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PEOPLE, SOVEREIGNTY AND THE STATE. POLITICIZING REFUGEE ISSUES DURING THE COLD WAR AND BEYOND

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ABSTRACT

The present thesis focuses on the way refugees, as humans outside a particular political community, fit into an inter-state system for which the trinity state-nation-citizen acquired a normative value. Two main objectives will be pursued. Firstly, the thesis will show how the location of refugees in the political discourse highlights the difference between citizen and man, as the fundamental conflict that undergirds the modern system of states. Taking into consideration the way the identity of the refugee was shaped and politicized during and after the Cold War, it becomes obvious that refugee issues have not been treated as a unitary category. Different definitions and approaches existed in parallel and, accordingly different types of relations between the refugee and the sovereign power. Secondly, and closely related to the first point, the thesis will show how the refugee condition can indeed resemble the situation of "bare life", but this is not necessarily and invariably the case. In exploring this problematique, the present thesis will also look into the forms of resistance to sovereign power and ask to what extent the refugee and humanitarian regimes (mainly the activity of UNHCR) can be seen as articulating a resistance to the claims of the sovereign power for full control within its boundaries.

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INTRODUCTION

The problematization of human mobility, and especially the refugee flows, invariably touches upon practices of statecraft. The question of border-crossing humans, not part of a particular political community anymore, raises significant points of inquiry of how humans deprived of this legal and political identity fit into an inter-state system for which the trinity state-nation-citizen acquired a normative value. The focus of the present thesis will be to explore the complex relations between a state's claim to ideal(ized) unity and refugees, as people outside the juridical order in a world of different sovereign entities.

By offering a diachronic perspective on the evolution of the international refugee regime in the 20th century and the way refugees gradually, but irreversibly, became a problem of central concern for states, one of the main assumptions is that refugees are *politicized* in a biased/differentiated manner. In close connection to this, their relation to sovereign power is different. Therefore, the *politicization* of refugee issues, or the way they were transformed into a political category, dealt with and represented in the realm of political discourse, has placed refugees in a particular position in relation to sovereign power and has served different practices of statecraft.

In the discussion on the modern state, sovereignty, citizenship, inside/ outside, the refugee appears as a rather awkward figure in the international system of states. In contrast to an inert and stable configuration of the territorial state, refugees are a dislocation of what is otherwise believed to be the normalcy of life: a *static* and *statist* imagination of the world.

The political instrumentalization of the refugees fleeing the Communist bloc in the first phase of the Cold War defined and shaped the identity of the refugee within ideological and geographical frames. The expected 'utility' of this category of people-in-motion was to be

a constant reminder of the virtues of the West, in contrast to the grand disillusionment offered by Communism.

By contrast, the refugees coming from other areas of the world would be politicized in a different way, through punitive discourses and praxis of demonologist classifications. However, irrespective of this taxonomy, both groups of refugees would serve, one way or another, for different practices of statecraft, by creating and re-enforcing specific representations of the state, identities and images of the citizen-state relationship.

Based on this distinction in the politicization of refugee issues during the Cold War and after, an even more problematic research question arises. Since the relation refugee-sovereign power is different in distinct historical settings and political circumstances, a legitimate question regards the way *the forms of resistance to sovereign power are articulated*. Trying to answer this question can signal a possible niche in the bio-political account on the hierarchical ordering citizen-man and the state.

A deep insight into the way international refugee law developed and the ambiguous responses of states shows that the approaches favored by states could not be inscribed into a single pattern. That is why it is crucial to question how the international refugee and humanitarian regimes, the United Nations High Commissioner for Refugees (UNHCR) and many other non-state actors have intervened and tried to mediate the relation refugee/bare life and the sovereign power or re-negotiate the human-citizen boundaries. The thesis aims at outlining what are the limits of politicization and of the state's (dream of) control. Similarly, it will also look into the limits of resistance.

Methodology and Structure of the Thesis

The chosen methodology for the purpose of the thesis is comprised of both primary and secondary document analyses. The use of international documents relating to refugees is meant to show how refugees are defined and redefined in different geographical settings and

historical circumstances. It will also use a wide array of books, articles, studies which are relevant in the debate on refugees, sovereignty and practices of resistance. For a better clarification, (mainly in the final chapter) there will be many examples and empirical references.

Accordingly, the structure of the thesis is organized in three main chapters. The first one creates a framework for understanding the state. This is a crucial enterprise in the economy of the thesis because the refugee is, as a rule, defined and represented in statist terms and always in his/her relation to the sovereign power. This chapter also looks at practices of modern statecraft and how differences between inside/outside, norm/exception, citizen/human are articulated in the name of a necessary national unity and uniqueness.

The second chapter proceeds with a discussion of the refugee as a distinctly modern phenomenon and the way the refugee experience is tightly locked into the logic of the modern nation-state. It then continues with a more descriptive and historical account of the significance and responses to refugee flows throughout the 20th century, with a focus on the Cold War and beyond. This chapter emphasized the differences in the modalities of tackling, administering and creating identities of the refugees through political discourses and ideological 'battles'.

The third chapter builds on the discussion on the state and the "dual" politicization of refugee issues in order to find ways of evading state full control and of resisting sovereign power. This chapter will focus on resistance at two levels: the grassroots (individual) level and the role of UNHCR, viewed through the lenses of resisting sovereign power. It will include many empirical references to show how the refugee or agencies working on behalf of the refugees could, or have been constrained, in concrete situations to express non-compliance to the sovereign power.

CHAPTER 1 – SOVERIGNTY AND PRACTICES OF STATECRAFT. BETWEEN EXCEPTION AND OTHERNESS

1.1 Crossing borders. The political significance of human mobility

The migratory phenomenon in general and the refugee flows, in particular, reflect much more than a human need to leave one's familiar place to a new, unfamiliar, but more desirable, in a given circumstance, place of living. Irrespective of the nature of the migratory act, economic, educational, political, forced or otherwise, migrants, in a broad sense are first and foremost performing an act which is political in nature. Crossing boundaries is actually leaving behind the territory of normalcy, of the clearly delineated political space that assigns a specific identity, both bureaucratic and political, as well as a sense of belonging, to our lives.

Migrating is, therefore, reinforcing and re-stating the divide between belonging-non-belonging, self-otherness. This is the case because sovereignty of states, one of the underlying and, one might say, sacred institutions of international law, has resulted in a well controlled, ontology-productive project which shaped and regulated an inclusionary space within which citizens became superior in rights and legal/social benefits to other, external individuals, as a result of their mere belonging to the state. In this sense, the sovereign state created a hierarchy, a strict classification of human beings, granting or denying rights according to political criteria. [1]

It is particularly through these formal as well as subtle mechanisms which the state employs that the drama of the refugee is born. Having to cross boundaries in order to escape

[1] There is an impressive amount of literature (mentioned throughout this chapter and the following ones) on the state and the citizen-state relation which discusses this hierarchical disposition and the processes through which the state, as confined territoriality, has demarcated particular spaces of belonging, which are not subject to critical investigation from within. In this sense, the same body of literature puts under scrutiny the position of the alien, the border-crossing human who is not part of the (nation-)state, but becomes, however, part in the process of identity formation, by being the necessary "other" who can re-assert and reinforce the perennial divide between inside/outside.

threats and to seek safety, the refugee phenomenon is one of political concern, in a double sense: firstly, because the nature of the conditions which lead to it is most often political (war, confrontation, discrimination based on political views and affiliations) as well as because of the very context in which the phenomenon takes place: one of separate political entities-individual, sovereign states.[2]

The process through which the refugee becomes an abnormal being, an exception to the perennial rule of statecraft is the permanent reiteration and reinforcement of the idea of fixity and rigidness of the international community of states. Borders, as dividing lines between distinct political entities, are a *sine qua non* feature of the international system and their indispensability derives from the ultimate aim which they serve, i.e. of maintaining and fostering difference.

However, in this sense, their function trespasses the conventional meaning, of being a geographical zone of separation, and reaches an acceptance which acquires a thick moral significance: borders, as delineators of states split the world into sovereign spaces. Likewise, within each sovereign space, individuals are organized and categorized according to their formal belonging to that state. In the same time, the maintainability of a strong sense of individualized identity and distinction from others is possible through a self-enforcement of "we-ness" and denial or distinctness from outsiders.

The next section will analyze the discourse framed and perpetuated around the symbolical meanings of boundaries and also how refugees are created and depicted as a peculiar category; at the origin of this process are boundaries and sovereignty, two categories which have ontologically and epistemologically divided the world and people(s).

[2] Sarah Collinson, *Beyond Borders: West European Migration Policy Towards the 21st Century*, Royal Institute of International Affairs, London, 1993, p 59.

1.1.1 *The Procrustes bed* of the state. Dynamics of boundaries

Discussing the problematique of boundaries and their roles in regard to the issue of refugees is of utmost importance because it is specifically their existence and what they represent that creates and establish an image of refugees as exception. Since the world we live in is dominated by an imagery which constantly affirms the *self-evident normality of states*[3], words like *territory, sovereignty, citizen, refugee, state* are based on a hierarchized classification, on a reification of a dichotomy based on normality and exception. At the top of this hierarchy everything that belongs to the state or is state-like in nature has a privileged stand comparing to what is outside the borders.

This *state-centric imagination of the world* gives the state a particular coherence and mentality according to which, and around which, everything is imagined and positioned.[4] The existence of this order of the world makes the state be the ultimate point of reference and it is only in relation to it that all other things are rendered meaningful.[5]

The mechanism through which sovereignty and borders create belonging and non-belonging resembles in many ways the deeds of the Greek mythological figure of Procustres, the bandit who would wickedly offer shelter to strangers, or hosts. However, all people who would lie on his bed would be stretched or shortened to fit the exact size of the bed. Deceitful enough, the "one-size-fits-it-all" method applied in *the Procustres bed* is similar to the regulatory project of the state. By establishing a perennial set of values and foundations, each sovereign state has set criteria according to which people within its boundaries are subject to a homogenizing scheme which aggregates individuals within certain territorial limits and give them a sense of belonging.

[3] Nevzat Soguk, *States and Statecraft. Refugees and Displacement of Statecraft*, University of Minnesota Press, Minneapolis, 1999, p 35.
[4] Ibidem.
[5] This is an argument suggested by Michael de Certeau, throughout the book, *The Practice of Everyday Life*, University of California Press, Berkeley, 1984.

Similarly, everything that is outside the trinity state-citizen-territory is the non-rule, non-normalcy and is excluded from the rights and benefits that derive from it. Therefore, through such a logic set at play, the refugee is ultimately defined in statist terms. In the words of Emma Haddad, it becomes clear that the international system of states is not only a way of organizing political power, but also a means of organizing people. [6]

The processes of institutionalization and differentiation create the citizen and it is especially through those that the modern state seeks to project and stabilize a specific figure of its subjects[7], on the basis of which it can, in sequence, claim to render effective its sovereignty. Nonetheless, it appears crucial to point to the fact that sovereignty and the fostering of difference cannot be perpetuated in a detached and abstract sense, in an a-emotional environment, but only through attachment and appraisal of the *Prince* (the sovereign power). Therefore, the sovereign power must create a sense of strong loyalty and personal bond to the state, and in doing so, it requires from the citizens not only to assign part of human life to society, therefore give up absolute individuality, but also to develop an unconditional and eternal sense of (inter)dependence and affectionate attachment to the state.[8]

The historical process through which such relations have been tied began with the decline of the religious primacy in political and social life. Following the Peace of Augsburg of 1555, which established the well-known principle of *cuius regio, eius religio*, and the ensuing 'Westphalian momentum' the medieval European order progressively evolved towards one of nation-states. In this way, the previous guiding principle was slowly but irreversibly substituted by an emergent nationalist solidarity. Therefore, *cuius regio, eius*

[6] Emma Haddad, *The Refugee in International Society. Between Sovereigns*, Cambridge University Press, Cambridge,2008, p 48.
[7] Richard Ashely, "Statecraft as Mancraft", quoted in Nevzat Soguk, *Op. Cit.*, p 38-39.
[8] In the well-known *On Liberty*, John Stuart Mill largely debated the relationship of the individual to the political community, which he belongs to. He suggested that human life consists of an individualist part and a social one, the person having to surrender or relinquish part of their lives to society. This trade-off presupposes, however, a reward from the part of the state; this consists of multiple benefits and public goods which derive from life in an organized and politically centralized community.

religio became *cuius regio, eius natio* and the ecclesiastic solidarities gave way to the secular concept of nationality. [9]

As a consequence of such changes, i.e. the bypass of the religious authority in favor of the de-sacralized protection of the political institutions, the individual's attention shifted in great awe towards the state. The (mostly) un-questioned monopoly of the Church over the spiritual side and the survival of the soul were replaced by *the rise to power of the nation-state and the survival of the body*[10]. Furthermore, it is worth noticing that throughout this lengthy process, individuals belonging to different, clearly delineated sovereign spaces were not seduced only by the state-centric discourse, but a new creed in the *nation* became widespread. Therefore, a new man was created: *homo nationis*[11].

Unlike *homo oeconomicus* or *homo sociologicus*, which are trans-historical concepts, *homo nationis* is more recent. *Homo nationis* is the modern product of the emerging global order of nation-states, but only became a truly global phenomenon in the second part of the 20th century. Simply put, it defines the individual *who is born and raised in a particular national culture and who lives most of her life in a nation-state of which he is a citizen*[12]. Being strongly attached to a particular territory and sharing a particular nationality, this individual will have a strongly distinct psycho-cultural specificity, a feature which is not subject to voluntary consent or individual choice.[13] .

[9] Emma Haddad, *Op. Cit.*, p 49.
[10] Didier Bigo, "Protection. Security, territory and population", in Jef Huysmans; Andrew Dobson, Raia Prokhovnik, *The Politics of Protection. Sites of insecurity and political agency*, Routledge, New York, 2006, p 95.
[11] The concept belongs to Andreas Pickel, who claimed that, surprisingly enough, this concept is under-theorized and that is should be paid more attention to in all the debates on globalization. The psychological transformations that the idea of nation and nationality entailed are worth increasing attention because they point to the fact that the nationalist discourse, literature, national economy etc, were able to shape and constitute an individual in a distinct way, as well as to raise a particular type of consciousness and we-identity. Therefore, fostered in a context and history-specific *national habitus*, *homo nationis* is the product of his particular nationality.
[12] Andrea Pickel, "*Homo Nationis.* The Psychological Infrastructure of the Nation-State Order", *TIPEC Working Paper*, *Paper presented at the annual meeting of the American Sociological Association*, 14 August 2004, Available online at www.trentu.ca/tipec/4pickel2.pdf , Accessed: April 2009.
[13] Ibidem, pp3-12.

Also, the nation is the normative basis for a state's claim to legitimacy. Moreover, the bases for "citizenry" are grounded in the existence of a relatively homogeneous group which shares common values, has a sense of its uniqueness, elements of shared culture and a territorial referent as part of its identity and past. [14]

However, this understanding of "nation", nationality or *homo nationis* must not necessarily envisage the nation as a mass of identical citizens, not being able to accomodate diversity. In this sense, the difference that Anthony Smith makes between *territorial nation* and *ethnic nation* is crucial. While the former is mainly characteristic to Western countries and is a product of the fusion of regional groups under a central government, merged under an overarching and trans-ethnic identity, the latter is the materialization of a community based on descent. [15] "Nation" can have shifting interpretations, but the underlying fundament is the strong sense of 'distinct-ness' which is permanently reinforced.

1.1.2 Immobility and practices of statecraft

At the origin of the refugee discourse, as well as of all the depictions of migration, in general, there is a particular process and long-entrenched practice of statecraft. More specifically, what this presupposes is that distinct meanings and identities of the refugee are produced, verbalized, imagined, compared, represented visually and institutionalized. The expected finality of the entire process is to offer the sovereign state new opportunities for its own representation and re-affirmation. In this way, refugees become a category which contribute in many ways to the "vindication" the state, as they constantly remind nationals of the natural(-ized) order of things.

[14] Charley Keeley, "How Nation-States Create and Respond to Refugee Flows", in *International Migration Review*, Vol 30, No 4 (Winter, 1996), pp 1050.
[15] Anthony Smith, quoted in Charles Keeley, "How Nation-States…", p 1047.

By disrupting the tranquil work of statecraft, these de-territorializing acts are a powerful contrast to the familiar statist images and identities on which the state is fundamentally based on: the citizen, the national community, etc. [16] These representations contribute to maintaining a statist image of the world. Within it, the existence of fixed and durable borders and sovereign states appears as a moral necessity and, moreover, as an indispensible condition for peace and security.[17]

The logic of an ossified status-quo appears, therefore, troubled by such instances of mobility. In opposition to a sedentary and stable existence, the language which is employed in the discussion of refugees reflects the major clash between what is the norm and exception: refugees are fugitives, people in motion, who are running, escaping in flows, masses and tides. [18] Such images portray the refugee as an irregularity in the normal course of life and simultaneously serve as a reminder of what is otherwise acceptable.

Nonetheless, such practices of statecraft are hardly ever conducted in a parallel way, the practice of representing and portraying otherness not coinciding with attempts of a profound questioning of the state as such. Therefore, there is an essential imbalance between the representation of the self and that of otherness in this case. In fact, the state maintains an identity of its own, which it permanently reproduces through the representation of the self *through* otherness and never by a deep inquiry and problematization of its own fundaments.

The subtle praxis of the state for conducting such an enterprise is actually, in many ways, a non-praxis, it is remaining in *essential silence*[19] and taking for granted certain hierarchies and relationships of power without ever challenging their axiomatic presence. In this sense, agents and identities such as citizen-nation-state are hardly ever contested.

[16] Rose Nikolas and Peter Miller, "Political Power beyond the State: Problematics of Government", *British Journal of Sociology*, Vol. 43, No2, 1992, p 179.
[17] Nevzat Soguk, *Op. Cit.*, p 50.
[18] Patricia Tuitt, "Rethinking the refugee concept" in Frances Nicholson and Patrick Twomey, *Refugee Rights and Realities. Evolving International Concepts and Regimes*, Cambridge University Press, New York, 1999, p 108.
[19] Nevzat Soguk, *Op. Cit.*, p 40.

Moreover, in representations of migrants and especially refugees, there is a wary activity of statecraft not to mention the state as being under construction, but already existing a priori. [20]

The persistence of sovereignty and the non-passage of the state, despite the circumstances of globalization, is therefore, based on a powerful and *suffocating ontology*[21], one that creates images of truth and instrumentalizes knowledge. The support of this *ontological magic* is constituted by a range of essentialist claims which find sovereignty unproblematic and legitimate[22].

It goes without saying that such representations of the state and sovereignty are many times put to scrutiny and/or contested. However, what is meant by this assumption is that the state, its political institutions and representatives will always convey a representation of the mere existence of the state and its legitimacy as a *sine qua non* condition of normal life, one characterized by order and law. The problem of sovereignty and of a centralized locus of political authority acquired a normative status in international politics.

The nation-state managed to assert itself not as an intrusive and oppressive reality, but as a system of regulation, discipline and ordering in various aspects of social life, in the absence of which human life would be deemed to be chaotic and exposed to haphazard. That is why Anthony Burke is right in claiming that the essence of sovereignty is not only its juridical aspect, but a subtle and enduring political technology which transformed it into complex ontological and disciplinary machinery. This reached the most remote corners of the social world, from economic regulation to the heart of the citizen.[23]

Therefore, the gist in our understanding of the state and sovereignty should depart from the idea that the nation-state is an ontology-productive project, one that created and

[20] Ibidem, pp 49-50.
[21] The metaphor "suffocating ontology of sovereignty" belongs to Emmanuel Levinas quoted by A. Burke in the book mentioned below.
[22] Anthony Burke, *Beyond Security, Ethics and Violence. War against the other*, Routledge, New York, 2007, pp122-123.
[23] Ibidem, pp 126-127.

shaped a specific set of norms and regulations in society, which consequently and decisively 'manufactured', through a homogenizing project, the citizens. The force of such an enterprise does not rest on physical punishment and constraining obedience, but on the ability to create, to make up, the citizens and engage their subjectivities in the exercise of power.[24]

1.1.3 Citizens, knowledge and sovereignty

Bearing in mind this framework of understanding the state and how sovereignty operates, it is very important to highlight one aspect which is fundamental in the assertion of sovereignty: *knowledge*. The discussion of state knowledge and its limits draw the attention to a stunning aspect in the nexus citizenship-belonging. The assumption put forward is that by exercising sovereignty through statistical knowledge, surveillance and the entire *fetishism for 'fact and figures'*[25], the population of the state is included in a system of governance through which a specific reification of people is set into motion by their transformation into categories and classifications.

The 'quantification' of people is nonetheless, not just a bureaucratic and 'objectified' way of administering public policies, but it represents a way of enforcing an idea of the state as an institution of and for knowledge[26] and therefore, create a legitimization of state institutions and their practices of surveillance, data-gathering and monitoring. Mark Neocleous relates the property of sovereignty of being based on 'intelligence(rs)' to the

[24] This particular way of framing the state and the exercise of power, as a set of social relations, not a top-down relation of domination, is developed and explored in great detail by the bio-political scholarship, starting with Michel Foucault, Michael Dillon, Rose Nikolas and many others.
[25] Mark Neocleous, *Imagining the State*, Open University Press, Maidenhead, 2003, p53.
[26] The premise of the state as a political organization which is meant to possess knowledge and govern with the use of that knowledge has its origins in classical political writings on the state, Thomas Hobbes being an example. Life in a state of nature would be not only nasty, brutish and short, but it would also transform into a place where knowledge is not possible. The role of the modern state, in this reading, is that of enabling the realization of *homo sapiens*, of providing a coherent and predictable pattern of behaviour to individuals belonging to certain territorially-bound communities.

Middle Ages tradition of ascribing a "character angelicus" to the sovereign: not really divine, but having knowledge which is above those of the average mortals. [27]

However, the gathering of information about people for the purpose of political administration and the promise of security and protection does not solely credit the state. The existence of a particular system of law as well as the pursuance of certain public, social and security policies, available for the inhabitants of a *particular* territorially-confined state create a sense of "we-ness". In this way, the idea of *homo nationis* is not based only on ethnic or nation-related grounds, but also on peculiar practices of statecraft, in which the cultivation of a spirit of attachment and belonging is pursued through the imposition of a specific political project which clearly differentiates between the status of insiders and outsiders.

[27] Mark Neocleous, *Op. Cit.*, p 51.

CHAPTER 2. POLITICIZING REFUGEE ISSUES DURING THE COLD WAR AND AFTER

2.1 Refugees as a distinctly modern phenomenon

The refugee movements, in the current meaning of the term, have long existed in the history of mankind but it is only after the First World War that a clear attempt was made to deal with this issue at an international level, through international cooperation and a system of rights and obligations incumbent on states. The term "refugee" and "refuge" date back to the 17th century France and the revocation of the Edict of Nantes in 1685. This meant that the guarantees that the Protestant religion had previously enjoyed, were now denied.

Therefore, the Catholic France produced the first modern and large-scale movements of people, mainly French Huguenots. From the late 1670s to the beginning of the 18th century, between 200,000 and 500,000 French Protestants are believed to have fled France as refugees, in order to seek protection abroad. [28] In this way, religion was first the tool for differentiation between insiders and outsiders and a clear indicator of the modernity of this phenomenon as it was intrinsically linked to the birth of the modern nation-state and the attachment of people to a state, in a given territory.

Furthermore, the case of the French Huguenots fleeing Catholic France is a great illustrator of the essence of the issue regarding refugee flows: the end of the universalist vision of the *respublica Christiana* and of the solidarist *universitas* marked the start of a system of separate states. This was the fundamental prime condition for the existence of the refugee category: a pluralist world of sovereign states with boundaries dividing them. [29]

[28] Emma Haddad, *Op. Cit.*, p 52.
[29] Ibidem, p 51.

Thinking about refugees is, first of all, thinking in the frame of an international system for which the nation-state, sovereignty and frontiers acquired a normative value. On the other hand, in the new world which ceased to be united by a great spiritual ethos, a conflictual one arose. Tides of refugees were produced before the 20th century and in a way which might have very well fit the very definition which is given today by the Geneva Convention, but nonetheless, no international instruments were created in order to deal with this problem.

The question of a 'right' to refuge and being recognized as a refugee is invariably linked to the idea of "rights" and the concept of the nation-state. Throughout the 17th, 18th and 19th centuries, documents related to rights and benefits granted to citizens of a country were exclusively conceived of in terms of the status of people within the state and there were no obligations or responsibilities of states regarding aliens.[30] A treatment of protection or granting of asylum could not be expected on the grounds of universal human or political rights. Nevertheless, there was an increasing awareness of the image of the 'disturbing' aliens and their presence as states were developing a greater and greater sensitivity towards national values and belonging.

2.2 Towards an international regime. Institutionalizing refugee matters in the Interwar Years

The international refugee regime is comprised of the conventions, treaties, intergovernmental and non-governmental agencies created and developed in order to tackle the issues related to refugee flows, to support and protect those people displaced from their country of origin. [31] In hindsight, it can be stated that the aftermath of the Second World War created the conditions for a functional and coherent international refugee regime to be born.

[30] Philip Markflet, *Refugees in a Global Era*, Palgrave Macmillan, New York, 2006, p 102.
[31] Charles Keely, "The International Refugee Regime(s): The End of the Cold War Matters", in *International Migration Review*, Volume 35, No 1, (Spring 2001), p 303.

It the light of the relatively fast and successful developments after 1945, the interwar years might appear as a period of very modest achievements. Nonetheless, it is first and foremost the disruptions created in the international system of states after the First World War that first and urgently created the need for a response in the help of people fleeing their countries.

The years following the First World War brought about some fundamental changes in the Westphalian system of states which now compelled states for joint action. The collapse of some highly heterogeneous multinational empires which could no longer accommodate and foster diversity in a peaceful way within their boundaries and the rapid spread of new nation-states brought about mass movements of people across Europe. Added to this, the 1917 revolution in Russia, and then the totalitarian regimes which appeared and gained more and more popularity, made Europe seem, by the early 1920s, *one vast area of moving people*[32].

The exilé or the refugee became an omnipresent category. In the light of a growing nationalist sprit cultivated and encouraged in the new states in Central and Eastern Europe, minorities were faced with many threats. In some cases, ethnic minorities were indeed integrated, but many more were less fortunate. Confronted with huge the uprooting of millions of people, there was a growing need and pressure on states to start dealing with the situation in a coordinated way, at the international level.

Therefore, the international refugee regime has its origins in the years following World War I, in the actions and efforts pursued by the League of Nations. The first efforts in the process of managing refugee flows in Europe were specifically aimed at Russian refugees. The active role of Fridtjof Nansen, appointed in 1921 to negotiate as the First Commissioner for Refugees, had an immense impact on how the Russian refugees, and not only, were received and helped to integrate. Through great diplomatic efforts, Nansen succeeded to

[32] Nevzat Soguk, *Op. Cit.*, p 112.

facilitate the travel and work opportunities of Russian refugees and managed to get the support of several governments for collective and coordinated action.

The functions of the High Commissioner gradually expanded and as the problems posed by refugees in Europe complicated, there were more and more attempts to develop a range of treaties among states to offer protection to refugees. None of these was, however, significant enough to produce durable responses to refugee issues. Despite the inability to develop a consistent refugee regime in the interwar period, this should by no means imply that governments were insensitive to such matters.

Quite the contrary, from its initial start off, the refugee regime was strongly imbedded in the political circumstances in which it existed and could at no point divorce from the power relations and political games which determined the relations between states at that time. This is, perhaps, the main weakness which jeopardized its achievements from the beginning.

Moreover, there was a clear tendency to instrumentalize refugee issues for political purposes, to favor those coming from enemy countries and not from allies. The refugees from the Soviet Union would receive a much more favorable treatment in Central and Eastern Europe than those fleeing a more and more agitated Germany. In the same time, the political climate in Europe and the turmoil that followed with the economic crisis entailed a practice of keeping silence on many abuses coming from states which at that time were vocal in contesting the interstate political order.[33]

It is important to draw attention to the fact that the politicization of refugee issues, both in the interwar years and after the Second World War, did not always translate into a specific *action* of the states in relation to the governance of refugee flows. As the next section will also show, responses are biased and differentiated, sometimes non-action or a tendency to

[33] Gil Loescher, *Beyond Charity. International Cooperation and the Global Refugee Crisis*, oxford University Press, New York, 1993, p 39.

marginalize refugees in the host country being a way of expressing political attitudes and preferences.

In the years following Hitler accession to power, the problems posed by refugees rapidly became of major concern for all Western governments. Jews were desperately trying to escape in hundreds of thousands an oppressive regime, but rarely found support in the host countries. Moreover, countries like Great Britain or the United States explicitly attempted to keep immigrants, be they voluntary or forced, outside their borders, mainly in the circumstances of the economic recession

Despite these unfavorable circumstances, as result of the 1933 Intergovernmental Commission the *Convention relating to the International Status of Refugees* was signed- one of the earliest attempts made by states to codify matters of human rights as binding international law. However, only eight states ratified the Convention and under significant reservations. In theory, the provisions of the Conventions would have been very generous, granting a special status to refugees, guaranteeing them access to public goods and services as well as rights available to citizens. However, in practical terms, it achieved very little and did not manage to decisively improve the condition of refugees worldwide.[34]

In a system of nation-states which would assert the national spirit more and more, which would also be confronted with many claims by ethnic minorities, and a constant pressure from totalitarian regimes, dealing with refugees was first and foremost a matter of necessity not in a strictly humanitarian sense, but mostly in a pragmatic and realist one. Refugees became a great inconvenience for states in the interwar period because, unlike in previous times, the massive outflow and inflow of people was not only impressively great in quantitative terms, but more importantly, they were many times bearers of an ideological message in their mobility.

[34] James C. Hathaway, *The Rights of Refugees under International Law*, Cambridge University Press, Cambridge, 2005, pp 87-88.

Wanting to escape an oppressive regime or simply the territory of a nation-state which had an overwhelmingly different ethnic composition was an act of contesting a certain internal political order or the very basis of the modern nation-state, which has the idea of national homogeneity at its core. Therefore, refugees who were not only viewed as human lives seeking a basic recognition of certain rights and liberties, but as agents of change in an international system that would otherwise tend towards a self-conservation of its structure and relations of power.

To sum up, refugee issues in the interwar were conditioned by two main factors, both of them tightly locked in the system of nation-states and the underlying principle of sovereignty. The first one was the ideological confrontations and, secondly, the re-drawing of the European map, with many groups, especially in Eastern Europe, not fitting anymore within the boundaries of their respective state.

The incipient international refugee regime could not meet the expectations of its advocates but it left some legacies for the following decades, in the sense that it laid the foundations for a different thinking of the role of refugees in international relations. The intergovernmental collaboration which started and developed throughout these years served as a "lesson learned" for the continuation and improvement of the international governance of refugee issues after 1945.

2.3 Continuity and Change. Managing forced migration during the Cold War

During the Second World War tens of millions of people were displaced around the world. The case of Europe was particularly dramatic throughout these years and in the aftermath of the cessation of military hostilities. An estimated number of 40 million people

were uprooted during the war and many of them found themselves without any prospect where to go. [35]

During the war, in 1943, the Western states established an institution with a very specific and limited mandate, of helping people in the territories occupied by the Axis powers. The United Nations Relief and Rehabilitation Agency (UNRRA) had the main task of repatriation of those people who had been displaced during the war and due to the circumstances created by military conflicts and occupation.

Despite helping hundreds of thousands of people, the Agency was soon confronted with an array of crises that jeopardized its activity. The problem of repatriation was not an easy task to fulfill in the situation of growing hostilities between East and West. Many people who were repatriated ended up in Stalin's labour camps once returned to the East. The prospect of being persecuted determined many cases of suicide in the camps, but nonetheless, Western powers were very slow in acknowledging that by repatriation these people were actually being exposed to danger.[36]

Gradually, with the end of the war, the idea of repatriation was more and more contested. On the one hand, most people would simply refuse to go back to their homelands, but in the same time the Soviet Union would claim that the reluctance of UNRRA to facilitate their return was an overtly sign of the Western protest and manifest against its regime.[37] This was a first indicator of the fact that refugee issues were unavoidably a problem which would be trapped in the relations between the West and the Soviet bloc.

Refugees were again a part of an ideological struggle carried on the one hand by the communist bloc and the capitalist countries in the West. Politicizing refugees in the first years of the Cold War reflected the growing tensions between the two opposing blocs and it was a tool of expressing political attitudes and fears of the both sides. Since the Soviet Union

[35] Gil Loescher, *Op. Cit*, p 46.
[36]Ibidem, p 48.
[37] Nevzat Soguk, *Op. Cit.*, p 156.

accused UNRRA of being an instrument of the Western capitalist, the United States, the main contributors to UNRRA' s budget, considered people's repatriation in the East as a diplomatic surrender to Soviet pressure. That is why, not only refugees were a matter of political disputes, but also the international institution meant to deal with them. Therefore, the name of UNRRA became 'contaminated' with a bad reputation since its activity could not operate in parallel with state policies, but was firmly entangled in political games.[38]

With the failure of UNRRA to solve the case of many refugees and the discontent of the United States in regard to its activity, a new organization was created in December 1946: the International Refugee Organization, which changed the focus towards the *resettlement* of refugees, not their repatriation. IRO started its activity in July 1947 and was designed as a temporary agency, which eventually finished its activity in 1951. In cooperation with many voluntary agencies, it substantially contributed to the resettlement of over one million refugees, a large number of them in the United States (around 329,000), Australia (182,000) and Israel (132,000).[39]

The significance of IRO for the activity in the field of refugee protection, in the first phase of the Cold War is highly important because it created a new strand problematization and classification of the refugee. The granting of refugee status was supposed to be done on the merits of each individual case. In this way, IRO opened the possibility of an individual approach, but ontologically, it did not change the substance of the issue: the refugee was still a condition defined in statist terms, in accordance with the *statist hierarchy of organizing life*[40].

Moreover, IRO and its activity, just like UNRRA before it, was constantly a matter of dispute in the deepening antagonism between the West and Soviet blocs. As its creation was

[38] Ibidem, pp 156-157.
[39] Dennis Gallagher, "The Evolution of the International Refugee System", in *International Migration Review*,Vol 23, No 3, (Autumn, 1989), p 579.
[40] Nevzat Soguk, *Op. Cit.*, p 160.

from the beginning encouraged and supported by the United States, the Soviet discourse attempted to depict this organization and its role as Western propaganda and as a field where Western politics could instrumentalize refugees in the detriments of the Soviet regimes in the East.

2.3.1 The '1951 momentum'. Refugees in a bipolar world

Right at the moment when IRO completed its mandate, in 1951, the United Nations Assembly established a new body charged with the protection of refugees. The United Nations High Commissioner for Refugees was created with a very limited mandate of three years and did not enjoy the support of the Western powers, nor of Soviet countries, which would disregard any program of organization that did not promise repatriation. The marginal role of UNHCR in the first years of activity, partly due to the low budget and the existence of parallel policies towards refugees, severely affected its existence.

The UNHCR and the drafting and signing of the *Convention Relating to the Status of Refugees* in July 1951, in Geneva, were part of an acknowledgement of the fact that not all the refugees during or after Second World War would be repatriated or resettled. The United Nations put forward the idea of solving the issue by creating an international regime with a holistic approach, dealing with all categories of forced migrants. However, the political climate undermined much of its initial intentions. [41]

The origins of the Convention and UNHCR can be traced in a gradual change of paradigm, at the onset of the Cold War, of the concept of sovereignty and the idea of "human rights". On the other hand, the adoption of the Geneva Convention was also based on specific and very pragmatic concerns of the signatory parties. After the atrocities and abuses during

[41] James C. Hathaway, *Op. Cit.*, p 91.

the Second World War, the realization of the extremes to which national sovereignty could be taken created a strong impetus in the international system for a set of universal human rights. As some inalienable rights and freedoms had long been asserted for all humans, on behalf of their humanity, with the American and French Revolutions, they had been heavily dependent on the system of nation-states. It was only through belonging and membership to a state that such rights were granted or denied and, therefore, they would only become real in the legal system of states. [42]

However, the Refugee Convention of 1951 clearly embodied the difference of approach between positive and negative sovereignty. It was a major and decisive leap forward in the way of tackling refugee issues because it captured the transition from a positive approach to sovereignty, promoted by the League of Nations, which equated internal sovereignty with the protection of the individual *qua* citizen, to negative sovereignty which guarantees the protection of individuals *qua* individuals. [43]

The overlap of the international refugee regime with the human rights regime, mainly after 1945, was indeed a visible sign of a change of thinking about the limits of sovereignty and the protection of all human beings, everywhere, irrespective of national or ethnic features. The dramatic experiences of the two World Wars as well as the increasing roles of civil society or women's rights movements of the 1930s promoted a different way of framing the role of individuals and their rights. The case of refugees and the development of a coherent and unitary body of law was part of this trend in the international community.

However, from its very beginning, the development of international refugee law was also encouraged by the harsh political climate of the 1950s and the ideological opposition between capitalism and communism. To a large extent, the definition of the refugee, as it appears in the Geneva Convention, focuses on persecution and it was conceived as a, one

[42] Emma Haddad, *Op. Cit.*, pp 73-74.
[43] Ibidem, p 137.

might say, normal consequence of the political circumstances at the onset of the Cold War, when most refugees came from the East.

Accordingly, the classification and the (new) identity of the refugee was based on a definition that applied to term "refugee" to a person who:

> *As a result of events occurring before 1 January 1951 and 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 (...)*[44]

This definition perfectly matched the profile of the refugee from the rival bloc. Most people that wanted to flee the newly settled regimes from Central and Eastern Europe were challenging their ideological foundations as well as the harsh economic conditions and oppressive practices (for instance towards intellectuals).

2.3.2 The Eastern hero and the unexpected aliens

Recognizing Eastern refugees at the height of the ideological confrontation between the two main blocs was a strongly political and politicized issue. The practice of instrumentalizing exilés from the Communist bloc for political purposes was a practice which served the Western countries in two ways. Firstly, it was a way of pointing to the abuses undergone by the Communist regimes and stigmatize these countries as violators of human rights. It is not surprising that such a (fairly generous) refugee regime at that time would actually encourage people to escape from Central and Eastern European countries.

In this way, Western countries would be weakened ideologically and they would gain more legitimacy.[45] The number of refugees in the first years after the UN regime was created was not, anyway, unbearably big due to the high level of mobility restrictions. Even when it

[44] Art 1 A (2), *Convention Relating to the Status of Refugees*, (United Nations), 28 July 1951, Entry into force: 22 April 1954, Geneva.
[45] Gil Loescher, *Op. Cit*, pp 58-59.

increased, it did not pose a major threat to Western countries at a time when they needed workforce due to the improving economic conditions.

In parallel, a more subtle logic worked for the 'moral vindication' of Western countries and liberal democracies, in general. Since refugees would see the West as the shelter from an intolerable and cruel regime, the West gained in terms of its own representation. It appeared superior in an ethical sense as it clearly proved to be the salvation for the oppressed victims of communism. Therefore, the West was depicted as the embodiment of everything that the East lacked: tolerance, freedom, the respect of human rights. The West was morally *better*.

The Convention itself as well as the activity of UNHCR was primarily directed at the situation of East European refugees. The strategic conceptualization of the refugee, having *persecution* at its center, perfectly matched the nature of the refugee escaping the Communist East. In this way, the Eurocentric application of the definition was an implicit attempt at highlighting the ideological distance between the two blocs and at restricting the image of the refugee to those fleeing the rival, Communist space. [46]

As a consequence, the Cold War rivalries led to the creation of a highly victimized image of the refugee. He was depicted in a grandiose vocabulary that emphasized his heroic features and romantic qualities. Not only the activity of UNHCR or other humanitarian agencies which struggled explicitly to promote such an image of the refugee are to be credited for that. The representation of the refugee as at once victim and hero was strongly supported in the realm of politics, in the elusive mechanism of creating Self and Other and in the attempt of strengthening a consciousness of the virtues of "us" in relation to an inferior "Other".

The struggle for ideological justification and self-promotion found an ideal space of confrontation in the management and rhetoric of the refugee experience. For about two

[46] James Hathaway, *The Law of Refugee Status*, Butterworths Law, Toronto, 1991, pp 6-8.

decades after the end of the Second World War, refugees had a special status in the West. Almost exclusively, they originated from the rival bloc and hence their ideological significance: their flight was regarded as a rejection of Communism and their presence in the West as a testimony and embracement of liberal democracy. [47]

A drastic and unexpected change of approach occurred in the late 1960s when the pattern of the conflicts changed with the decolonization started in Africa. The formerly Europe-focused definition of the refugee needed to expand and become truly "universalized" with the 1967 Protocol. However, the preference of most Western countries remained visibly oriented towards Communist refugees and much less towards the Asian or African ones. This proved that *refugee identities that did not fit with the 'Cold War victim' image did not feature on the international agenda*[48].

The reluctance to apply the same criteria and standards to those refugees which were not politically accountable proves once more that the concept and support of the refugee was imagined from its start off as a European issue. In the context of massive violence and wars in what was to become the Third World, flows of refugees were now an undesired mass of people. There was also a need to change the focus from *resettlement* to an emphasis on repatriation for this group of migrants. [49] The UNHCR did try, nevertheless, to find solutions for non-European refugees, starting with the 1970's, but in a tense political climate and worsening economic conditions, its abilities were limited.

The 1980s contributed to the acute deepening of the gap between the expectations that followed the creation of the refugee regime and the new situation entailed by the movement of people from the emerging states, civil wars or violence in Africa, Asia or Latin America. It is in this context that new documents and initiatives appeared for re-thinking and enlarging the meaning of the term 'refugee'. The *Convention Governing the Specific Aspects of Refugee*

[47] Philip Markflet, *Op. Cit*., p 147.
[48] Emma Haddad, *Op. Cit.*, p 149.
[49] Charles Keely, "How Nation-States…", pp 1058-1059.

Problems in Africa, elaborated in September 1969, completed the common understanding of the refugee experience, focused on persecution, with other elements, such as *occupation, foreign domination, or events seriously disturbing public order*[50]. Similarly, in 1984, *the Cartagena Declaration on Refugees* was signed, outlining the new facets of the refugee problem in the non-European areas of the world.

This succession of documents shows how identities of refugees are created and re-shaped in various political contexts. From an innocent victim of Communism, facing a well-founded fear of persecution, to a human in danger caused by generalized violence , occupation or external aggression, the definition of the refugee evolved and was ideologically and geographically-bound. The image of the 'Other' was at first a welcome figure that was portrayed in a discourse of threat and danger, but it soon became a dreaded burden or unwanted alien.

2.4 The Fluctuating image of the Other. Assessing the international response to refugee movements and the politics of Identity at the end of the Cold War

The Cold War years clearly and blatantly favored a definition of the refugee that matched the common features of those fleeing Communism. Living as an *exilé* in the West was encouraged by the legal system of protection ensured through the refugee regime and the high level of recognition. These people were encouraged to come and be a living proof of the shortcoming of Communism and in the same time, attest the outstanding values of the host societies.

On the other hand, the refugees coming from the Third World were in many ways, a painful reminder of the West flaws and mismanagement of the colonial and post-colonial

[50] *Convention Governing the Specific Aspects of Refugee Problems in Africa*, *1969* (the Organization of African Unity), 10th September 1969.

disputes. These refugees were not ambassadors of freedom, but throngs of people who were poor, uneducated and pinpointing to the anxieties of a highly unstable world. Such being the case, they overturned the entire scheme of the refugee regime, as it had been anticipated. [51]

It can be easily concluded that throughout the Cold War there was not a single international refugee regime, but two: one created by the most developed countries in the world as an instrument to embarrass Communism and another for the rest of the world. Charles Keely calls the first regime the Northern regime and the latter, the regime for the Third World. [52] This *two-leveled politicization* and institutionalization created a stark differentiation in the way states and international agencies operated, as well as how the refugee identity shifted.

One common feature of these two (to some extent) parallel regimes was that the basic rationale behind them was derived from the logics of the nation-state system. The refugee crisis signaled a disruption of some of the component parts of the system, i.e. the inability of states to perform some of their basic functions. An uncontrolled refugee movement could threaten international stability or could, on the contrary, be used as a tool of highlighting the vulnerabilities and failure of other states in fulfilling or providing basic goods for their citizens. For this matter, after tracing the evolution of the refugee system during the Cold War, the dual politicization of refugee issues can be best described as *politics of campaigning* and *politics of deterrence.*

These two models of managing refugee issues have remained relevant to our day, some groups of refugees being much more easily granted refugee status whereas some others have been marginalized or faced difficulties with their applications. With the end of the Cold War, and the successive crises in the world, starting with Afghanistan, the Gulf, the Balkans,

[51] Philip Markflet, *Op. Cit*., p 154.
[52] Charles Keely, "The International Refugee Regime(s)…", p 306.

Somalia, Sudan, Iraq, etc the countries that had supported refugee movements in the past, such as USA or some European countries, now became restrictive.

In Europe, the problem of asylum became a dramatically burning one in a very short time after the 1990s. With the late 1980s till the mid 1990s the annual asylum applications in Europe increased 10 times, from 60,000 to 600,000. Most of the applicants were coming from countries like the former Yugoslavia, Romania, Turkey, Sri Lanka, Iran, Pakistan etc. [53] The common asylum system that gradually developed in the institutional framework of the European Union reflected the rapid change of approach, from a mostly inclusionary and permissive one, to an increasingly restrictive system. The level of cooperation on asylum policy in the European Union was unprecedented and it gave rise to a new national(ist) discourse that ceased to portray refugees as strugglers for freedom and mostly as opportunistic, fraudulent people and a factor of alienage within the cultural homogeneity of the West.[54]

The identity of the refugee was instrumentalized politically during the Cold War in the ideological confrontation between the two blocs. The definition of the refugee was a product of specific historical circumstances and it assigned an identity to people coming from a particular political system and geographic location. The mobile nature of the refugee identity throughout time and in regard to various political and ideological configurations of the world is an indicator of the way in which categories are manipulated and located in the realm of politics, as a 'battlefield' of confrontation, self-representation and contestation.

The stiffening ontological linkage between nation/citizen/state finds the refugee as a rather awkward figure that could be easily employed in practices of statecraft, in the historical

[53] Niklaus Steiner, "Arguing about Asylum. The Complexity of Refugee Debates in Europe", in Niklaus Steiner, Mark Gibney and Gil Loescher, *Problems of Protection. The UNHCR, Refugees and Human Rights*, Routledge, New York, 2003, p 179.
[54] Philip Markflet, *Op. Cit.*, p 154.

process through which the nation-state creates and perpetuates its identity. However, in this relation of apparent domination, in which human life exists outside the normal political order of the world (individual states) and it can be utilized and disposed of for enforcing practices of statecraft, there are also practices of resistance.

Groups of refugees are many times depicted as part of large and voiceless masses, which depend on the good will of states in receiving them. Nonetheless, in relation to sovereign power, there are forms of resisting and contesting state politics that deprive forced migrants of their human agency. Politicizing refugee movements is not a process in which the state acts as the sole actor, by imposing certain politics of identity and promoting its interests. The limits to politicization become obvious once non-state actors (NGOs, humanitarian agencies) and sometimes refugees themselves reject the denial of their subjectivity.

CHAPTER 3. POLITICIZATION, SOVEREIGN POWER AND RESISTANCE

3.1 Expressing human agency outside the political order and the role of UNCHR

The refugee identity is created, discussed and negotiated on the international arena formed of a multitude of different sovereign spaces. The refugees appear as a problematic category because they are a *physical representation of the dislocation of the modern condition*[55] which is one of fixed territoriality and citizenry. In a world dominated by the *hyphenated dyad "nation-state"*, based on national fantasies of communities, monumentalization of heroism and national cultures[56] , borders are depicted as a zone where the difference is demarcated and sovereignty is re-asserted.

In discussing human subjectivity and agency, the aspect of territoriality and borders is of utmost importance because it is within the meta-narrative of the state and divided territories that a discipline of ordering and governing human population is born. In this reading, the human-citizen can make legal claims and assert his subjectivity because he is part of one of those social contracts and political communities that the world is divided into.

In the cartography of sovereign *territorial* states, political life is mapped according to a disposition of inside and outside. In this emblematic political arrangement, refugees are exceptionality because they occupy an amorphous border which both divides and joins the national and international. [57] Refugees and their flight represent a symbolic image of the co-existence of the nation-state (acting through inclusion of citizens), the international as marker of distinction and their mutual reinforcement.

[55] Daniel Warner, "The refugee state and state protection", in Patrick Twomey and Francis Nicholson, *Op. Cit.*, p 254.
[56] Begoña Aretxaga, "Maddening States", in *Annual Review of Anthropology*, No 23, (2003), p 396.
[57] Robyn Lui, "The international government of refugees", in Wendy Larner and William Walters (Eds.), *Global Governmentality. Governing international spaces*, Routledge, New York, 2004, p 117.

Borders are a separating zone which appears reified and immobile on the geopolitical map, but they are in fact an area of division which does not stand a mere description, but it also provides the prescription for action. The frontier is a resource of justification for mandating political action and part of the national mission.[58] It is the line in relation to which identities are created, changed or re-shaped and where inside and outside meet.

In the words of Giorgio Agamben, this inside-outside relation emphasizes the paradoxical characteristic of sovereignty. Sovereign power is not limited to its inside juridical order, but it also extends outside of it. The exception (such as the refugee camp) continues, nevertheless, to maintain itself in relation to the rule precisely because it is a form of the rule's suspension. This means that the exception is never decisively and definitely excluded from the sovereign order, but withdrawn from it and in this sense, still related to the rule through its suspension. [59]

The argument extends to the status of refugees in the camp as they are an emblematic figure of such a process of differentiation between inclusion and exclusion. The refugee camp can be thought of as one place where sovereign power is produced through the mirroring of the space of exception which is the camp. Agamben depicts the camp as a locus of the abstraction of law, order and rights that derive from these. It does not function, however, as an extra-political place, but it actually signals the political space of modernity. [60]

The core element of modernity, according to his view, is that it managed to transform natural or bare life into politicized life; it included natural life (Gr. *Zoē*) in the *polis* through the declaration of rights of the citizen and created *bios*, or life qualified as politicized. The rights of the refugees, as non-citizens, can be denied or restricted because they lack citizenship, as a fundamental quality that allows them to make claims to a full range of human

[58] David Campbell, *Writing Security. United States Foreign Policy and the Politics of Identity*, University of Minnesota Press, Minneapolis, 1992, p 165.
[59] Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, Translated by Daniel Heller-Roazen, Stanford University Press, Stanford, 1998, pp 17-18.
[60] Ibidem, p 99.

rights. That is why refugees are a *disquieting* element in the order of the nation-state, precisely because they disturb a well-entranced continuity between man and citizen. [61]

In this conceptualization of citizenship, human rights and sovereignty, the refugee camp is a place that restates the distinction between bare and politicized life. It is a place of exception where law is suspended, life is at the control of the camp administrator, death can occur, but it is not considered to be a sacrifice. However, many of these assumptions are often taken for granted and the refugee is considered only a passive victim, which allows sovereign power to transform their life into bare life. The arbitrary disposal of human lives cannot only be resisted, but the camp can be *perhaps the site where life struggles against any sovereign reduction to bare life*. [62]

Resistance against the inhuman practices, abuses or indifference of host states occurs, most often in the name of universal human rights which should be available to all people, irrespective of their citizenship or other features. In the same time, such resistance takes places first and foremost as a way of contesting an international (geo-)political order that distances the human from the citizen, prioritizing the needs and rights of the latter, while marginalizing the alien and denying him protection.

Resistance can be then defined as a *refusal of sovereign distinctions*, as a contestation of the ability of the sovereign power to draw the line of separation between *Zoē* and *bios*, between inside and outside, human and inhuman.[63] However, the very existence of the impetus for contestation of sovereign power in the camp means that, even though illegitimate (as the refugee cannot contest a legal order or a social contract of which he is not part of), it questions a main foundation of the modern interstate order: the sovereign power's ability to mark differences.

[61] Ibidem, p 77.
[62] Raffaela Puggioni, "Resisting sovereign power. Camps in-between exception and dissent", in Jef Huysmans et al, *Op. Cit.*, pp 71-72.
[63] Jenny Edkins and Veronique Pin-Fat, "Introduction. Life, Power, Resistance", in Jenny Edkins, Veronique Pin-Fat, Michael J. Shapiro, *Sovereign Lives. Power in Global Politics*, Routledge, New York, 2004, p 13.

In discussing sovereignty, refuge and the political significance of the camp a thick line is drawn between human life before and after the flight. A somehow paradoxical situation arises once the presence of the forced migrant becomes reality abroad. The symbolical meaning of the physical act (border-crossing) in the case of refugees acquires a dual significance. On the one hand, it is a proof of their self-empowerment as human beings and an expression of human agency, which was faced with the alternatives of accepting or escaping danger and made a choice for the latter. On the other hand, it is a (possible) devaluation of them as human beings as the attribute of 'human' rests on a contingency inherent in the prevailing hierarchies in the system of sovereign states.

The (possible) human dis-empowerment occurs at the border or while in the refugee camp and it is a result of the highly politicized refugee issues at a global level. The reluctance to deal with refugees or the poor management of refugee issues results many times in an abusive treatment, imprisonment (which is a frequent case of the Iraqi refugees in Lebanon), or to situations when the asylum seekers are sent back to their countries of origin, despite one of the core principles of the Geneva Convention, which is *non-refoulement*, or the prohibition of expulsion or return.

As the previous chapter has shown, during the Cold War, refugees acquired a distinctly important role on the international political agenda. No longer a peripheral issue for states, and in the relations between states, or simply a matter of charity, in the post-1945 era, refugees became a defining feature of the East-West relations and of international relations, in general. In dealing with refugees, there were two prevailing political attitudes, the distinction between them being constituted by political ideology. At the time of the drawing of the Geneva Convention, Western states had a clear idea of who was a refugee and therefore, entitled for refugee status. There was a relative juxtaposition between Western countries'

interests in refugees and their interests of their foreign policy. That is why the motivations of escapees from the Eastern bloc were rarely the subject of close examination.[64]

Once it became clear that the refugee issue was not an entirely intra-European phenomenon, with the decolonization struggles, added to which, the global economic recession or the rise of rightist parties and movements in Europe, refugees from outside the continent gradually became victims of practices meant to inhibit their arrival or their chances of getting a refugee status. In hindsight, the way the refugee regime was conceived at the onset of the Cold War can be seen as an exception in the history of statecraft because the refugee flows were not treated as a particular breach in the normal status quo of the state system, but as a victimized category that needed protection and served as justification in an ideological confrontation. [65]

The increasing number of asylum applicants in the world, and especially in Western Europe after the 1970s and mainly after the 1990s led to a set of highly restrictive practices and 'non-arrival measures' to impede access to asylum. Many of these techniques of prevention can operate in such ways that they do not seem to be radically in conflict with the provisions of protection for refugees. Consequently, especially in Europe, a discourse stressing the rights of refugees exists in parallel with a well-designed *architecture of exclusion* that criminalizes the search for asylum.[66] In the words of Matthew Gibney, such measures or tools, as the visa regimes, carrier sanctions, or pre-inspection regimes, have resulted in *the rise of the asylum-seeker and the fall of the refugee*[67], many claimants towards a refugee status being confronted with unbreakable barriers.

[64] Matthew J. Gibney, "'A Thousand Little Guantanamos': Western States and Measures to Prevent the Arrival of Refugees", in Kate E. Tunstall (Ed.), *Displacement, Asylum, Migration. The Oxford Amnesty Lectures 2004*, Oxford University Press, Oxford, 2006, p 144.
[65] Emma Haddad, *Op. Cit.*, p 159.
[66] Matthew Gibney, *Op. Cit.*, pp 142-143.
[67] Ibidem, p 143.

Therefore, at all times during and after the Cold War, refugee issues have been regarded through political lenses and in relation to certain practices of statecraft. The rationales and the motivations behind refugee policies have changed, but essentially, they have never escaped or by-passed the "political straightjacket" of the state. In this situation, resistance can be seen in the first place as a manifestation of dissent towards restrictive practices of statecraft, which create punitive discourses of outsiders and envisage them through a certain *political demonology*[68].

The diachronic perspectives on the politicization of refugee issues during the Cold War and beyond, as well as the development of the refugee regime are crucial in assessing how bare life is produced in the first place and how, as a result, forms of resistance are born. This historical description signals a possible niche in the work of Agamben or other scholars because it shows that the sovereign power does not create a perpetual and repetitive pattern of relations between insiders/outsiders, bare and politicized life.

The story of the refugees fleeing the Communist countries versus the unwanted aliens from other geographical areas is one powerful example that shows how the category of the refugee is pliable and subject to distinct political projects. When interests require it, the refugee is not in peril of alienation or kept outside the normal juridical order. The sovereign power can, therefore, decide *ab initio* which life will qualify as bare life and which one will be rapidly and un-problematically 'absorbed' into the normal legal order. That is why, it can be stated that the nature of the politicization of the refugee issues in the international system of states and their interests of foreign policy are decisive in manipulating refugee matters. However, while this distinction is important, most cases nowadays exhibit a clear tendency for restrictive practices. Resistance is born at this point, when the nature of politicization is of

[68] Didier Bigo, "Detention of Foreigners, States of Exception, and the Social Practices of Control of the Banopticon", in Prem Kumar Rajaram and Carl Grundy-Warr (Eds), *Borderscapes. Hidden Geographies and Politics at Territory's Edge*, University of Minnesota Press, Minneapolis, 2007., p 28.

nature to reject, deterr or incriminate because only in such cases, bare life has reasons to strive to become itself visible and heard.

3.2. Forms of contestation: from disparate to institutionalized resistance

Agamben's account of the relationship between the individual and the sovereign state describes only two possibilities, bare and politicized life. The refugee condition, as a state of exception is dramatically placed in-between these two and it manifests as a suspension of the operation of law. However, much empirical evidence as well as the humanitarian regime developed mainly after 1945 have proven that refugees, even though lacking the rights which are grounded in their citizenship, have been able to make their voices heard in relation to the sovereign power. They have either been the main subjects of organized resistance, or resistance to certain state practices has been expressed by different NGOs and the UNCHR.

The assumed discretionary use and abuse of sovereign claims, often leading to the denial of fundamental human rights to asylum-seekers, has been strongly contested. However, with the acceptance of this possibility, that resistance is likely and it can be an enabling method of overcoming the shortcomings of an international order that creates political hierarchies between citizens and aliens, some questions inevitably arise. How is this resistance formulated? Does it, or *should* it necessarily start from the grassroots? To what extent the creation of a transnational system of governance, made of UNCHR, NGOs, different humanitarian agencies etc contribute and sustain this resistance against an arbitrary disposal of human life? Ultimately, what is this resistance directed at and what exactly does it contest?

The first main level at which such resistance occurs is the grassroots level, with disparate and sometimes individualized protests. Non-compliance in the state of exception is a

desperate act of individuals who have lost any expectations from a state and have little to fear, as a consequence. The purpose of the resistance act is oriented towards short-term gains, not systemic change. Acts such as destroying identity papers, hunger strikes or escape have often been prevented the state from exercising its sovereign powers. There have been cases when asylum-seekers could not be expulsed because they had previously burnt or hid their identity papers. Ironically enough, in such cases homo sacer's absolute political powerlessness initiates resistance and constitutes a possible threat to the sovereign power. [69]

The long and loud protests of the asylum-seekers in the Australian camp, Woomera, have raised a widespread mass-media support all over the world and they have faced the government with the situation of justifying the tolerance for inhuman practices. The lack of basic infrastructure exposed these refugees to harsh living condition, added to which there was also the violent behavior of the guards, the lack of any kind of privacy or the arbitrary detention of children. Such a scenario made Woomera be associated with a concentration camp and a real-life evidence of Agamben's description of the state of exception. In such an environment, human life becomes truly worthless, surrounded by indifference from authorities and bereft of any sense of justice or possibility of salvation.

However, the camp also created forms of solidarity which constantly struggled against such abuses. The resistance was particularly acute throughout 2002, and it took the form of violent demonstrations, such as burning buildings or hunger strikes, many of the detainees sewing their lips together as a sign of protest.[70] The response from the Government was, however, ambiguous and did not lead to an improvement of the asylum-seekers' conditions. It did, on the other hand, raise awareness all over the globe, through mass-media means, and public criticism towards the migration policies of Australia.

[69] Antje Ellermann, "Undocumented Migrants and Resistance in the State of Exception", *Paper Presented at the European Union Studies Association* (April 2009), available online at: http://www.unc.edu/euce/eusa2009/papers/ellermann_02G.pdf , Accessed: May 2009, pp 4-5.
[70] "Australia braces for Woomera protest", 28 March 2002, available online at: http://news.bbc.co.uk/2/hi/asia-pacific/1898829.stm , accessed: April 2009.

This case, as well as many others, raises a further uneasy question, one which might face difficulty to a positivist scrutiny. What exactly counts as resistance? How can such instances of non-compliance to sovereign power be "measured", assessed or compared? Do any examples of sporadic and spontaneous revolts in camps, which are not successful in fulfilling their goals still count as resistance since the sovereign power was overwhelmingly prevailing?

In attempting to shed some light on this problematique, it can be noticed that the acts of resistance are an expression of human agency and the ability of the weak to retain aspirations of protection even outside a particular political community or the social contract. The significance of resistance does not reside in its result since the sovereign power is, by definition, structurally stronger. Resistance exists even in the smallest and least significant symbolic acts; its success or failure depends on many other circumstances, but its significance is the one that matters: it dares to oppose the pretence of the sovereign power to arbitrarily control and decide on behalf of the human, in the name of its sovereign legitimacy.

Agamben seems to suggest that human agency and subjectivity cannot exist outside the realm of politicized life, of the institution of national citizenship. It is, therefore, only within the confined territory of the state that humans can have expectations of protection and claims of rights, through the instrumentalization of their citizenry. However, even bereft of the legal identity, people still continue to be humane and request their recognition as beneficiaries of rights and liberties, grounded in their shared humanity.

But, for their acts of resistance to be rewarding, mere attempts to formulate and display dissent are not enough. The example of the Albanian refugees in Italy in 1991 shows how even though the incentives for resistance of *Homini Sacri* might start from within, the expected finality of the acts of violence-to resist and block the possibility of full control of the

state- only becomes reality when the refugees' dramatic situation gained the support of the Pope and mass-media.

Around 24,000 Albanian refugees arrived in Italy in March 1991. They were crowded in a soccer stadium and the dockside in Bari. The Italian authorities criticized Albania for encouraging refugee outflows in order to blackmail Italy to increase its financial support for Albania. Italy's response to the situation was to send most of the refugees back, but the vigorous protest of the refugees led to clashes between them and the police. The favorable results for some of the refugees were due to the constant pressure and criticism of the authorities, although more than 4,000 refugees were sent back in August. [71]

Therefore, while not denying that resistance in the state of exception occurs both at an individual and collective level, struggling against the reduction to bare life, the assumption is that such forms of non-compliance to sovereign power are most often limited in effect. The desperate acts are a proof of refugees' acknowledgment of the discrepancies created in the system of sovereign states between men and citizens, "us" and "the other". However, the act of resistance is not limited at this level. The next section will give an insight into the role of UNHCR in the context of the humanitarian regime, seen as a mechanism of resistance of sovereign power and of a continuous effort of renegotiating the human-citizen boundaries.

3.2.1 UNHCR. Between humanitarian mission and political interests

Seen in a wider perspective, the 1951 Convention Relating to the Status of Refugees and the refugee law, in general, must be understood in themselves as creating an exception to the common rule that states have an undeniable and inherent power in their sovereignty to

[71] Alan Cowell, "Italy's handling of Albanians is Drawing Criticism", *New York Times* (August 12, 1991), available online at: http://www.nytimes.com/1991/08/12/world/italy-s-handling-of-albanians-is-drawing-criticism.html, Accessed: May 2009.

allow or prohibit the entrance of aliens on their territories. [72] In this context, the United Nations High Commissioner for Refugees has a crucial role to play in the governance of refugee issues at a global level. It is an influential, specifically non-political and humanitarian organization, but which operates in a highly politicized environment. The challenge of its mission is that it is constantly caught in-between protecting refugees (non-politicized life) and the unbreakable tie to the international political scene on which it has to conduct its mission, being responsible to governments and heavily dependant on international donors.

Created as a temporary international institution to work on behalf of the refugees, UNHCR was visibly marked by *an Euro-centeredness* at the time of its creation. [73] However, it overcame its initial limitations and both the scope of its actions and its responsibilities expanded throughout the decades. With the decolonization, in the mid-1960s, development issues and the end of the Cold War, UNHCR managed to adjust and gradually redefine its role and tasks so that it became an agency with the capacity to intervene globally.

The past two decades have witnessed a major change in the international political landscape, with many countries undergoing fundamental transformations of their political systems, ravaging wars and situations of political violence. As a consequence, the number of people under the care of UNHCR rose from 2 million in 1970, to 15 million in 1990 and over 27 millions in 1995. [74] Today, around 35 million refugees and displaced people around the world count on the support and solutions provided by UNHCR.

The *modus operandi* of UNHCR has adapted to the needs and challenges required by the increasing number of people under its care and the changes of the refugee issues. Its focus changed from a *reactive, exile-oriented and refugee-specific approach* to a *proactive,*

[72] Mervyn Frost, "Thinking ethically about refugees: A case for the transformation of global governance", in Edward Newman and Joanne van Selm (Eds.), *Refugees and Forced Displacement: International Security, human vulnerability, and the state*, The United Nations University Press, New York, 2003, p 115.
[73] Rosemarie Rogers, "The Future of Refugee Flows and Policies", in *International Migration Review*, Vol. 26, No 4 (Winter, 1992), p 1115.
[74] Gary G. Troeller, "Refugees and human displacement in contemporary international relations: Reconciling state and individual sovereignty", in Edward Newman and Joanne van Selm (Eds.), *Op. Cit.*, p 55.

homeland-oriented and holistic approach. [75] This means that UNHCR is involved in actions that aim at preventing situations of human displacement and human rights abuses, as well as creating a nexus between the responsibilities of the countries of origin and destination. This *all-inclusive* strategy is conducted in partnerships and cooperation with NGOs, peace-keeping missions and development programs or agencies.

The huge amount of criticism encountered by UNHCR departs, often, from the enlarged competences that UNHCR acquired in the past decades and the changing paradigm in assessing refugee crises and the need to address their root causes. Closely related to this situation, UNHCR is considered extremely vulnerable in the tensed political context in which it deploys its action because it is constantly caught at the crossroads between the national and international systems of protection and between sovereignty and international responsibility.[76]

On the other hand, many voices strongly question or mistrust its declared impartiality, despite being one of its defining principles. The ideal of staying independent and non-political, when dealing with issues that have mostly political causes, proved its frailty in many circumstances. This was obvious, for instance, in the way UNHCR tackled the situation of refugees in former Yugoslavia. The simple fact that it reported on human rights abuses and violations was perceived as a contradiction of its own Mission Statement; it was considered a political act in the errant states and a trespass of its humanitarian role, which should be non-judgmental, as claimed by Sadako Ogata himself (the UN High Commissioner for Refugees).[77]

Reading (or not) the activity of UNHCR as a form of resistance to state sovereignty and as an empowering agency for refugees all over the world is indistinguishably linked to the problem of indiscriminate approach and non-political biases. The distance between the moral

[75] Ibidem, p 57.
[76] Guy S. Goodwin-Gill, "Refugee identity and protection's fading prospect", Patrick Twomey and Frances Nicholson (Eds.), *Op. Cit.*, p 222.
[77] S. Alex Cunliffe and Michael Pugh, "UNHCR as leader in humanitarian assistance: a triumph of politics over law?", in Patrick Twomey and Frances Nicholson , *Op. Cit.*, p 183.

imperatives, the humanitarian focus, which underscore its creation and the eventual fulfillment of its objectives is determined by a set of very pragmatic problems, such as the staff available and, more importantly, the financial contributors.

The mission of UNHCR is defined in relations to a very generous humanitarianism developed around the core principles of impartiality, neutrality and independence, undergirding a space which is visibly different from the "political". However, the meanings and practices of humanitarianism have undergone substantive transformations in the past two decades. First of all, although thought of outside the scope of state interest, humanitarian issues have been integrated on political agendas. They have obtained legitimacy and have merged with other political processes, such as military engagement. In many cases, these tendencies have been rooted in less charitable concerns, but in self-interest or the avoidance of involving through other, more demanding, means.[78]

Another crucial factor is the political economy of humanitarianism. Given the fact that humanitarian organizations depend on (voluntary) donor support, their liberty of actions is inevitably constrained. In this respect, UNHCR has been no exception. It has been criticized for being a tool used my many countries in the industrialized world when formulating and implementing its policies towards developing countries and, more or less, only reflecting Western preferences, or better said, Western fears, in regard to refugees. Especially after the economic recession in the 1970s, the main contributors of UNHCR (USA, Western European states, Japan Canada and Australia) have become increasingly reluctant to support its activities. [79]

Such problems have decisively shaped the activity and possibility of action of UNHCR. Despite its stubbornness in maintaining its normative agenda intact, many pressures

[78] Michael Barnett, "The Best of Times, the Worst of Times: the Evolution of Humanitarianism and the UNHCR", *Paper presented at the annual meetings of the International Studies Association*, Montreal, March 17-21, 2004, Available online at: http://www.allacademic.com/meta/p73212_index.html , Accessed: May 2009, pp 8-9.
[79] S. Alex Cunliffe and Michael Pugh, *Op. Cit.*, p 184.

and organizational problems affected its outcomes. Hence, the focus on repatriation and in-country assistance which became prominent after the 1980s. As a general feature, both environmental developments (changes that occurred in the pattern of refugee flows, the rhythm of political conflicts etc) and organizational culture were pointing to an *inward* direction in the approach of UNHCR. [80]

While not questioning the good intentions of this "lead agency", it is of paramount importance not to regard UNHCR outside what it primarily is: an organization. Many of the limits and weaknesses that it could not avoid derived from the imperatives specific to any such organization, and which regard the daily functioning and very pragmatic concerns that characterize it. UNHCR faced the situation of principle versus pragmatism in dealing with ways of separating organizational interests (prosperity of the public goals and its members) from functional goals (public objectives). This tension was more acute in the UNHCR's interaction with major donor states. [81]

Such claims do not seem exaggerated or remote from an empirical verification. It is true that UNHCR has, without any doubt, helped millions of refugees. Sometimes, the chosen method would be helping them at the border or on the territory of neighboring states, or by actively engaging in the country of origins/destination. As mentioned above, the refugee regime as such could be seen as part of "resisting humanitarianism" that challenges the state's sovereign pretence of having the monopoly on the right to entry and reside on its territory. Nonetheless, in empowering bare life, by facilitating a more humane relation between the sovereign power and *vita nuda*, UNHCR has hardly been able to respond a-politically and impartially.

The preferences and anxieties expressed by some developed countries were also reflected in the practices of UNHCR. The case of the revolts in the refugee camps in Ghana in

[80] Michael Barnett, *Op. Cit.*, p 41.
[81] Erik Roxström and Mark Gibney, "The Legal and Ethical Obligations of UNHCR. The case of Temporary Protection in Western Europe", in Niklaus Steiner et al. , *Op. Cit.*, pp 43-44.

2005 could be seen as one such example. Refugees from 10 African countries from the refugee camp at Krisan, located in Western Ghana, organized a mass revolt, complaining about the poor accommodation conditions. The UNHCR office in Ghana dismissed the allegations and claimed that the 500 refugees wanted to win sympathy and international support so that they could be resettled to developed countries, such as the USA, Canada and Australia. [82]

The role of UNHCR, as *locus standi* to intervene on behalf of refugees and possessing the *art of protection*[83], can be assessed as incomplete. As any organization, be it humanitarian, political or economic, the activity of UNHCR cannot be divorced from a specific international order in which it is strongly embedded. As part of what we could term an 'institutionalized resistance', UNCHR has tried, in the name of refugees protection, to ensure a place for human agency and limit state (extreme) power on the refugee. In doing so, its successes and failures stemmed, paradoxically enough, from the same highly politicized international system of sovereign states.

Its successful records are due in many respects to the fact that, since it is organized as an international agency, it has the means and abilities to negotiate or co-operate with national governments, therefore creating channels of communication and consensus with the political power. This kind of resistance tries to accommodate humanitarian universal principles in the system of distinct political communities in which the world is divided. On the other hand, just like individual or grassroots level resistance, the limits of UNHCR reside in the political climate in which it exists, where national, country-specific options, preferences and attitudes towards refugees also influence the agency's outcomes.

The continuous efforts of UNHCR to create an aura of sacred surrounding the refugees, differentiate them from other migrants and protect them on the basis of their

[82] "500 Refugees Revolt", *General News of Saturday*, November, 2005, available online at: http://www.ghanaweb.com/GhanaHomePage/health/artikel.php?ID=93672 , Accessed: May 2009.
[83] Guy S. Goodwin-Gill, *Op. Cit.*, p 248.

victimized identity, has been affected by many political or financial pressures.[84] By *playing the cards of some states and militarizing its interventions*[85], UNHCR risks estranging itself from its own built identity as an organization: to promote humanitarian values and principles as well as mediate a different relation between the man and state, outside the *political*.

3.3 The Iraqi refugee crisis, UNHCR and the "fear of refuge"

The refugee crisis following the 2003 invasion of Iraq is one of the most severe after the Second World War. The Iraqi refugee crisis has repeatedly tested the abilities of UNHCR to fulfill its tasks and manage to protect refugees in relation to different sovereign powers. In order to give an insight into the magnitude of the crises and, as a consequence, the enormous challenge and responsibility incumbent on UNHCR, some facts and statistical data need to be mentioned.

In 2005, Iraq was the fourth largest country of origin for asylum seekers in the world. In the following three years (2005-2008), it occupied the first rank (the data for 2009 are not known yet). The number of asylum-seekers from Iraq is almost double the number of those from Somalia, the second most important source country. Altogether, at a global level, the displacement crisis which proceeded after the US-led invasion of Iraq is one of tragic proportions.

Increasing constantly in size and complexity, the total number of displaced Iraqis reached over 4,7 million people, of which more than 2 million live outside Iraq-mostly in Syria, Jordan and Lebanon, whereas an estimated number of 2,7 million are internally displaced in Iraq.[86] The Iraqi refugee population is the third largest in the world, after Afghan

[84] Didier Bigo, "Protection. Security…", p 95.
[85] Ibidem.
[86] UNHCR Briefing note: *Iraq: latest return survey shows few intending to go home*, 29 April 2008, available at : http://www.unhcr.org/cgi-bin/texis/vtx/iraq?page=briefing&id=4816ef534

and Palestinian refugees and it represents the most significant population displacement in the Middle East since Israel was established. [87]

In Europe, the most favorite destination countries have been Germany, Sweden, the Netherlands and Norway. In absolute numbers, most applications have been submitted in Turkey, but this happened after the UNHCR intervened. As regarding the recognition rates, in the case of Europe, there have been significant differences between one country to another.

This difference reflects both the highly politicized nature of the issue, Iraqi refugees, fleeing a war-torn Iraq, being an indicator of the human rights abuses, everyday insecurity and many problems created by the US invasion, and also different traditions and standards of treatment for asylum-seekers in Europe. For instance, while the recognition rate for asylum-seekers in Greece in 2007 shows zero, in Germany over two thirds of the applicants were recognized as refugees. In the United Kingdom, only 14% of the applicants were successful, whereas in the same year in Austria the recognition rate was 79.[88]

The response of the international community has been insufficient, the Iraqi refugee crisis not acquiring enough visibility in mass-media or on the agenda of policy-makers. Despite programs and aid granted for the reconstruction of Iraq, little care and assistance has been directed towards the improvement of living conditions of Iraq's displaced people. Crossing the border of countries like Syria, Jordan, Lebanon or Egypt, hopeful in protecting themselves from harm, Iraqi refugees truly resemble the condition of *homo sacer*, living in a state of exception. The treatment and circumstances in the host countries become often unbearable, to the point where many choose to return, even if that is a life-threatening act in itself.

[87] "IRAQ: World ignoring refugee crisis", 20 March 2008, available at: http://warvictims.wordpress.com/2008/03/20/iraq-world-ignoring-iraqi-refugee-crisis/ , Accessed: May 2009.
[88] UNHCR Statistical Book 2007, available online at: http://www.unhcr.org/statistics/STATISTICS/4981b19d2.html , Accessed: April 2009, p 50.

For many, if not the majority, of Iraqi refugees around the world, the words "refuge", or "camp" lost their common connotation and became a space of denial of liberties, human rights or subsistence conditions. UNHCR, Amnesty International and many other NGOs have tried to signal the dramatic situation, but ultimately, state policies or financial problems have raised serious barriers. The need to buy food and the access to health care, as well as many other services, and the inability of humanitarian agencies to meet all these needs, has steadily worsened refugees' conditions. In the face of this unexpectedly huge crisis, UNHCR has repeatedly been in the position of declaring its powerlessness in ensuring the best level of protection and care for the refugees.

In Syria, hosting the largest Iraqi refugee population in the world, the situation of tremendously many refugees reached extreme impoverishment and desperation. Access for new refugees is severely restricted and the living conditions for those inside extremely harsh. The country is not part of the 1951 Convention and UNHCR provides food for more than 90% of the registered refugees. Moreover, UNCHR has tried to work with state institutions in order to improve refugee conditions, making an agreement with the Ministry of Health to provide treatment for seriously injured people. [89]

The situation is also particularly difficult for refugees located in Lebanon. UNHCR is not recognized by the Lebanese government as the country is not part of the Geneva Convention or the 1967 Protocol. Many Iraqi refugees in Lebanon lack any legal status, which makes them vulnerable to abuse and exploitation by Lebanese employers who know that the refugees can not recourse to the authorities. Moreover, at the end of 2007, about 580 Iraqi

[89] Amnesty International, *Rhetoric and Reality. The Iraqi Refugee Crisis*, 15 June 2008, available online at: http://www.amnesty.org/en/library/asset/MDE14/011/2008/en/2e602733-42da-11dd-9452-091b75948109/mde140112008eng.pdf , Accessed: April 2009, pp 11-15.

refugees were in detention in Lebanon, for an indefinite period. [90] However, after long negotiations with UNHCR, many of them have been released.

Due to geographic proximity, Jordon has also been chosen as the preferred destination for about 750,000 Iraqi refugees, despite the difficult entry requirements. The political element had a major role because the Jordan's pro-US king has been reluctant to welcome Iraqi refugees on the territory of his country. Such political tensions and financial hardship have hampered UNHCR in conducting its work in full accomplishment of its purposes. For instance, the budget available to UNHCR for Syria in 2006 was of merely 700,000 $, less than one dollar per refugee. [91]

Despite all the unfavorable circumstances, UNHCR has been extremely active and committed to fulfill its mission. However, in many cases, due to legal or financial constraints, it could not prevent situations of dire human rights abuses or indifference from authorities. That is why, for many Iraqi refugees, the only way of avoiding even more dangerous or persecutory situations was of "choosing" to return, or "coerced voluntary returns"[92].

The idea and expectations relating to *refuge* are nothing but a fearful and dehumanizing experience in the eyes of many Iraqis. While commonly associated to safe haven or salvation, the *refuge* risks becoming a dreaded space, which strips the human being not only of a legal identity, but of elementary human(e) attributes. Labor exploitation, prostitution, beggary become an everyday reality for many refugees in Syria, Lebanon or other countries. For such people, the dream of refuge becomes the nightmare of refuge. Far from being an empowering act, their uprooting situates them on the edge of hopelessness and surrender.

[90] Conference Summary Report, *Iraq's Displacement Crisis and the International Response*, December 2007, Available online at: http://www.americanprogress.org/issues/2008/02/pdf/iraq_refugees.pdf , Accessed: April 2009, p 13.

[91] Dahr Jamail, "The Iraqi Refugee Crisis", in *The Nation*, 23 April 2007, available online at: http://www.thenation.com/doc/20070507/jamail , Accessed: April 2009.

[92] Amnesty International, *Rhetoric and Reality…*, p 5.

The pivotal role of an agency like UNHCR is to act on behalf of refugees and empower them from the distance. This empowerment from outside, not originating from the subjectivity and agency of the refugee or their collectivity, is meant to draw the refugee out from *bare life* and re-integrate him inside the legal order (however, not necessarily with the acquisition of citizenship) in which his human rights become recognized anew. In improving the refugee's condition and attenuating the distinction between citizen and alien, UNHCR has, more or less, tried to empower refugees in very practical ways, creating educational programs, trainings etc so that they become self-sustainable. By trying to integrate them in the host society, UNHCR has nonetheless, opposed to their reduction to passive and worthless victims and carved a modality for their subjectivity to be expressed.

However, it is worth pointing to the fact that in relation to sovereign power, both grassroots-level and institutionalized types of resistance do not in reality ever contest the state as such. The, perhaps, aporic characteristic of resistance is that, while it contests the pretence of the sovereign power towards definite and full control within its boundaries, it does not position in a relation of denial or rejection towards the sovereign power.

Paradoxically enough, the forms of resistance, which contest many prerogatives of sovereign power and attributes of sovereignty can be understood as an urge to become integrated within it, therefore reinforcing the state. When protesting in the camp, burning documents to avoid expulsion or resorting to violence in order to make their voices heard, asylum-seekers aspire for the sovereign power, embodied in state authorities, officials etc, to extend its lawful protection towards them. Moreover, being granted refugee status (similar to that of nationals) is the main aspiration of asylum-seekers. The longing of being (re-) integrated inside the juridical order eventually vindicates the state, which is re-credited for its perennial promises, as provider of justice, order, security and many other public goods.

CONCLUSIONS

This thesis has shown how by problematizing the refugee and the symbolical meaning of his flight, many axiomatic and 'put to silence' hierarchies in the international system of states are revealed. The present thesis explored the way in which certain categories of humans (refugees in this case) can be manipulated discursively and politically in order to reinforce the state, eventually. It departed from a framework of understanding the nation-state and its historical making, by cultivating a strong sense of "we-ness", justified by the uniqueness of the nation and the difference from the outsiders.

The thesis showed how a particular definition of the refugee (the Eastern hero) became a 'battlefield' throughout the Cold War, on which certain ideological visions could be expressed in parallel with practices of 'self-appraisal' and stigmatization of the "ideological other". As regarding the abject figure of the "Third World" refugee, not only that it could not fit into this political scheme, but he was subject to a politics of *deterrence* or *avoidance*.

The differentiated type of approach to refugee matters shows that the state of exception, bare life and resistance to sovereign power depend on many political interests at stake. This means that while life in the camp can perfectly match the description of bare life, offered by Agamben, it is not a necessary condition in all the relations refugees-sovereign power. By taking the "political" out and describing the refugee as depoliticized life, it is ignored that, perhaps in many cases, it is the sovereign power itself which wants bare life to become 'politically qualified' again.

Another problematique explored by the thesis was the role of individual and UNHCR-based resistance to sovereign power. The thesis put forward the concept of "institutionalized resistance" in relation to the role and activity of UNHCR and analyzed its mission as a type of resistance to state sovereignty. Without promoting a violent line of conduct, UNHCR has long been struggling to mediate a more humane relationship between bare life and the state. In the

face of state sovereignty, it has many times failed in the pursuance of its objectives, but it has also contributed to the development of a distinctly sacred image of the refugee. As part of the humanitarian mission which it has to accomplish, UNHCR acts on behalf of the refugees and sometimes mediates their relation to sovereign power so that they are not transformed into worthless and ignored humans, entirely at the discretion of the camp administrators.

Nevertheless, sovereignty and the state, as such, are never truly and decisively contested. Forms of protest and desperate gestures of resistance are not conscious political acts of 'overthrowing' the state, but a bid to be taken into account by that state. The act of resistance ultimately reinforces the state as the norm in international relations because it proves that it is the only political entity which is desired and credited for the ability to ensure human rights and security. That is why resistance becomes an artifact of political power and a necessary element in sovereignty's own justification

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