27th of April	in sum
1	26	20	23	87	93	59	53	99	171	88	31	**751**
362								**389**				**751**

TABLE 2 Number of **applications in European Union** countries **(EU 27) 2002 – 2006**

2002	2003	2004	2005	2006
405455	**337235**	**268565**	**227425**	**181770**

TABLE 3 **Asylum applications** in 2004 and 2005 in European Union countries **(EU 27)**

Country	Applications 2005	2006	Country	Applications 2005	2006
Austria	22460	24635	Latvia	5	20
Belgium	12400	12575	Lithuania	165	100
Bulgaria	985	700	Luxembourg	1575	800
Cyprus	9675	7715	Malta	845	1035
Czech Rep	5300	3590	Netherlands	9780	12345
Denmark	3235	2280	Poland	7925	5240
Estonia	10	10	Portugal	115	115
Finland	3575	3595	Romania	545	485
France	50545	42580	Slovakia	11395	3550
Germany	35605	28915	Slovenia	1090	1550
Greece	4470	9050	Spain	5365	5050
Hungary	1600	1610	Sweden	23200	17570
Ireland	4265	4305	UK	40625	30840
Italy	9630	9345			
			Total	**268565**	**227425**

TABLE 4 – The number of **asylum seekers** by age/sex (01st July 2004 to 31 December 2006)

Year	Male	Female	Underaged (<18)	Unaccompanied children	In sum
2004	84	11	12	0	107
2005	149	16	16	5	186
2006	70	17	17	1	105
Sum	**303**	**44**	**45**	**6**	**398**

TABLE 5- Overview of the asylum applications in Croatia by nationality of asylum seekers in period from 1997 to 26 Apr 2007 (Ministry's statistics - table adapted)

NATIONALITY	IN SUM
SERBIA AND MONTE NEGRO (till 05 Jun 2006)	81
IRAN	65
BANGLADESH	50
PAKISTAN	47
IRAQ	44
TURKEY	44
PALESTINE	40
INDIA	39
ALGERIA	25
RUSSIAN FEDERATION	25
BOSNIA AND HERZEGOVINA	22
FYR MACEDONIA	22
MOLDAVIA	19
SERBIA (from 05 Jun 2006)	19
LIBERIA	15
SRI LANKA	15
NIGERIA	15
AFGANISTAN	14
ROMANIA	13
SIERA LEONE	11
CHINA	10
CHECHENIA	8
ISRAEL	8
ALBANIA	7
ARMENIA	7
ETIOPIA	7
CAMERUN	7
BULGARIA	5
CUBA	5
RUANDA	5
UKRAINE	5
COTE D'IVORY	4
SOMALIA	4
EGYPT	3

GRUSIA	3
KONGO	3
LIBIA	3
MONGOLIA	3
SUDAN	3
UZBEKISTAN	3
BELARUS	2
GANA	2
SLOVENIA	2
BURKINA FASO	1
BURUNDI	1
CZECH REPUBLIC	1
DOMINICAN REPUBLIC	1
ERITREA	1
GVINEA BISAO	1
CROATIA	1
LEBANON	1
MAROCCO	1
MAURITANIA	1
SYRIA	1
TUNISIA	1
NO NATIONALITY (APATRIDS)	5
	751
IN SUM	

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