Refugees, citizens and the nation-state: Unrecognised anomalies and the need for new political imaginaries

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Abstract

Following unrelenting violence in places like Sudan, Syria and Afghanistan, as well as widening economic polarisation globally, a steady flow of refugees and asylum seekers is a common occurrence at borders across the world. As many Western countries are responding with increasingly militarised border protection regimes, deterrence measures and harsh detention policies, refugee politics have become a controversial issue. Accordingly, a thorough understanding of the discourse surrounding refugee problems is vital to the field of international relations as it brings into focus an asymmetrical power relationship between those inside and outside the protection of the state system (Haddad 2008; Nyers 2006). This essay provides a critical analysis of the dynamics of political belonging and exclusion underpinning the international order of sovereign nation-states. As such, it questions how the figure of the refugee challenges the legitimacy of this system as the principal organising unit of the political community in the twenty-first century. Drawing on Arendt's (1967), Agamben's (1998) and Bourdieu's (1994) critiques of sovereignty, it examines the founding myths, processes of collective identity formation and genealogy of power relations inherent in the present order. It highlights the role of refugees, conceptualised as 'unrecognised anomalies' as the nation-state's necessary 'constitutive Other', illustrating the exclusionary logics upon which existing political communities are established. It concludes that the figure of the refugee, as a haunting challenge to the ethical parameters of bounded citizen identities, constitutes a vital moral impetus for imagining and conceiving less hierarchical, more just political arrangements.

The only true political action ... is that which severs the nexus between violence and law. And only beginning from the space thus opened ... will [we] then have before us [...] not a lost original state, but only the use and human praxis that the powers of law and myth had sought to capture in the state of exception.

(Agamben 2005, p. 88, paraphrased and emphasis added)

Only with a **completely organized humanity** could the loss of home and political status become identical with expulsion from humanity altogether The world found nothing sacred in the abstract nakedness of being human.

(Arendt 1967, pp. 297, 299, emphasis added)

The quotes prefacing this essay illustrate an ethical problem associated with the nation-state system, namely how the rules of necessity and force treat humans as mere means, and not ends in themselves (Linklater 1990, p. 101). This is evident in an incident where the United States of America (US) government deliberately withheld the names of a group of illegal immigrants who died when the plane deporting them back to Mexico crashed. The fact that the US government only released the names of the victims who were 'proper' American citizens was made public through Woodie Guthrie's song 'Deportees', which protests the government's intentional denial of their identity and dignity as fellow human beings: 'Goodbye to my Juan, goodbye Rosalita, adios mis amigos, Jesus y Maria; you won't have your names when you ride the big airplane, all they will call you will be "deportees"' (quoted in Martin 2013).

The state's classification of illegal immigrants as nameless and anonymous is a salient illustration of the prevailing view of citizenship as the only authentic political identity, affirmed by those not considered a rightful part of its national community, which only fall under the abstract category of 'naked humans' (Arendt 1967, p. 299; Nyers 2006). This is especially pertinent in a world that is more than ever characterised by tensions between developed nation-states and people flows from developing countries (Doty 2009, p. 180).

This essay enquires into this asymmetrical power relationship, and asks precisely how the figure of the refugee, as a person outside the legal protection of the nation-state, questions this system's legitimacy as the principal organising unit of political community in international relations. Examining dynamics of political belonging and exclusion from a critical perspective reveals the present political order as historically constructed and divided into hierarchical, Eurocentric binaries of lawful insiders and what Arendt calls 'unrecognized anomalies' (1967, p. 287).

This way, the refugee, as the nation-state's 'constitutive Other' (Nyers 2006; Said 1978, p. 7), exposes the exclusionary logic of existing political communities as mythologies of naturalised Western superiority. By drawing on existing critiques of 'the Sovereign', such as those of Arendt (1967), Agamben (1998 and 2005), and Bourdieu (1994), this essay concludes that refugees not only challenge the ethical foundations of sovereignty, bounded political communities and citizen identities but, by problematising their totalising claim to power, constitute an important impetus for conceiving alternative political imaginaries.

Following from Nyers' emphasis on the nation-state's need for a 'constitutive Other' as an instrument for legitimising its sovereignty and collective identity (2006, p. 2), this paper treats the figure of the refugee from a critical perspective that views the dominant order as inherently uneven and marked by historical acts of power:

The images of being political bequeathed to us come from the victors, those who were able to constitute themselves as a group, confer rights on and impose obligations on each other, institute rituals of belonging [...], and above all, differentiate themselves from others, constructing an identity and an alterity simultaneously.

(Isin 2002, p. 2)

This way, the current political system is analysed from the vantage point of its alterity, rather than from what it constitutes as normal, in order to expose the underlying dynamics of power and exclusion. This is because only a perspective that recognises the historically ascribed role of the 'Other' can 'intervene in those ideological discourses of modernity that attempt to give a 'hegemonic normality' to the uneven development ... and disadvantaged histories of nations, races, communities and peoples' (Bhabba 1994, pp. 172, 175–6, 194). Therefore, the refugee is recognised here as a result of the history of misrepresentation and discrimination inherent in the present political order (Shapiro 1988, p. 102). To show how this order came into being, the following section examines the genealogy of power relations intrinsic to the nation-state system, especially in reference to its founding myths and exclusionary dynamics of collective identity formation.

Accordingly, an understanding of the present order, in light of its effects on those outside of its benediction, has to start with the question of how the nation-state has been historically constituted as the natural mode of subjectivity and political organisation. As the essential building block of the international system,

the nation-state is defined as 'an exclusionary political space (territoriality) ruled by a single, supreme centre of decision-making which claims to represent a single political community or identity' (Devetak 1996, p. 201).

This way, it is predicated on the principles of sovereignty, territory, and a unitary, coherent society based on a shared identity, what Arendt calls the 'trinity of state-people-territory' (1967, p. 282). Within this national and territorial allegiance, citizenship is based on an implicit social contract by which citizens extract rights and protection in exchange for submitting to a centralised authority. Developed in classical political thought by Bodin and Hobbes, as well as by Locke and Rousseau in its liberal version, this sovereign power is legitimated by the apparent necessity of the citizen to submit his naturally digressive behaviour to particular collective rules that ensure the wellbeing of all (Shapiro 2009, pp. 232–3; Jennings 2011, pp. 29–31).¹ This modern rationality of a necessary social contract results in the obliteration of all preceding forms of cultural, religious, legal and economic authority as these are subsumed into one single concept of political power that alone can guarantee the rule of law (Jennings 2011, p. 3; Schmitt 1996, pp. 19–25). The nation-state is thus founded on the division between constitutive power and constituent power, the former being the citizenry or nation as its inherent source, and the latter comprising the state as the necessary and only lawful representation of the people's power. The ideological relationship between these two powers is crucial for an understanding of sovereignty, as the concentration of power into the hands of the state is legally and morally justified by its claim to represent the interests of its people (Agamben 1998, pp. 39–48; Arendt 1967, pp. 275–8; Jennings 2011, pp. 29–31).²

The founding narrative of 'the people' as the only legitimate foundation for sovereign statehood was consolidated as the essential principle of political organisation during the French and American revolutions (Hobsbawm 1990, pp. 14–18). This narrative exclusively enshrined the 'Rights of Man' within the territorially bounded nation-state as 'the natural order of things, a system of principles as universal as truth and the existence of man' (Paine 1995,

1 Jennings (2011) provides a sophisticated overview of the history and critiques of sovereignty that pays attention to the finer differences and contradictions between the classical modern tradition, liberal political modernity and the revolutionary school of thought, whereas Shapiro subsumes the proponents and critics of sovereignty respectively under more general headings. Whilst being aware of these differences, the framework of this short essay only allows for a simplified genealogy that unfortunately cannot address these nuances.

2 Again, this differentiation between constitutive and constituent power has been subject to much scholarly debate, such as evident in Agamben's in-depth discussion in 'Potentiality and Law' (1998, pp. 39–48) and Jennings' fine-grained analysis of the differences in Arendt's, Agamben's, Sorel's Benjamin's, Derrida's and Schmitt's conceptualisations of sovereign power. Yet, this cannot be addressed here in detail and my conceptualisation of these two powers rests on a simplified version of Jennings' argument that moves away from Agamben's radical, Aristotelian de-legitimisation of political power and instead remains within Arendt's framework that upholds this distinction between constitutive and constituent power (2011, pp. 47–9).

pp. 470–1). Enjoying the privileged status of citizenship based on rights and responsibilities automatically constitutes the identity and sense of self of each person within this bounded community, as ‘man is everything in the formation of this sacred thing which is called a people’ (Renan 1992 [1882], p. 18).

Additionally, ‘the citizen is a man in enjoyment of all his “natural rights”, completely realizing his individual humanity, a free man simply because he is equal to every other man’ (Balibar in Donald 1996, p. 179). This shows how the production of subjectivity and citizenship was exclusively linked to the nation-state.

As a result, sovereign power became institutionalised not only as the exclusive source of political identity and expression of ‘natural’ rights such as equality before the law, property, and freedom from oppression, but also as the only way to maintain law and order in international society (Mayall 1990, p. 2). Based on these ideological legitimisations, nation-state sovereignty was hence seen as the ultimate fulfilment of the inalienable Rights of Man, and therefore consolidated as the primary expression of being political, and for that matter, of being in the world *per se* (Agamben 2000, p. 21; Nyers 2006, p. 17).

This way, mankind is joined as one through the organisation into sovereign societies, which together form a universal ‘totality’ (Adorno 2006, p. 49), or what Arendt calls ‘a completely organized humanity’ based on regimented political belonging and centralisation of power (1967, p. 297). For this end, such unified identities were deliberately constructed as ‘sacred’ through essentialised narratives, ‘foundational fictions’ and myths of primordial belonging and certainty, such as those evident in national anthems, which, despite claiming to express each people’s unique history and culture, are strikingly similar and built on the same banalities of a shared, historical glory (Anderson 1991, pp. 2–8; Bhabha 1990, pp. 291–7; Halliday 2005, pp. 12–13; Hobsbawm 1992, pp. 1–14).

In summary, this simplified genealogy has illustrated how the unified, sovereign order of the nation-state system has been historically constructed as the only normal and hence necessary political and moral community. The next section addresses the ethical problems associated with this triumph of Enlightenment modernity and addresses the position of the refugee for highlighting the hierarchies of power and exclusion inherent in this system.

Representing national societies as formed by a consensual social contract invariably draws attention to those figures excluded from its mythical organisation and citizen subjectivities (Shapiro 2009, pp. 239–40). This is because understanding the perceived unity and cohesion of a group with a collective consciousness ‘entails the radically disturbing recognition that it is

only through the relation to the Other, [...] what has been called its *constitutive outside* that the positive meaning of any term – and thus its ‘identity’ – can be constructed’ (Hall 1996, pp. 4–5).

This need for alterity within the discourse of political belonging then sheds light on the hierarchical nature of the international political order, as sovereign territorial states not only draw borders between each other but inadvertently create demarcations between privileged citizens inside these borders, and those on the outside (Walker 1993). Following the fictional process by which natural-seeming national unity is constructed from imagined traditions and cultural authenticity, this collective identity formation therefore needs to be seen as a discursive activity occurring within the interplay of power and exclusion (Nyers 2006, p. 7). This process of classification and exclusion is manifested in the modern sovereign nation-state system since, as an Enlightenment ideal representing institutionalised Western superiority, it has traditionally relied on such processes of ‘Othering’ (Chatterjee 1986; Haddad 2008; Said 1978). This practice is strikingly illustrated in an original version of the national anthem of Australia, which states that ‘for loyal sons beyond the seas, we’ve boundless plains to share’, while at the same time issuing the warning that ‘should foreign foe e’er sight our coast or dare a foot to land, we’ll rouse to arms ... to guard our native strand’ (NLA 2013).

It is not hard to see how this ‘foreign foe’, opposed to a nation’s nativity and her ‘loyal sons’, is in the present historical circumstances embodied in the figure of the refugee as a threat to national cohesion, identity, and the integrity of the international order. The refugee can be situated within the Eurocentric discourse of the nation-state as the new Oriental subject, the subaltern counterpart to the citizen that emerges from the ‘margins of modernity’, quite possibly in a pre-modern-looking boat that has washed up on the shores of our ‘boundless plains’, and, in its unlawful ‘Otherness’, makes the identity of nation-state citizens not only possible, but meaningful (Bhabha 1994, p. 176; Said 1978, pp. 6–8; Haddad 2003, pp. 298–9). This discursive practice of categorisation manifested in this hierarchical binary is made possible through the deliberate construction of the outsider as a threat flowing from its loss of citizenship which, as previously argued, is equated with its loss of the Rights of Man. Or, as Shapiro contends, ‘to the extent that the Other is regarded as something not occupying the same moral space as the self, conduct towards the Other becomes more exploitative’ (1988, p. 102). This clearly marks the nation-state as a system of unethical exclusion that rests upon the classification of humanity into lawful subjects and abject, ‘unrecognized anomalies’ (Arendt 1967, p. 287).

The fact that the nation-state has the power to categorise humanity into ‘loyal sons’ and ‘foreign foes’ is a salient illustration of Schmitt’s conceptualisation of the political as resting on a ‘friend/enemy distinction that makes possible

the legitimisation of state power and shapes its political motives and actions' (1996, p. 26). Consequently, the refugee's haunting, lawless presence exposes the exclusionary logics of existing political communities and deconstructs the homogenous unity and cohesion of individual nations as mythologies of Western superiority, or what Agamben calls the 'powers of law and myth' (2005, p. 88). This way, the political order is revealed as founded on the ontology of inclusion and exclusion, or, in Arendt's words, on a 'law of difference' which proves that humans are 'not born equal ... but become equal only as members of a group' (1967, p. 301–2).

Seeing the refugee as a product of the state's power to categorise humanity into friends and enemies therefore calls into question the self-evident validity of the nation as the legitimate foundation for sovereign state power and thereby problematises the very concept of sovereignty itself. This is because by viewing the constituent base of sovereignty as constructed through logics of exclusion and division, the constitutive power of the sovereign state ceases to be a means of representing the Rights of Man and instead becomes a self-serving end in itself (Linklater 1990, pp. 100–1). This way, it reveals that it was never truly founded on principles of equality and moral universality, but on a rationalist logic of subjection that invariably leads to a violation of the very source of its constituent power (Arendt 1967, p. 275; Jennings 2011, p. 30; Shapiro 2009, p. 232). Following Schmitt's definition of sovereignty as the power to suspend the validity of the law and decide on the 'state of exception', Agamben shows how the logic of sovereignty thus involves an abuse of its power by placing itself outside the very law that should constrain it (1998, pp. 15–7). This way, the refugee as the constitutive 'Other' that makes the existence of the sovereign nation-state possible consequently highlights the acuteness of Benjamin's contention that 'the tradition of the oppressed teaches us that "the state of emergency" in which we live is not the exception but the rule' (quoted in Jennings 2011, p. 38).

This 'paradox of sovereignty' consequently means that the exception becomes the principal determinant of political life, as the sovereign makes itself the measure of all things and decides on who is included and excluded in the political community, without being held accountable (Jennings 2011, p. 38). According to Bourdieu, state power thus becomes totalising, as 'to endeavour to think the state is to take the risk of taking over (or being taken over by) a thought of state' (1994, p. 1). This reification of state power can therefore be seen as 'symbolic violence' as the self-interested capacity to guarantee the reproduction of power is justified by presenting these discursively produced historical assumptions and misrepresentations as a natural part of the habitus of sovereignty (Eagleton 1991, p. 156; Lardinois & Thapan 2006, pp. 89–91). This way, sovereignty is

once more exposed as 'history turned into nature', as the power of the nation-state seeks to maintain itself by upholding the reified categories of citizens as 'loyal sons' and non-citizens as 'foreign foes' that it is founded on.

Consequently, by deconstructing the 'natural' connection between nation and state as the basis of sovereign legitimacy, the entire existence of the modern political system, as predicated upon this subsuming logic, is challenged by the very figure that it sought to alienate from its version of humanity. Albeit in an unsettling way, the refugee echoes in the dictum that 'the only way to deal with an unfree world is to become so absolutely free that your very existence is an act of rebellion'³ – only in this case becoming free means being without country. Put succinctly, from their haunting presence on our shores and borders then comes the profound realisation that the refugee, despite (or maybe because of) lacking rights and freedom, can be seen as the quintessential figure of resistance, whose abject existence outside the law constitutes an act of involuntary rebellion against the very 'powers of myth and law' that expelled him or her from their logic – at least for those willing to see.

Following the importance of the refugee for highlighting the ethical impasses of the present system, it is important to also look to possible alternatives, as no problematisation would be complete without at least imagining a different order. Based on a Gramscian optimism of the will, I have therefore deliberately given this intellectually rather pessimistic analysis of the present a title that reflects this hope for future possibilities. Following Agamben, I agree that the very idea of legality as attached to citizenship must be opposed, since, as this essay has demonstrated, it is this very principle, or 'nexus between (state) violence and law', that causes the present ethical impasse within the nation-state system (2005, p. 88).

Yet, the concrete consequences of this stance remain shrouded in a spirit of idealistic uncertainty, as proposals for alternative ways of being political, such as Agamben's 'human praxis beyond the powers of law and myth' (2005, p. 88), do not go further than providing a much-needed utopian impetus for thinking about changing the present. This is true also for Arendt's (1967), Linklater's (1998) or Habermas' (1988) visions of alternative political communities, which, unlike Agamben's (2005), do not oppose political power per se, but imagine it to be transformed by a shared, deeply held desire for a more ethical order based on our common humanity.

3 This widely used quote is commonly attributed to Albert Camus, yet despite an intensive search, I have not been able to confirm this or find a reference. This is why the quote is included as a 'dictum', without directly relating it to Camus.

The lack of a concrete agenda for replacing the current order, however, is not to be equated with a lack of action and change. This is because how we understand and theorise the world provides the platform from which we launch our actions, as encompassed in the words of W.H. Auden, a poet known for his critical engagement with the moral and political issues of modernity:

[I]n politics theory and practice cannot be separated ... [as] politics must be kept in bounds by democratic institutions, which leave it up to the subjects of the experiment to say whether it shall be tried, and to stop it if they dislike it ... because, in politics, there is a distinction, unknown to science, between Truth and Justice.

(from the poem 'Tyranny', 1970)

In this way, exposing systems of power with their inherent unjust hierarchies, and imagining new political communities in their place is crucial for a just order. Auden himself believed that the political problem of the modern age was that 'the only thing liberalism knows to offer is more freedom', which unfortunately results in a lack of rigorous moral necessity (quoted in Arana 2009, p. 17). As I have demonstrated, this overemphasis on freedom for some, at the expense of justice for others, becomes an especially salient problem in a world ordered by a hierarchical international system divided into deserving and undeserving subjects.

Consequently, realising that 'there are many countries in our blood' (Greene 2007, p. 86), and living in a way that reflects loyalty to a shared humanity rather than one country alone, is a big step towards much-needed new political imaginaries – due to the tragic figure of the refugee highlighting it for those willing to recognise his or her silent message.

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