

Encyclopedia of Global Human Migration (Wiley-Blackwell, 2012)

Title: The Political Economy of Refugees

Paolo Novak

SOAS

This is a preprint and pre-peer review version of an article submitted for consideration to the Editors of the Encyclopedia of Global Human Migration (2013), Wiley-Blackwell available online here: <http://onlinelibrary.wiley.com/book/10.1002/9781444351071>

Introduction: who is a refugee?

The study of refugees necessarily starts from law, because despite episodes of politically-motivated migration, as well as the notion of asylum, being a constant feature throughout history, the modern refugee institution is a legal one. As stated in Article 1A(2) of the 1951 UN Convention on the Status of Refugees and Stateless Persons, a refugee is a person who can, on a case-by-case or group basis, be determined to have a well-founded fear of being persecuted for reasons of race, religion, nationality, or membership of a particular social group or political opinion; who is outside the country of his nationality; and who is unable or, owing to such fear, is unwilling to avail himself of the protection of that country (UNHCR, 2005: 55).

Such definition is *residual*, in the sense that it identifies refugees on the basis of their state's "lack of protection": refugees are persons *left out* of the territorial embrace of the nation-state. Positivist approaches to the study of refugee migration, protection and assistance, as well as humanitarian policy-makers, adopt such conceptualisation un-problematically, as their concern for the "definition and description of the class of refugees has the only purpose of facilitating and justifying aid and protection" (Goodwin Gill, 1996). A political economy perspective, on the contrary, emphasises *relational* processes: the historically evolving process of *production* of institutional fields and discourses defining who a refugee is, and the contextual and dynamic processes and practices of its *social re-production*. It sets "lack of protection" in relation to the political and economic *forces* which produce the refugee institution and which are reproduced by it¹.

From residual to relational understandings of the refugee

The residual conceptualisation of the refugee contained in the 1951 UN Convention is problematic, for (at least) four reasons. First, it relies on concepts such as nation and race that reify such analytical categories and social formations, disregarding how their meaning and significance can only be assessed through historical and contextual analyses. Claims to ethnicity or nationhood are necessarily contextual, and the static and a-temporal adoption of such categories as the analytical basis for defining who a refugee is disregards how these notions are difficult to define in practice. Such "units" should not be taken for granted, but

¹ Bernstein (2007) uses this distinction in relation to poverty definitions in the context of rural development.

studied as historically evolving processes of social production, with dynamic configurations and heterogeneous effects. The intellectual, economic, political and social forces, shaping their meaning and implications historically and across places (Voutira, 1991), and the relational processes of reinterpretation and reconstruction of such meanings by refugees, at individual and group levels (Malkki, 1995), all shape the dynamic *relation* between such groups and countries of origin and destination.

Second, it imposes a second-order need on refugees, the need for legal recognition by a relevant authority, which is “external” to their lack of protection. Such imposition distinguishes their *being* refugees as a result of lack of protection, from their *becoming* refugees which is premised on the legal recognition of such “lack”. Although a person is a refugee from the moment he/she leaves the place of habitual residence escaping persecution, the Convention definition implies that in order to acquire the status of refugee the individual requires a “certification”, i.e. he/she needs to be recognised as one (UNHCR 2005). The need for certification makes the recognition of refugees’ need of protection dependent on a vast array of other conditions that are in excess of their lack of protection: attitudes of host governments vis-à-vis particular national groups, the presence of non-state actors influencing the Refugee Status Determination process, changing discourses on “rights of return” vs. “rights of asylum”, the relevance of databases providing information on countries of origin, etc. More broadly, the need for legal recognition, and the authority vested on those who grant such recognition, necessarily entangles humanitarianism and refugee protection with politics and power relations: geopolitical relations, shaping historically changing attitudes towards asylum at global level (Chimni, 2000); the politics of care, shaping power relations in national political contexts, (Samaddar, 2003); and the politics of aid implementation, legitimising the humanitarian industry (Harrell-Bond, 1986), and transformed by refugees’ strategies of engagement with it (Novak, 2007). National and international political contexts, and the historically contingent attitudes, discourses and practices they generate vis-à-vis refugees, shape the dynamic *relation* between need of protection and need for recognition.

Third, the above definition conceives lack of protection exclusively in relation to political persecution. This is problematic as it leaves out of the reach of the Convention persons who may equally “lack protection” by their state, but who are unable to flee; who have not crossed an international boundary, such as IDPs; or who are not categorised as “politically persecuted” such as people fleeing from a context of generalised violence (Zolberg et al. 1989), or from environmental disasters and development interventions. It also renders problematic the analytical treatment of migrant groups comprising people with heterogeneous motivational and material reasons for migration (Voutira, 1991). Indeed, perhaps more importantly, such conceptualisation is predicated on the questionable distinction between “economic” and “political” migration, the former assumed to be a voluntary and rational response to differences in livelihood opportunities, and the latter considered as the forcible consequence of politically-motivated acts. Such distinction is problematic, from a political economy perspective, as it omits to consider the mutually constitutive *relation* between human displacement and capitalist development. Processes associated to the latter disrupt livelihoods and subsistence strategies through ongoing and violent processes of dispossession, “freeing” people from their means of subsistence, while at the same time “forcing” them to leave their place of habitual residence in search of a job. Such distinction, furthermore, disregards the role played by national and international

political structures in underpinning such processes and the maintenance of the profound economic inequalities that lead to migratory decisions.

At its broadest, fourth, the conceptualisation of “lack of protection” expressed by the Convention is premised on an ideal type of political organisation, the nation state, and on a liberal understanding of the ‘individual’ and the ‘rule of law’. The 1951 UN Convention posits the citizen as the only subject of political life and the modern state as the only agent of law-making, force, and rationalisation of social life: indeed, by capturing within the interstate system what escapes from the trinity “nation-state-territory”, the refugee institution defuses the challenge posed by refugees to the work of statecraft; it is the “exception” on which the norm relies (Kumar Rajaram, 2003). Produced in their *being* refugees, by the exclusionary act of a sovereign who is unable or unwilling to provide protection, they *become* refugees by the inclusionary act of another sovereign. This is problematic as it conceals the political act hidden behind the definition of who is a refugee, contained in the above Convention: that of considering human lives deserving protection exclusively by reference/deference to the sovereign (Agamben, 2000). Not only this is problematic analytically, as suggested so far, but it is also problematic politically, as it avoids the discussion of the structural *relations* shaping the profoundly unequal political and economic contexts in which refugee-being and refugee-becoming unfold.

It is in this sense that a political economy approach to the study of refugee migration, protection and assistance moves beyond residual definitions of the refugee and rejects the postulate that the purpose of defining refugees is to facilitate aid and protection (see Goodwin Gill, above). Rather, it is concerned with the historically evolving process of *production* of the refugee institution, with the contextual and dynamic processes and practices of social *re-production* of such institution, and with the *productive forces* behind such processes.

State-making and refugee production

The refugee institution has always been implicated, relationally, in practices of state making and intergovernmental regimentation: on one side, refugee migrations are the product of crises or at least of profound changes in forms of government; on the other, they produce new forms of government. The three essential elements characterising its modern definition -a state-based territoriality, the establishment of a nationality-law nexus, its intergovernmental regimentation- can in fact be traced to three episodes of displacement marking the progressive consolidation of the nation state as the dominant institutional form of political order (Soguk, 1999).

The displacement of the Huguenots, the first refugees recognised as such in the modern state system, exemplifies the moment in which states’ legal practices began to be defined in relation to sovereign territory, as opposed to being in relation to the monarch’s subjects; the first concrete application of the principles emanating from the Treaty of Westphalia. The Huguenots were French Protestants that left France in 1685 in response to the revocation of the Edict of Nantes, which safeguarded minority religious beliefs under Catholic rule. The Edict leading to the expulsion of the Huguenots from French *soil* engrained the notion of territorial sovereignty as it identified the sovereign with a particular territory. The French revolution marked a second fundamental moment in practices of statecraft because it established a nexus between nationality and law. By transforming a group of vassals and

subjects into a body of citizens, The Declaration of Man and Citizen asserted in law the need to belong to a nation and a state as a pre-condition for accessing security, prosperity and *protection*. It thus made the criteria defining membership to the nation, and the legal distinction between citizens and non-citizens, crucial. It is in that historical moment that, as much as the National, the Alien became an object of legislation, as testified by the emergence of laws concerned with the rights and duties of foreigners in various countries throughout Europe.

The breakup of European Empires and the consolidation of the nation-state as dominant political form, third, is the culmination of such historical process of institutional production. The more than ten million people on the move throughout Europe at the end of World War 1, in fact, posed serious threats to the stability of the system as a whole. Rather than ad hoc problems of governance for each state hosting them, as they had been until then, refugees were defined for first time as figures of concern for the interstate system. The Convention Relating to the International Status of Refugees (1933) identified refugees on the basis of lack of protection and effective non-nationality, and, although applied ex-post in relation to already *in situ* populations, that Convention established a legal framework attributing to refugees an internationally recognised status and determining an overall sense of purpose for refugee-related activities. It constituted the refugee institution in its modern form.

It is in relation to the nexus between territory, nation and sovereignty, and the confirmation of such order provided by the refugee exception, that refugee production can be captured. On one side, the normative conception of political order based on the nation-state, the presumption, in other words, that states are legitimate when they represent a national community, is fundamentally unstable. It provides the “political bases” for refugee production as it leads to attempts by nationalist forces to homogenise and distinguish, to re-define and purify the nation, to draw boundaries of inclusion and exclusion along national lines (Keely, 1996). By mobilizing the people and purifying its vernacular culture, nationalist forces set in motion an exclusionary trend whose long-term outcome inevitably leads to separation from other “ethnies” and from the incorporating state (Smith, 1994). A trend which *produces* refugee flows. Indeed, the decline of Empires and subsequent processes of de-colonisation, have been a confirmation of Arendt’s (1968) assertion that “the refugees and the stateless have attached themselves like a curse to all the newly established states on earth which were created in the image of the nation-state”.

On the other side, such normative ideal posits the refugee as deviant in respect to the aspired unity between these three dimensions; it constitutes refugees as a problem of governance for the interstate system as a whole, as they challenge the structure upon which it is founded. Refugee displacement, thus, *produces* new governance arrangements geared towards the “normalisation” of the refugee problem.

The Cold War and the reproduction of the refugee institution

In the years following World War 1 several other organisations came into existence, all of which attempted to deal with specific populations, or geographical areas, in and hoc manner. It was at the end of World War 2, with the establishment of UNHCR in 1950 and the ratification of the 1951 Convention that the international juridical status of refugees was confirmed, albeit still subject to geographical and temporal restrictions, and that refugee protection developed into a fully fledged *refugee regime*.

As much as previous legal instruments, the Convention definition had a strategic dimension, the expression of the political context in which it was crafted. Western states were in fact able to give priority in protection matters to persons whose flight was motivated by pro-Western political values. Privileging the protection of persons fearing persecution because of their political and civil status facilitated the condemnation of Soviet bloc politics through its open-endedness and the flexibility it commanded in recognising cases of ideological dissident. Furthermore, it emphasised religion, race and nationality or membership of a social group, issues which had been historically problematic for the Eastern bloc. Indeed, despite being an extension of Art.14 of the Human Rights Convention granting individuals the right to seek and enjoy asylum from persecution, other rights contained in that Declaration, chiefly socio-economic rights which were granted higher recognition in the Eastern bloc, were disregarded. Finally, the Convention was Eurocentric in its focus: this was not only in relation to its restricted applicability, but also vis-à-vis the emphasis in sharing the “burden” of refugees (Chimni, 2000).

The Convention definition is also in the embodiment of (apparently) contradictory principles of world order enshrined in the UN Charter itself (state sovereignty, national self-determination, democracy and respect for human rights), which are especially evident in the context of the normative and legal framework for refugee protection. The universal logic of human rights and the territorial logic of sovereignty, in fact, are premised on different conceptualisations of identity and world order, simultaneously defining refugees “as-humans and as-citizens” (Nyers, 1999). They express the contradiction between being and becoming a refugee, highlighted above; a contradiction which underlines, once again, the political nature of international protection, as its resolution is left to the powerful forces shaping processes of refugee status recognition (Novak, 2007).

This is so, in primis, by considering geopolitical forces. Not only independence struggles and the variety of conflicts around the world that produced massive refugee flows in those decades were often proxies of the Bipolar confrontation; but so was the political value of refugee protection and assistance. The ratification of the 1967 Protocol, which lifted restrictions contained in the Convention, universalising the refugee institution; the ever expanding geographical scope of the refugee regime; the profusion of assistance funds from Western Donors; the explicit recognition of the value of refugees in the fight against communism as much as the entanglement of refugee protection with anti-Soviet military struggles; are all testimonies of the dialectical relation between the refugee institution and Cold War imperatives. Other forces, however, animated the refugee regime, taking advantage of its existence for their own reproduction.

In each country affected, the interplay between the geostrategic logic of refugee protection and domestic politics, while shaped by deeply contextual relations, opened up numerous opportunities for mutual reproduction. Indeed, over the decades, and in parallel to the evolution of global governance structures, the refugee regime dramatically expanded the scope and depth of interventions, legitimising the operations of global, national and local non-state organisations, advisers, experts; generating discourses and programs, all of which, together with the material resources rendering them concrete, entered into the arena of contestation of domestic politics. Refugees themselves, similarly, while (selectively) benefiting from such interventions, attempted to resist, transgress and re-appropriate such institutional order, reproducing in contextual ways their effects.

While shaped by the hierarchies and inequalities characterising the context in which it is produced, the refugee institution concurs to their reproduction: it renders such forces concrete, tangible and observable, in their attempt to shape the implications and effects of the refugee regime (Novak, 2011).

Globalisation, the refugee and the migrant

The 1990s was labelled the “decade of repatriation”, and began with immense hope for the plight of refugees. The end of the Cold War was seen to bring an end to the refugee cycle, understood both as the cycle of persecution and violence leading to refugee displacement and as the cycle of asylum and the repatriation of most refugee caseloads. Such hopes were soon dashed. Not only the Yugoslav wars and ensuing NATO “humanitarian intervention”, together with the emergence of new conflicts across the world, produced new episodes of refugee displacement, but the asylum needs of millions of Cold War refugees did not disappear; in fact, they often worsened. This is so even turning a blind eye to the plight of Palestinian refugees, as mainstream refugee discourse most often does. The end of the Cold War did not represent the “end of history”, but rather a re-configuration of the profound economic inequalities and power imbalances characterising the context in which refugee displacement and protection unfold.

To a certain extent, the refugee cycle did come to an end. The same decade witnessed the progressive tightening of the asylum regime: for old caseloads, donors and UNHCR started emphasising the “right of return”, as opposed to that “of asylum”; new episodes of political displacement generated new institutional categories and labels, restricting the scope and relevance of international protection; the containment of asylum seekers and the presumption of their economic motivations, the securitisation of aid and militarisation of borders, profoundly eroded possibilities of seeking asylum. At the same time, thirty years of neoliberalism, the folly of Structural Adjustment Programs, the dispossession of land by transnational corporations, the disruption of livelihoods and political systems through the establishment of markets’ sovereignty, have rendered “lack of protection” the common condition for the vast majority of the world populations. Indeed, like the refugee in the previous hundred years, the migrant seems to be the central figure of the 21st Century.

References

- Agamben G., 2003. *Stato di Eccezione* Torino: Bollati e Boringhieri.
- Arendt H., 1968. *The Origins of Totalitarianism* 3d ed. New York: Harcourt, Brace Jovanovich.
- Bernstein, H. (2007). “*Rural livelihoods in a globalising world: bringing class back*” Conference on policy intervention and rural transformation: towards a comparative sociology of development China Agricultural University Beijing

- Chimni B.S., 2000. "Globalization, Humanitarianism and the Erosion of Refugee Protection" *Journal of Refugee Studies* 13(3): 243-263.
- Goodwill-Gill G., 1996. *The Refugee in International Law* Oxford: Clarendon Press.
- Harrell-Bond B., 1986. *Imposing Aid: Emergency Assistance to Refugees* Oxford: Oxford University Press.
- Keely C.B., 1996. "How Nation-States Create and Respond to Refugee Flows" *International Migration Review*,30(4): 1046-1066
- Kumar Rajaram P., 2003. "Making Place": The "Pacific Solution" and Australian Emplacement in the Pacific and on Refugee Bodies" *Singapore Journal of Tropical Geography* 24(3): 290–306.
- Malkki, L., 1995. "Refugees and Exile: From 'Refugee Studies' to the National Order of Things" *Annual Review of Anthropology* 24: 495-523.
- Novak P., 2007. "Place and Afghan Refugees. A Contribution to Turton" *Journal of Refugee Studies* 20 (4): 551-578.
- Novak P., 2011. "The Institutional Incompleteness of Empire" *Central Asian Survey* Special Issue, Spring 2011.
- Nyers P., 1999. "Emergency or Emerging Identities? Refugees and Transformations in World Order" *Millennium* 28(1): 1-26.
- Samaddar R. (ed), 2003. *Refugees and the State*. New Delhi: Sage.
- Smith A.D., 1994. "Ethnic Nationalism and the Plight of Minorities" *Journal of Refugee Studies* 7(3): 186-198.
- Soguk N., 1999. *States and Strangers. Refugees and Displacements of Statecraft* Minneapolis: University of Minnesota Press.
- UNHCR, 2005a. *Self-Study Module 1: An Introduction to International Protection. Protecting Persons of Concern to UNHCR* Online: UNHCR Refworld. Available at: <http://www.unhcr.org/cgi-bin/txis/vtx/refworld/rwmain?docid=4214cb4f2>
- Voutira E., 1991. "Pontic Greeks Today: Migrants or Refugees?" *Journal of Refugee Studies* 4(4): 400-420.
- Zolberg A., Suhrke A. and Aguayo S., 1989. *Escape From Violence. Conflict and the Refugee Crisis in the Developing World*. Oxford: Oxford University Press.