

United Nations *Peace and Progress*, Volume 4 (1), pp. 30-34.
<https://postgraduate.ias.unu.edu/upp/>



TRACK TWO: COMMENTARY

Cluster 4: Demographics and Migration

The Refugee Crisis: A Challenge for the Sovereign Power through the Lens of the Homo Sacer Concept

POZZATO, Dorothea¹

ABSTRACT

This article reviews the main concepts and theories developed by the philosopher Giorgio Agamben on the ontology of power and its connection with human existence. A reflection on the role of the refugee within modern nation-states is drawn from his theories of biopolitics and Homo Sacer. Within this framework, the limits and fragilities of sovereign nation-states in governing human existence within national borders are pointed out, and parallelisms are drawn between the figure of the Homo Sacer and the refugee's condition. The fact that the refugee—outstripped of their citizenship rights and the bearer of mere existence—is de facto excluded from the political community, renders him outside the protection and norms granted to citizens by the nation State. In line with Agamben's conclusion, the article suggests that a new legal rights system revolving around human existence should replace the current nation/state/territory model of governance.

KEYWORDS: biopolitics, nation-states, homo sacer, refugees, citizenship, human rights

¹ Dorothea Pozzato is a student of the MSc. in Public Policy and Human Development program at UNU-MERIT.

Cara Mineo—also known as “village of the oranges”—used to be a military domain of the American troops stationed in a United States military base 50 kilometers away from Catania, Sicily. After the American troops left in 2010, it remained abandoned. However, its situation changed one year later, when the Italian government decided to use this infrastructure to receive asylum-seekers. With around 4000 inhabitants, the Cara (Reception Center for asylum-seekers) of Mineo is now the biggest reception center in Europe (Liberti, 2014). Although detention in this type of center should be limited to a maximum of 180 days—as of 2018—for identification and application processing (Lgs. Decree no 113/2018), many migrants stay in the center for over a year, waiting for a decision over their next steps. They spend their days in the “village” which is badly connected and too far to easily reach the closest urban areas. Hence, the only contact with the host country is represented by the workers and the soldiers employed in the camp.

Mineo is not an isolated case in Italy, but it recalls similar structures and conditions across various countries where irregular migrants, asylum-seekers, and refugees are detained in isolation for an undetermined time and without clear information on their integration process. The case of Australia preventing “boat people” from arriving to its borders by locating them in remote islands is well known, but other countries such as Norway have similar policies, while Denmark is currently discussing a costly plan to move its unwanted immigrants to a remote island: “a tiny, hard-to-reach island that now holds the laboratories, stables and crematory of a center for researching contagious animal diseases. As if to make the message clearer, one of the two ferries that serve the island is called the Virus” (Selsoe Sorensen, 2018).

What is the connection between nation-states and the settling of these zones of exclusion for undocumented migrants? This article reflects upon this question by looking at Agamben’s theories on biopolitics and *Homo Sacer*.

Agamben is a philosopher writing in the Foucauldian tradition and, in his works, seeks to explain the ontology of power and its relation with life. He further develops the concept of biopolitics introduced by Foucault in his later works. The term biopolitics refers to the connection between life and politics, where the human body and life processes are conceived as an object to be taken care of and managed by the nation-state (Dean, 2013). Within this framework, political control revolves around the administration and management of life of a population.

Agamben wrote *Homo Sacer* when the intellectual community debated on the meaning of Nazi detention camps. In the book, he suggests that what happened is not to be considered an

occasional event in history, rather, it is a part of the mechanism of power. According to Agamben, states' attempts to regulate the biological life of its citizens—or biopower—represent the intrinsic connotation of all forms of power. Reference to the two Greek words used to indicate life—*zoe* and *bios*—provides a more detailed understanding of the biopower concept. Although modern languages lost the distinction between the two, *zoe* can be translated and understood as natural life, and in ancient Greek it was used to indicate the mere existence shared by all animals (Agamben, 1998). *Bios* was used for humans in social spaces, therefore indicating the lived life as part of the polis. In other words, *zoe* indicated the condition of being alive, while *bios* referred to the organized life in a community.

Agamben argues that the politicization of the natural life has been a phenomenon common to all the epochs in Western history. What is peculiar of modern societies is the increasingly central role that biopolitical policies have: states increasingly extend their regulatory power to the private sphere of citizens' lives, for instance through health campaigns (against smoking, for vaccinations etc.) or birth rate regularization. Modern democracies attempt to eliminate the line between biological and political life as a way to control bare life. However, this creates “zones of indistinction”, where human life is decoupled from its political part (Agamben, 1998).

Precisely at this point, the figure of the Homo Sacer comes into play. The word Sacer originated from the Indo-European language, where it meant divided, set apart. The Homo Sacer is the figure that embodies *zoe*, separated from *bios*. Because of this condition, in Roman law, the Homo Sacer was the man, who may be killed without punishments, and yet could not be sacrificed to the Gods: he had no religious value in his being banned by the social organized life (Agamben, 1998). Hence, the Homo Sacer indicated the outlawed person, that was banned from life of the community—deprived of his *bios*—and that could be killed without punishment as he did not have any legal protection. At the same time, because of the condition of exclusion from *bios*, his life was not considered expendable to the Gods.

The Homo Sacer represents then the mere bearer of *zoe*, naked life. This figure bears the dual condition of being outlawed—the exception to the law—but still included as it is subject to the penalty of being killed (Ibid). By becoming the exception, the Homo Sacer “blurs the lines between outlaw and citizen” (Downey, 2009: 111). The bare life/political existence binomial is a central point in the practice of biopolitical power; it is precisely at the borderline created between *zoe* and *bios* that the Homo Sacer is found.

The refugee, the stateless, and/or the irregular migrant embody the figure of the Homo Sacer in that they are excluded from the nation-state, in a situation that transcends the territoriality of

national laws and citizenship rights. The refugees, excluded from the rights and governance of the nation-state, are outstripped of their *bios*, living in a condition of bare existence (Agamben, 1995). The nation/state/territory trinity delimits laws and rights to its borders, to cover its citizens. By setting a border, it also defines the citizen/bare existence dualism. The bare existence of the modern Homo Sacer is not a marginal phenomenon to modern states, but it constitutes its most emblematic subject; according to Agamben: “If the refugee presents such a disquieting element in the order of the nation-state this is primarily because, by breaking up the identity between the human and the citizen and between nativity and nationality, it brings the originary fiction of sovereignty to a crisis” (Agamben, 2000: 21).

Moreover, the condition of exclusion from citizenship rights of refugees, which should have embodied their claim on human rights, shows instead the paradox: “*The conception of human rights based on the supposed existence of a human being as such, Arendt affirms, proves to be untenable as soon as those who profess it find themselves confronted for the first time with people who have really lost every quality and every specific relation except for the pure fact of being human. In the system of the nation-state, the so-called sacred and inalienable human rights are revealed to be without any protection precisely when it is no longer possible to conceive of them as rights of the citizens of a State*” (Agamben, 2000: 188-189).

In 1943, while Europe was witnessing the last years of the Second World War and the number of displaced, stateless and refugees was continuing to increase, philosopher Hanna Arendt published an essay entitled “*We Refugees*”. The author saw in the figure of the refugee the “avant-garde of their people” (Agamben, 1995:114) who first experienced the limits and obsolescence of the understanding of political subjects as linked to nation-states.

Fifty years later, Agamben takes up the arguments of Arendt, suggesting that within a system of governance of nation-states, the protection of human existence comes into crisis when divided from citizenship (Ibid). In other words, the displaced, stateless, and refugees—although de jure holding human rights and basic protections enshrined in national constitutions—are de facto without legal protection as long as the nation-state lacks will or capacity to enforce them.

Agamben argues that the model of modern nation-states is challenged by an increasing “permanently resident mass of noncitizens” (Agamben, 1995: 117) neither naturalized nor repatriated, hence transcending the order of territoriality—inherent to the concept of sovereignty. Here is where zones of indistinction between inside and outside, exception and norm are created (Downey, 2009). A refugee camp is the spatial embodiment of a state’s attempt to localize the exception, to exercise its power over the bare life outstripped from its

political existence. It is visible in state's attempts to marginalize irregular migrants, either by relegating powerless humans in isolated camps, or by militarizing borders and thereby de facto condemning the *homines sacri* to a priori exclusion from rights.

What then is the solution suggested by Agamben? According to the philosopher, reactions such as Chancellor Merkel's decision to open Germany's borders to welcome refugees, although significant and compassionate as they are, do not question the essence of the political system but see the problem of the refugees as a gap in the system that has to be overcome by including the excluded. This simply reproduces the current structure of nation-states, and therefore does not solve the issue of territorial sovereignty.

The works of Arendt and Agamben suggest that instead of unquestioning the model of the nation-state, we should rethink our political philosophy based on the figure of the refugee, the *Homo Sacer* par excellence. The refugee, in their a-territorial condition should become the model of a new political system, where the "guiding concept would no longer be the *ius* of the citizen, but rather the *refugium* of the individual" (Agamben, 1995:117). In other words, instead of talking about inclusion and integration, Agamben challenges us to think beyond the limits of conventional citizenship, and to move towards a reorganization of rights around the a-territoriality of human existence. Human rights should not be contingent on what nationality one happens to have.

REFERENCES

- Agamben, G. (1995) *We Refugees*. Symposium: a Quarterly Journal in Modern Literatures, 49:2, 114-119
- Agamben, G. (1998) *Homo Sacer: Sovereign power and bare life*. Stanford University Press. Stanford California
- Agamben, G. (2000) *Means without End: notes on Politics*. University of Minnesota Press. Minneapolis – London.
- Dean, M. (2013) 'In the Shadow of the Sovereign', in *The Signature of Power: Sovereignty, Governmentality and Biopolitics*. London: Sage
- Downey, A. (2009) *Zones of Indistinction. Giorgio Agamben's 'Bare Life' and the Politics of Aesthetics*. Routledge. Third text, 23:2, 109-125
- Liberti, S., (3rd December 2014). *Il grande affare dei Centri d'accoglienza*. Internazionale [Online] Accessed 4th April 2019. Available at: <https://www.internazionale.it/reportage/stefano-liberti/2014/12/03/il-grande-affare-dei-centri-d-accoglienza>
- Selsoe Sorensen, M. (3rd December 2018) *Denmark plans to isolate unwanted migrants on a Small Island*. The New York Times [Online] Accessed 4th April 2019. Available at: <https://www.nytimes.com/2018/12/03/world/europe/denmark-migrants-island.html>