ONTOLOGIES OF ASYLUM

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ONTOLOGY OF ASYLUM

Barbara Gornik

Introduction

Borrowing from Shé Hawke and her text on liminal subjects and related ethics of hospitality, we have entitled this edited volume "Ontologies of Asylum."[1] Hawke, also contributing to this volume, conceptualizes an innovative ethical thinking of how to embody hospitality toward the liminal Other (migrant, refugee…); playing with the *hospitality-hostility* etymological divide, she inaugurates a new kind of thinking, being able to in-corp-orate rather than assimilate the other, by calling this move "the ontology of asylum[2] - i.e. as thinking, being able to reflect upon "refugee and migrant 'bodies' seeking cultural in-corporation."[3] Her insightful essay and the current world-wide refugee situation has invited to expand on the notion of ontology of the asylum.

Increasing numbers of refugees in diverse parts of the world has initiated a new episode in debates about asylum and human rights issues in academic, political and legal domain that demonstrate the complexity and salience of migration challenges for contemporary societies on one hand and indicate the emergence of new conceptual and political vocabularies in asylum rhetoric the on the other. The refugee crisis in Europe points to the thought-provoking argument that "organizations as well as the single states – all the solemn evocations of the inalienable rights of human beings notwithstanding – have proved to be absolutely incapable not only of solving the problem but also of facing it

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1 See Shé Hawke, "Graft versus Hoft: Waters that Convey and Harbors that Reject Liminal Subjects – Toward a New Ethics of Hospitality," in *Borders and Debordering: Topologies, Praxes, Hospitableness*, eds. Tomaž Grušovnik, Eduardo Mendieta and Lenart Škof (Lanham, Boulder and New York / London: Lexington Books, 2018).

2 Ibid. See xiii (Introduction), and p. 198 for the ontology of asylum.

3 Ibid.

in an adequate manner", as Agamben put it.[4] The need to revisit the notion of asylum taking start from different humanistic and social science viewpoints therefore comes timely and foremost as a necessity to investigate the ontologies that constitute asylum, focusing particularly on its social, cultural, religious, legal, political and ethical dimensions. Hence, the current special issue of Poligrafi devotes attention to assessing theoretical foundations, philosophical categories, ethical presuppositions, moral logics, legal and practical conditions, which the notion of asylum rests on.

When coming across the notion of asylum many of us most likely think of contemporary refugees and migration movements. Several of us probably also think of human rights, not surprisingly of course, since Article 14 of the Universal Declaration of Human Rights (1948) advocates for everyone's right to seek and to enjoy in other countries asylum from persecution, which was framed as a response to the atrocities and horrors of the Second World War, when the world faced a large number of refugees and stateless people in need of protection. While it is true that the rights of refugees were legally formalized in contemporary form with the United Nations Convention Relating to the Status of Refugees in 1951 (the UN Refugee Convention) – under which seeking asylum came to be understood as a fundamental human right that states have to provide universally without distinction – one must not neglect the fact that idea of asylum has a long philosophical and political history.[5]

Mark Goodale offers particularly valuable characterization of human rights, which can be constructively extended to ontological understanding of asylum; as he says, human rights may be approached broadly – as "the phrase that captures the constellation of philosophical, practical and phenomenological dimensions through which universal rights, rights believed to be entailed by a come human nature, are enacted, debated, practiced, violated envisioned and experienced."[6]

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4 Giorgio Agamben, "Beyond Human Rights," in *Radical Thought in Italy*, eds. Paolo Virno and Michael Hardt (Minneapolis: University of Minnesota Press, 1997), 160.

5 Matthew E. Price, *Rethinking Asylum: History, Purpose, and Limits* (Cambridge: Cambridge University Press, 2009).

6 Mark Goodale, "Toward a Critical Anthropology of Human Rights," in *Human Rights: An Anthropological Reader*, ed. Mark Goodale (Chichester and Malden: Wiley-Blackwell, 2009), 378.

What is evident from his standpoint is a claim that human rights, including the right to seek and enjoy asylum, involve concepts, practices and experiences, which are prior to and go beyond the merely instrumental or legal aspects of rights.

In line with this argument, the Poligrafi special issue has been initiated precisely to bring attention to the ontological aspects of asylum, not take it for granted or given but to consider the underlying presuppositions that determine what is to count as an asylum, how it is brought into being, what are its categorical and existential preconditions, what concepts it is comprised of, how it is practiced and so on. While acknowledging that asylum exists as a result of historical conditions, ethical frameworks and socio-political circumstances, which had affected manifestations of asylum concept in variety of historical context,[7] this introductory article however follows a different quest – drawing from Foucault's theoretical framework, it principally aims to elucidate the right to seek asylum as framed in international law, particularly in relation to contemporary politics and legal practices and to some extent also, our present everyday lives.

Outline of Ontology of Asylum

If ontology is a basic "doctrine of being," then countless classical and contemporary thinkers may be rightfully be called ontologists.[8] Notwithstanding the multiplicity of the topics and variety of paradigmatic approaches to notion of asylum, grasping it at ontological level, ensuing Glynos and Howarth,[9] necessarily involves reflecting on its social, political, ideological and ethical dimensions, as well as focusing on related objects, processes, events, determination, dependency, composition and so on. Taking one step further, ontology, as used by Heidegger, refers to an "empty sense of nonbinding indications" – indefinite and

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[7] See e.g. Simon Behrman, *Law and Asylum: Space, Subject, Resistance* (London: Routledge, 2018).

[8] See Roberto Poli and Johanna Seibt, ed., *Theory and Applications of Ontology: Philosophical Perspectives* (Dordrecht, Heidelberg, London and New York: Springer, 2010).

[9] Jason Glynos and David R. Howarth, *Logics of Critical Explanation in Social and Political Theory* (Abingdon: Routledge, 2007), 104.

vague directive of how being should in some thematic way come to be investigated and come to language:

> Ontology of nature, ontology of culture, material ontologies – they form the disciplines in which the content of the objects in these regions is drawn out as subject matter and displayed in its categorial character. What is thus made available then serves as a guide for problems of *constitution*, the structural and genetic contexts of *consciousness of* objects of this or that kind.[10]

Clearly, ontology refers to an approach that involves an investigation into objects' existence, their interdependence with other objects, their inherent logics and embeddedness in social hierarchies. The pathway to understanding the notion of asylum ontologically is thus not in looking for the unity of its objects, its uniform type of statements, its common concepts or themes; rather than unity, following Foucault, we will encounter a variety of possibilities that, however enable the use of different topics or even the integration of the same theme into a different whole. For this reason, Foucault relies on discovering systems of dispersion between objects, types of statement, concepts, or thematic choices to see if there is a regularity in dispersion.[11]

Ontology of asylum accordingly embraces plurality of approaches into a singular form while recognizing multiplicity of distinctive ways for grasping asylum – such as humanitarian, political, theological, activist, historical, institutional etc. –, which may be pursed as fragments that emerge around the notion of asylum and combine into a single system of "discursive formation"; this encompasses examining the mode of its being, paying attention to how it has emerged, why, when and where it appeared, and why it has remained in our contemporary societies in the present form. Ontological examination then inherently involves the examination of practices, politics, knowledge, logics and rationalities that had constituted the grounds of asylum in a broad sense. This is why it is possible to associate asylum with religious texts, antique mythology, classical philosophy, international law and contemporary politics

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[10] Martin Heidegger, *Ontology - The Hermeneutics of Facticity*, trans. John van Buren (Bloomington: Indiana University Press, 1999), 1–2.

[11] Michel Foucault, *The Archaeology of Knowledge*, trans. Alan Mark Sheridan-Smith (New York: Pantheon Books, 1972), 37.

while at the same time admit the qualitative differences in how asylum is formed in each specific domain or field. However, all too often the analogies and similarities between the ideas of distant periods and those in modern times are being developed, which may lead to omitting the contextualization of examined concepts and neglecting vital questions concerning the functions of asylum in a particular historical period, its practical implications and scope within tangible social relations, power and governance.

Congruently the right to seek and enjoy asylum likewise should not be comprehended as a simple right designed in response to the atrocities and horrors of the Second World War, but rather as a concept that emerged under the positive conditions of a complex group of ethical, social and political relations – a right that can only be understood if not taken as given but examined through its underlying presuppositions that determine what is said about asylum, how it is brought into being, what its categorical and existential preconditions are, what concepts it is comprised of, how it is put into policies and practice and so on.[12]

Some Thoughts on Politics and the Right to Seek Asylum

Foucault affirms the ontological view in the above-mentioned sense by claiming all objects are historically contingent. His move opens way to explanations of rival discursive frameworks, which result from epochal social practices of power, while admitting the power relations and their constitutive role in our conception of reality. The key idea behind Foucault's notion of power / knowledge is that social practices always incorporate power relations, which become constitutive of the subject as well as of the objects of knowledge. Argued by Johanna Oksala, Foucault in this manner accomplishes the politicization of ontology,[13] which, I believe, is indispensable for bringing the question of politics into ontological investigation of the modern right to seek asylum.

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12 Glynos and Howarth, *Logics of Critical Explanation*, 108.

13 Johanna Oksala, "Foucault's politicization of ontology," *Continental Philosophy Review*, 43, no. 4 (2010).

In the *Archaeology of Knowledge*, Foucault repeatedly argues that in order to characterize specific discourse it is necessary to determine – not what has been said about a particular object but why a particular statement appears at a particular place, and not any other, or, in his words, it is necessary to "grasp the statement in the exact specificity of its occurrence; determine its conditions of existence, fix at least its limits, establish its correlations with other statements that may be connected with it, and show what other forms of statement it excludes."[14] This essentially brings our focus to examination of knowledge, practices, ethics and types of rationalities, that in turn made the intelligibility of the right to seek asylum possible.

On the other hand, this method may take the opposite stand and start from the "history of the present."[15] In order to explain the contemporary political and ethical problems, this method explicitly and self-reflectively instigates with a diagnosis of a current situation. After locating the existing technology of power this approach seeks to identify where it arose, took shape, gained importance;[16] in words of Foucault, this is "a matter of analyzing, not behaviors or ideas, nor societies and their 'ideologies,' but the problematizations through which being offers itself to be, necessarily, thought-and the practices on the basis of which these problematizations are formed."[17]

This way, the examination of asylum would for instance start from Article 14 of the Universal Declaration of Human Rights and ask "how did we get here?[18] Line of inquiry would then attempt to explain the right to seek asylum as an effect of governmental policies, logics, and rationalities, which had legitimatized fields of political intervention in individuals' private lives – it would link the right to seek asylum to the very acceptability of integrating the domains of human rights, such as

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14 Foucault, *The Archaeology of Knowledge*, 107.

15 David Garland, "What is a "history of the present?" On Foucault's genealogies and their critical preconditions," *Punishment & Society* 16, no. 4 (2014).

16 Hubert L. Dreyfus and Paul Rabinow, *Michel Foucault: Beyond Structuralism and Hermeneutics* (Chicago: The University of Chicago Press, 1983), 119.

17 Michel Foucault, *The History of Sexuality: The Use of Pleasure Volume 2*, trans. Robert Hurley (New York: Vintage Books, 1990), 11.

18 Dreyfus and Rabinow, *Michel Foucault,* 119.

liberty, freedom, dignity, equality, security and well-being, into state policies and governmental practices.

This is something that I argue here i.e. that the contemporary right to seek asylum has only become possible due to governmental logic, through which subjects became integrated into political scheme. This right, put shortly, is an effect of evolving governing practices, appearing in the texts as early as in 16th century, dealing with the question of best governing of the state. Increasingly, these texts had presented a ruler, traditionally utterly indifferent to its subjects' welfare and well-being, as the main protector of rights relying mostly on the language of *pastoral power*, which, as Foucault (2007) explains, enabled the state to appear as a beneficial power with responsibility to take care of each individual and the population as whole (*Omnes et Singulatim*). The security and prosperity of the individuals and the population had gradually entered politics as a new assignment of the government, ever more involved with the logic of good management. The new task of government was thus progressively defined by the objective to ensure people's security, prevent hunger, to improve living conditions, to increase wealth, upsurge longevity, broaden education, to preserve dignity, ensure health care and the like.[19] It is in the light of this governmental power, Foucault says, that the

> The "right" to life, to one's body, to health, to happiness, to the satisfaction of needs, and beyond all the oppressions or "alienations," the "right" to rediscover what one is and all that one can be, this "right" – which the classical juridical system was utterly incapable of comprehending, was the political response to all these new procedures of power which did not derive, either, from the traditional right of sovereignty.[20]

Correspondingly, it is the same political framework that gave rise to the right to seek asylum, which offered a space of its emergence in a form of a *right* and as a *legitimate entitlement* that modern individuals can rightfully claim within the relationship between an individual and

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[19] Michel Foucault, *Security, Territory, Population: Lectures at the Collège de France, 1977–78*, ed. Michel Senellart, trans. Graham Burchell (New York: Picador and Palgrave Macmillan, 2009).

[20] Michel Foucault, *The History of Sexuality,* trans. Robert Hurley (New York: Pantheon Books, 1978), 145.

the state. Modern right to seek asylum is not an apolitical discovery, an ultimate form of protection, but rather is inherent part of politics, something that has been and remains to be produced by liberal political practices and technologies of power, which for Foucault are inherently linked to modern biopolitics.[21]

Political Significance of Contemporary Right to Seek Asylum

When it comes to present-day refugees, Hannah Arendt is one of most widely cited authors who convincingly argued in her seminal *Origins of Totalitarianism* that human rights can only be realized through the membership of the political community. Her position invites to consider the implications and relevance it has is in relation to political significance of asylum, especially in view of contemporary migration movements typically affected by objective-oriented selectivity of semi-permeable national borders that manifests in the construction of illegality of people and their movement. At the time when Arendt was writing *Origins*, the UN Refugee Convention had not yet entered into force. It cannot be a surprise then, her statement in relation to the stateless and refugees that "the prolongation of their lives is due to charity and not to right, for no law exists which could force the nations to feed them."[22]

The significance of UN Refugee Convention stems precisely from overcoming this gap and creating moral and legal obligation on the level of international law that obliges the state parties to give shelter to people in need of protection. Producing legal responsibility of states to protect the refugees and process their asylum claims bears analogies to Arendt's most important, and, perhaps in her view the only true human right, the right to belong to a political community, which she articulates with her well-known phrase 'the right to have rights'. Having this in mind, one can see that the right to seek asylum comes as a decisive category for it creates a channel and constitutes a political and legal standing for individuals; thereby it paves a way to active member-

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21 Michel Foucault, *The Birth of Biopolitics Lectures at the Collège de France, 1978–79* (Basingstoke and New York: Palgrave Macmillan, 2008).

22 Arendt, *Orgins,* 296.

ship, enabling individuals to regain their political and legal identity, offering a "place in the world which makes opinions significant and actions effective,"[23] as Arendt puts it. The right to seek asylum with its supplementary principle of *non-refoulment* represents the elementary building block in the architecture of the asylum system that directly infringes the sovereign right of states to control the admission to their territories. While states have the right to control the entry of aliens under international law, including to control issuance of residence permits, expulsions or deportation orders, their sovereign right to remove, expel or extradite foreigners is limited by the right to seek asylum and principle of *non-refoulement*.

The emancipatory power of the asylum and the UN Refugee Convention must therefore be read in relation to the existing contemporary migration policies, in which migrants are dealt with in a very specific way; migration policies and strategies are predominately designed to admit entry only to those migrants that have something to offer – job skills, resources to invest, shared ethnicity, cultural or social capital. The right to seek asylum in this sense works against the self-centred interest of the nation-states and bypasses the ordinary avenues of migration for it legally binds states to accept asylum seekers on their territories regardless of what they have to offer in terms of the above-mentioned selection parameters. This makes right to seek asylum an instrument that goes beyond the state power, or more precisely, an instrument that transforms the state power by integrating the responsibility to protect refugees into state policies and incorporating human rights ideas into the state and functioning.

The relevance of asylum in contemporary political context manifests in yet another view, which was, in the eyes of Foucault, deemed especially important. Namely, fundamental human rights for him were not those right listed in contemporary declarations of rights, but rather "that of private individuals to effectively intervene in the sphere of international policy and strategy."[24] Right to seek asylum, in its aims at

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[23] Ibid.

[24] Michel Foucault, "Confronting Governments: Human Rights," in *Power: Essential Works Of Foucault 1954-1984*, ed. James D. Faubion, trans. Robert Hurley and others (New York and London: The New Press, 2001), 475.

least, corresponds to his appeal that "the will of individuals must make a place for itself in a reality of which governments have attempted to reserve a monopoly for themselves, that monopoly which we need to wrest from them little by little and day by day."[25] In the light of going against the state interest, the right to seek asylum may also be viewed in the lines of Jessica Whyte[26] who advocates that Foucault's statement about fundamental rights should be read as a right of an individual "not to be governed like that, by that, in the name of these principles, in view of such objectives and by the means of such methods, not like that, not for that, not by them."[27] In part at least, this corresponds also to the effects, which the right to seek and enjoy asylum bears on legal subjectivity of refugees and political recognition of their claims.

Power through the Right to Seek Asylum

The right to seek asylum carries within an idea of universality and applicability to all human beings based on their human nature and human dignity. Regrettably, the practice shows it does not come with unproblematic, ready-made solutions that meet the challenges of the contemporary migration movements. To understand asylum ontologically, we must turn also to power relations that manifest not only in what has been said about asylum, but look at the inherent qualities of international law, which has proven not to be immune to exclusionary practices which nation-states employ.[28] One way of doing this is to look at the international law in practice, specifically its politics of victimhood for this is undoubtedly the place where a myriad of political dimensions and power relations intersect.

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25 Ibid.

26 Jessica Whyte, "Human rights: confronting governments?: Michel Foucault and the right to intervene," in *New Critical Legal Thinking: Law and the Political*, eds. Matthew Stone, Illan rua Wall and Costas Douzinas (London: Routledge., 2012), 14.

27 Michel Foucault, "What is Critique," in *What Is Enlightenment? Eighteenth-Century Answers and Twentieth-Century Questions*, ed. James Schmidt (Berkeley, Los Angeles and London: University Of California Press, 1996), 384.

28 Alison Kesby, *The Right to Have Right: Citizenship, Humanity, and International Law* (Oxford: Oxford University Press, 2012), 103.

If we take a closer look at how the figure of a victim is articulated in relation to the right to seek asylum in practice, either in international law or local contexts, we soon realize that victimhood is far from being clear-cut and unambiguous. To disentangle the question of power that conveys through the notion of asylum, one must look at the questions such as who counts as a person entitled to protection under the UN Refugee Convention, what the elements of the criterion for recognition of the status of refugees are, who determines the outcomes of asylum application, what constitutes the legitimacy of an asylum claim, what method determines the category of refugee; what argumentations substantiate the existing techniques and dividing practices of the politics of asylum recognition; what patterns of domination are thereby unfolded; and whether a "technocratic legalistic' classification of refugees" right to asylum counterposes the idea of human rights.

Why people suffering from extreme poverty, shortages of food and water, natural disaster, inaccessible medical services, violation of economic and social rights cannot benefit from asylum protection or non-refoulement principle? Why fleeing from violence committed by groups as varied as guerrilla armies, criminal gangs, family members, and clans does not qualify for granting asylum? Under which conditions international law allows nation-states to derogate form its obligations? Why UN regime relies mainly on sustaining refugees' life in camps? Why does international law not prohibit detention of asylum seekers? Why the problem of refugees is treated symptomatically and not prevented at its root-cause? Which problems pertaining to refugees could be objectively (but are not) avoided? These are but few questions pointing to disappointment and problematic features of the contemporary international asylum law.

Far from saying the UN refugee regime should be abandoned, however, its inherent selectivity makes it impossible to turn the blind eye to the failure of not adhering to basic components of asylum, human dignity, integrity, safety. Evident in this is the fact that asylum as a human right with the UN regime carries the dual ability to emancipate

and dominate, to protect and discipline[29] and can be only be viewed as a codification of unceasingly changing power relations[30] that postulate particular relations of domination manifesting in the multiple less visible, even common-sense hierarchies and forms of subjections that take place within our societies.

Sociocultural Dimension of the Right to Seek Asylum

In addition to the level of politics and the level of international law, the right to seek asylum is also heavily determined at its sociocultural level. The right to seek asylum, as socially embedded phenomenon, is unavoidably affected by persons who exercise moral agency in context of local social reality. For instance, the fact that the Refugee Convention does not define the procedures, which the signatory states are obliged to follow when examining an individual's claim for protection, leads to flexibility of the asylum procedures, for they are left to each signatory state to develop on their own. The vagueness in this respect allows for disparities among different states as their governments can craft asylum laws based on their different resources, national security concerns and histories. Ensuing Wilson, the right to seek asylum may be framed *identically* on the international level for all party states, but its articulation will diverge when it is brought into concrete relationships in a certain socio-historical context.[31]

Therefore, the question of concern in ontological investigation is twofold, first it inquires how human rights law frames and shapes local value systems and, second, how local value systems in turn resist or comply with the transnational law standards and how social actors develop different ways of understanding and applying international law. Ontological view in this respect necessarily entails various questions, to list few: are "voices" of asylum seekers within the status determination procedures "translated" to meet the terminology of international

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[29] Costas Douzinas, *The End of Human Rights: Critical Legal Thought at the Turn of the Century* (Oxford and Portland (Oregon): Hart Publishing, 2000), 175.

[30] Whyte, "Human rights: confronting governments?," 16.

[31] Richard Ashby Wilson, ed., *Human Rights, Culture and Context: Anthropological Perspectives* (London: Pluto Press, 1997), 13.

law? What are the *de facto* consequences of securitization of refugees' discourse? How many refugees are nation-states willing to accept, and why (only that many)? How is the right to seek asylum interpreted and implemented in practice? How is its universality circumscribed and by which reasons?

The example of the right to seek asylum in present refugee crisis confirms that the appropriation of "global" human rights ideas at the local level always entails translation, modification and transformation of meaning[32] and that the ways how officials use human rights and how people understand them in everyday life are varied and complex. Speed proves true about human rights practice, that it should be seen as a process of justifying and amending global discourses in line with the values of local environment, where social actors mobilize the discourse of human rights within culturally specific conditions and the on-going negotiations between meaning and authority.

Nowadays even more so, the question of asylum is especially acute as the power dimensions clearly manifest through the justification of nation-states' interest, which tighten the existing asylum policies and fortify migration control laws. In political context, the identity of refugees is constantly evoked in relation to the issues of national security, border control, illegal migration and national sovereignty, thereby, overshadowing the debate on their human rights. The recent refugee crisis showed not only that there is lack of interest for refugees' human rights in many European countries but also that their main aim has been to minimize the numbers of refugees coming from Africa and Middle East, or at least, to keep the situation within the limits of "acceptable" and "controllable," where the "acceptable" is typically determined by the estimation of costs that refugees pose in terms of administration, integration support, provision of social care, public services and legal advice, in connection with the negative impact of asylum migration

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[32] Shannon Speed, »Gendered Intersections: Collective and Individual Rights in Indigenous Women's Experience,« in *Human Rights: An Anthropological Reader*, ed. Mark Goodale (Malden (Mass.): Wiley-Blackwell, 2006); Sally Engle Merry, *Human Rights and Gender Violence: Translating Transnational Law into Local Justice* (Chicago and London: The University of Chicago Press, 2006).

inflows on unemployment, social welfare systems, security and national identity.

Brief Overview of Contributions

The common denominator of the articles in this issue is that asylum appears within historical conditions, ethical framework and socio-political circumstances that had determined the manifestations of the idea of asylum in a variety of contexts, including biblical writings, Greek mythology, medieval theology, contemporary intellectual reflections, as well as modern political and legal practices, and, finally, in everyday lives nowadays. Evidently, the notion of asylum has been affected and tackled within the wide range of philosophical, theological, anthropological, sociological, feminist and related approaches, dealing with a variety of dimensions, involving more normative accounts of how "it should be" as well as a descriptive account of how "it is".

The volume begins with *Kelly Oliver*'s text, which highlights as the paradox of refugee detention when expressing grave concern over contemporary detention centres and refugee camps that turn refugees into criminals and charity cases simultaneously. The contemporary migration regimes, which were supposed to treat refugees with compassion and sympathy, she says, are systematically dehumanizing them with dooming them to life in detention centres that look like, and are run like, prisons.

An entirely different scope of asylum is pursued in text by *She Hawke*, who takes us back to Greek mythology to explain the ontology of maternal asylum, through a recovery of Metisian genealogy. Her application of mythico-narrative refiguration attempts to clarify what the story of Metis was / is, what it might mean and breaks the dominant masculinised terra-centric narratives and doxology, recovering maternal divinity for future focus. The gender dimension is highlighted also in the text by *Nadja Furlan Štante* who clearly recognizes the significance of actively involving women in the process of reconciliation, healing traumas and religious peace-building for the purposes of recognizing and critically deconstructing negative gender stereotypes to which woman as victims of violence in the war are often subjected to.

Turning from gender to the question of ethics, *Lenart Škof* draws a reflection on migration crisis and its humanitarian consequences in view of the loss of sensitivity towards toward grave injustice experienced by contemporary migrants. In his article, Škof argues that approaching the question of refugees in an appropriate manner, a new ethico-democratic response needs to be offered based on ethics of vulnerability, community and liberation. *Klaus-Gerd Giesen*'s paper touches upon the salient question of statelessness from the point of view of political philosophy, namely by comparing the status of stateless people to the Kantian conception of cosmopolitan citizenship and defines minimum moral standards of protection which are, as he conduces, to a large extent not met in the current political situation.

Focused on canonical writings is the article by *Samo Skralovnik*, who presents the value of hospitality in the Bible and other Jewish sources. As he shows, reflecting on a very heterogeneous biblical tradition, biblical and non-biblical sources, there is a common core value, the value of welcoming and respecting the alien (refugees), representing genuine opportunity of turning religious text into intercultural and interreligious dialogue in today's world. The question of hospitality is also tackled by *Maja Bjelica*, who reviews the writings of Jacques Derrida, showing that the concept and the act of offering asylum is situated in the broader question of hospitality and argues that, even Derrida himself, despite persisting in advocating "*the* impossible" perspective of hospitality, strives for the unconditional "yes" and directly connects hospitality and ethics, which are, in his view, inalienable, inseparable.

Moving to the empirical socio-legal analysis of the asylum, *Barbara Gornik* offers a reflection on the recent amendments of the Aliens Act by the government of the Republic of Slovenia. She critically assesses the reasons listed as legitimate circumstances for derogation of the Republic of Slovenia from respecting the right to seek asylum in the light of international law. *Ilona Silvola* offers another descriptive and empirically oriented contribution, resulting from fieldwork research of the refugee situation in Evangelical Lutheran Church of Finland, where she argues that sanctuary offered by the church can be understood as a way of providing the asylum seekers a way to enter "the space of appearance" where their voice can be heard. *Bojan Žalec* too relies on Arendt,

by highlighting the importance of the inclusion of man in the world in Arendt's sense of the term, which embraces the inclusion in the public and political sphere. On the other hand, Žalec also concentrates on the dissimilarities between the situations of refugees in Arendt's time and in the present, which he sees as results of the implementation of new technologies that Arendt in her time could not imagine.

Bibliography

1. Agamben, Giorgio. "Beyond Human Rights." In *Radical Thought in Italy*, edited by Paolo Virno and Michael Hardt, 159–165. Minneapolis: University of Minnesota Press, 1997.
2. Arendt, Hannah. *Origins of Totalitarianism*. Cleveland and New York: Meridian Books, 1976.
3. Behrman, Simon. *Law and Asylum: Space, Subject, Resistance*. London: Routledge, 2018.
4. Douzinas, Costas. *The End of Human Rights: Critical Legal Thought at the Turn of the Century*. Oxford and Portland (Oregon): Hart Publishing, 2000.
5. Dreyfus, Hubert L. and Paul Rabinow. *Michel Foucault: Beyond Structuralism and Hermeneutics*. Chicago: The University of Chicago Press, 1983.
6. Engle Merry, Sally. *Human Rights and Gender Violence: Translating Transnational Law into Local Justice*. Chicago and London: The University of Chicago Press, 2006.
7. Foucault, Michel. *The Archaeology of Knowledge*. Translated by Alan Mark Sheridan-Smith. New York: Pantheon Books, 1972.
8. Foucault, Michel. *The History of Sexuality*. Translated by Robert Hurley. New York: Pantheon Books, 1978.
9. Foucault, Michel. *The History of Sexuality: The Use of Pleasure Volume 2*. Translated by Robert Hurley. New York: Vintage Books, 1990.
10. Foucault, Michel. "What is Critique." In *What Is Enlightenment? Eighteenth-Century Answers and Twentieth-Century Questions*, edited by James Schmidt, 382–389. Berkeley, Los Angeles and London: University of California Press, 1996.
11. Foucault, Michel. "Confronting Governments: Human Rights." In *Power: Essential Works of Foucault 1954-1984*, edited by James D. Faubion. Translated by Robert Hurley and others, 474–476. New York and London: The New Press, 2001.

12. Foucault, Michel. *Security, Territory, Population: Lectures at the Collège de France, 1977–78*, edited by Michel Senellar. Translated by Graham Brechell. New York: Picador and Palgrave Macmillan, 2009.
13. Foucault, Michel. *The Birth of Biopolitics Lectures at the Collège de France, 1978–79*. Translated by Graham Bruchell. Basingstoke and New York: Palgrave Macmillan, 2008.
14. Garland, David. "What is a "History of the Present"? On Foucault's Genealogies and their Critical Preconditions." *Punishment & Society* 16, no. 4 (2014): 365–384.
15. Glynos, Jason and David R. Howarth. *Logics of Critical Explanation in Social and Political Theory*. Abingdon: Routledge, 2007.
16. Goodale, Mark. "Toward a Critical Anthropology of Human Rights." In *Human Rights: An Anthropological Reader*, edited by Mark Goodale, 372–394. Chichester and Malden: Wiley-Blackwell, 2009.
17. Hawke, Shé. "Graft versus Hoft: Waters that Convey and Harbors that Reject Liminal Subjects – Toward a New Ethics of Hospitality." In *Borders and Debordering: Topologies, Praxes, Hospitableness*, Edited by Tomaž Grušovnik, Eduardo Mendieta and Lenart Škof, 193–214. Lanham, Boulder, New York and London: Lexington Books, 2018.
18. Heidegger, Martin. *Ontology - The Hermeneutics of Facticity*. Translated by John van Buren. Bloomington: Indiana University Press, 1999.
19. Kesby, Alison. *The Right to Have Right: Citizenship, Humanity, and International Law*. Oxford: Oxford University Press, 2012.
20. Oksala, Johanna. "Foucault's politicization of ontology." *Continental Philosophy Review* 43, no. 4 (2010): 445–466.
21. Price, Matthew E. *Rethinking Asylum: History, Purpose and Limits*. Cambridge: Cambridge University Press, 2009.
22. Roberto, Poli and Johanna Seibt, eds. *Theory and Applications of Ontology: Philosophical Perspectives*. Dordrecht, Heidelberg, London and New York: Springer, 2010.
23. Speed, Shannon. "Gendered Intersections: Collective and Individual Rights in Indigenous Women's Experience". In *Human Rights: An Anthropological Reader*, edited by Mark Goodale, 229–245. Malden (Mass.): Wiley-Blackwell, 2006.
24. Whyte, Jessica. "Human rights: confronting governments?: Michel Foucault and the right to intervene." In *New Critical Legal Thinking: Law and the Political*, edited by Matthew Stone, Illan rua Wall and Costas Douzinas, 11–31. London: Routledge, 2012.
25. Wilson, Richard Ashby, ed. *Human Rights, Culture and Context: Anthropological Perspectives*. London: Pluto Press, 1997.

CARCERAL HUMANITARIANISM, IMPOSSIBLE TESTIMONY, AND THE PARADOX OF REFUGEE DETENTION

Kelly Oliver

Even the words *refugee* and *asylum* connote criminality. The Oxford English Dictionary defines a refugee as

> One who, owing to religious persecution or political troubles, seeks refuge in a foreign country: a. Originally applied to the French Huguenots who came to England in 1685 after the revocation of the Edict of Nantes. b. A *runaway fugitive from justice*" (emphasis added). And Asylum is defined first as "A sanctuary or inviolable place of refuge and *protection for criminals and debtors* from which they cannot be removed without sacrilege," and as "A benevolent institution affording shelter and support to some class of the afflicted, the unfortunate, the destitute, e.g. 'a lunatic asylum' (emphasis added).

From the beginning, then, refugees have been seen as criminals, debtors, and mentally ill. While the words have evolved, their associations have not. Refugees are still treated like criminals, debtors, and mentally ill. Yet, it is their social, political, and legal situation turns them into criminals, debtors, and mentally ill. War, violence, famine, and climate change, combined with national borders, laws of citizenship, and international laws governing refugees create the refugee as criminal, debtor, and mentally ill. First, the refugee suffers violence and trauma at home, then she makes the perilous escape, leaving behind home and belongings, to make the dangerous journey to seek asylum elsewhere. But, in most cases, she must enter, or attempt to enter, this new country illegally and then request asylum. She suffers violence and trauma, leaves everything behind, becomes homeless, and then becomes a criminal, and suffers further trauma because of her status as refugee.

National borders and international conventions governing asylum seekers create the refugee. Moreover, they create her as destitute, crimi-

nal, and mentally ill. Insofar as she must leave her home country, she becomes homeless and dependent upon others for basic needs; insofar as national and international law requires that she leave her home country and make her request for asylum on foreign soil, and do so as an illegal alien, she is made criminal; and the trauma she has suffered at home, the trauma that justifies and legitimates her status as refugee and asylum seeker, creates her as mentally ill. For, in order to legitimately gain refugee status, and be accepted into her host country, she must convincingly testify to the trauma of persecution and violence at home. And yet, as the UNHCR guidelines for interviewing asylum seekers makes clear, cultural differences, and translation problems are significant dangers in the determination of refugee status.

The guidelines give a striking example of the danger of mistranslation: There is a striking example given as a warning in the guidelines:

> A Turkish asylum-seeker, applying for refugee status in Switzerland, stated that he had escaped arrest by hiding in the mountains near his home town. The application was rejected. Among the reasons given was the fact that the town was situated amid hills. For the Swiss interviewer there were no mountains in the region and thus the applicant was considered to be not credible. However, in Turkish, the term "mountain" also applies to hilly regions.

As the guidelines warn: "Notions of time, of truth and falsehood can also vary from culture to culture and give rise to misunderstandings that put the asylum-seekers' credibility in doubt."[1] And yet, in spite of the monumental risk of misinterpretation and mistranslation, everyday, interviews determine the fate of asylum seekers based on this faulty process.

The UNHCR guidelines on interviewing asylum seekers also includes several sections on addressing and navigating trauma in order to determine the truth of the applicant's testimony. The guidelines point out that people suffering from trauma may give inconsistent testimony, be unable to testify, or even become aggressive when questioned as a result of trauma. And yet, the document also insists on verification of

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[1] "Interviewing Applicants for Refugee Status (Rld 4)," UNHCR, accessed September 16, 2018, http://www.unhcr.org/4d9485a69.pdf. Thanks to Jennifer Newman for bringing these guidelines to my attention.

the truth of the testimony, and resolving inconsistencies through confrontation techniques. While the UNHCR convention clearly states that an asylum seeker must fear returning to her country, and must fear persecution based on belonging to a certain group in particular, the interview guidelines admit that fear may adversely affect the interview process. So, how does one testify to fear in a way that is convincing? The guidelines warn against rehearsed scripted testimony and against re-traumatizing applicants. So, how does an interviewer determine the veracity of claims to fear? How can fear be quantified and accessed? Assuming that fear is an emotional or mental state, what formula can interviewers use to assess the legitimacy of fear insofar as is corresponds to actual events? Indeed, within trauma theory, and psychoanalytic theory, trauma is often considered an experience that cannot be put into words, an experience that falls outside of linear time and rational comprehension.

So, what does it mean to testify to the trauma of persecution? What does it mean to prove trauma, especially mental trauma or PTSD? How much trauma is enough to justify asylum? And, how does one convince administrators and interviewers that one's trauma is real? Although humanitarian aid organizations, including Doctors Without Borders, now include mental health professionals and psychologists, there are woefully inadequate resources to treat mental health issues in refugee camps and migrant detention centers, even though many refugees and asylum seekers fleeing war and violence suffer from PTSD. One study of refugee camps in Germany "found that half of refugees are experiencing psychological distress and mental illness resulting from trauma" and "one fifth of refugee children are also suffering from PTSD."[2] As historian Michael Barnett suggests, we have entered an era of trauma wherein the violence of persecution at home is measured not only in terms of physical scars but also in terms of mental scars; and, humanitarian aid includes not only treatment for physical wounds but also for mental wounds.

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[2] Deirdre Finnerty, "Migrant crisis: Trauma takes toll on mental health," *BBC News*, 22 December 2015, http://www.bbc.com/news/world-europe-35102320.

We could go further and claim that current international policy and practices governing the treatment and status of refugees requires a certain impossible testimony to trauma that puts the refugee into an impossible subject position with regard to his or her own experience.[3] Refugees are required to both prove suffering and trauma in their home countries, while also demonstrating that they did everything in their power to overcome those obstacles before fleeing. This is to say, they must testify to both their helplessness and their own reliance in escape. They must prove both their radical victimization and their own sovereignty. Being accepted as a legitimate refugee requires documentable and verifiable fear and trauma. This position as "shipwrecked" persons to be saved or rescued undermines agency and self-sovereignty, and creates an aporetic subject position impossible to maintain. Asylum seekers are expected to take matters into their own hands, actively flee violence, but in doing so, they become helpless passive victims to be rescued.

Speaking for herself and other refugees from WWII, Hannah Arendt says, "If we are saved we feel humiliated, and if we are helped we feel degraded."[4] She points out because refugees supposedly voluntarily entered detention centers and camps, we feel it is right to intern them.[5] She claims refugees are considered either pariahs sucking up resources that could go to rightful citizens, or as parvenus, social climbers not truly fleeing violence or trauma but rather migrating for a better life abroad. Arendt's observations are apt today when reactions to images of refugees fleeing violence in Syria include bewilderment as to why they have cell phones and nice clothes. And in either case, "History," says Arendt, "has forced the status of outlaws upon both, upon pariahs and parvenus alike."[6]

As Arendt observed with refugees from Nazi Germany, refugees are considered either threats or charity cases, or both. In the words of Han-

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[3] For a sustained discussion of the paradox of testifying to your own trauma and oppressions see Kelly Oliver, *Witnessing: Beyond Recognition* (Minneapolis: University of Minnesota Press, 2001).

[4] Hannah Arendt, "We Refugees," in *Altogether Elsewhere: Writers in Exile,* ed. Marc Robinson (London: Faber & Faber, 1994), 110-19, 114.

[5] Ibid., 115.

[6] Ibid., 119.

nah Arendt discussing refugees from Nazi Germany, "Apparently nobody wants to know that contemporary history has created a new kind of human beings—the kind that are put in concentration campus by their foes and in internments camps by their friends."[7] Today, there may not be concentration camps murdering refugees, but thousands of refugees end up in detention centers, and hundreds of thousands in camps every year. They have their basic human rights as defined by the United Nations—security, freedom of movement, travel documents, and dignity—further breached by their "host" countries. Detention centers and camps are often places of abuse and always places of further trauma.[8] The irony is that people who have the courage to stand up to totalitarian governments and fight for freedom may flee persecution, and yet in the name of freedom and security, find themselves locked up again.

In 2015, more than a million people fled to Europe seeking asylum, primarily from Syria, Afghanistan, and Iraq. The vast majority of them arrived by sea, making a perilous journey that has cost thousands their lives. At least 3,700 people died crossing the Mediterranean Sea in 2015; and given that thousands more go missing or are unaccounted for, it is impossible to determine how many people have actually died.[9] Given that migrants are forced to attempt illegal border crossings, and therefore avoid detection by authorities, until their dead bodies wash ashore, many more are not counted in statistics of missing or dead.[10] And, statistics for early 2016 were significantly higher.[11] In

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7 Ibid., 110.

8 "U.S. Detention of Asylum Seekers Seeking Protection, Finding Prison," Human Rights First, accessed November 16, 2018, https://www.humanrightsfirst.org/wp-content/uploads/pdf/090429-RP-hrf-asylum-detention-report.pdf. See also Megan Granski, Allen Keller and Homer Venters, "Death Rates among Detained Immigrants in the United States," *International Journal of Environmental Research and Public Health* 12 (2015): 14414–14419.

9 "Migrant Crisis: Migration to Europe explained in seven charts," *BBC*, accessed November 16, 2018, http://www.bbc.com/news/world-europe-34131911.

10 Martina Tazzioli, "The politics of counting and the scene of rescue: Border deaths in the Mediterranean," *Radical Philosophy* 192 (2015): 2–6.

11 The UNHCR reports that in the first 8 months of 2015, over 300,000 refugees and migrants crossed the Mediterranean Sea seeking asylum in Europe. Over 2500 died in those months, and in 2014, 3500 died. See Melissa Fleming, "Crossings of Mediterranean Sea exceeds 300,000, including 200,000 to Greece," UNHCR, August 28, 2015, http://www.unhcr.

just the first six weeks of 2016, crossings increased tenfold, and so did deaths.[12] Although overall crossings for 2016 were fewer than the prior year (362,753) deaths outnumbered the prior year, totally over 5,000 recorded deaths. By late 2017, 160,847 refugees arrived into Europe via the Mediterranean and 2,992 refugees died or went missing during the crossing.[13] As of 2017, there were 22.5 million refugees worldwide, global displacement including internal displacement has reached 65.5 million people and 10 million people are considered stateless according to the UNHCR.[14] These statistics are mind-boggling.

What is more astounding is that most refugees end up living in camps for decades before resettlement. Unlike refugees from WWII, who were resettled by 1952, many of today's refugees spend substantial portions of their lives in a permanent state of temporary living. For example, the largest refugee camp in the world, Kenya's Dadaab, is twenty-five years old this year. It was built for 90,000 refugees, but now "holds more than 420,000… Currently, the number of years a refugee lives in a refugee camp is, on average, 12."[15] Furthermore, conditions in most refugee camps are dangerous and unhealthy, where people are forced to live in overcrowded makeshift tent compounds without adequate basic necessities like bathrooms, clothes, and food. For example, in Dunkirk camp in France, over 3000 refugees live in rat-infested tents pitched in ankle deep mud and human waste with only two water facets; one resident says, "this place is for animals, not for human beings."[16]

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org/en-us/news/latest/2015/8/55e06a5b6/crossings-mediterranean-sea-exceed-300000-including-200000-greece.html. For a discussion of the unaccounted for dead see also Tazzioli, "The politics of counting", 2–6.

12 "Hundreds of refugees died on way to Europe this year," *Aljazeera,* accessed November 16, 2018, http://www.aljazeera.com/news/2016/02/400-refugees-die-europe-2016-160209133941502.html.

13 "Mediterranean Situation," UNCHR, accessed November 16, 2018, http://data2.unhcr.org/en/situations/mediterranean.

14 "Figures at a Glance," UNCHR, accessed November 16, 2018, http://www.unhcr.org/en-us/figures-at-a-glance.html.

15 Mac McClelland, "How to build a perfect refugee camp," *The New York Times Magazine*, February 13, 2014.

16 "A Closer Look at Europe's Worst" Refugee Camp," *Sputnik International*, January 24, 2016, http://sputniknews.com/europe/20160124/1033644952/dunkirk-france-refugee-camp.html.

Unfortunately, Dunkirk is not an isolated example. Calais, another camp in France near the Channel Tunnel, known as the "Jungle" housed over 6,000 at its peak last summer, most "living in squalor. Doctors working there describing conditions as 'worse than a war zone' people sleeping in tents surrounded by raw sewage, stagnant water and mud."[17] One resident told a reporter, "We are humans, not animals."[18] Violent protests and clashes with police throwing tear-gas have resulted from the French government bulldozing a large section of the camp last March, further displacing already displaced people.[19] At least 129 children have gone missing since the camp was raised.[20]

The Greek interior minister, Panagiotis Kouroublis called the Idomeni camp on Greece's border with Macedonia "a modern-day Dachau, a result of the logic of closed borders." Despite being planned for just 2,500 people, the camp hosts around 12,000 refugees - many from Syria and Iraq - in wet, cold and muddy conditions, which Red Cross officials warn are rife for the spread of disease.[21] These refugees "feel like we are dying slowly."[22] And, since the route to Greece from Syria has been effectively closed now, refugees flee through Libya, making an even more dangerous crossing of the Mediterranean Sea into Italy–one that lead to over 1,000 people dying, and another 4,000 being rescued, in a matter of days, in what a spokesperson for Save the Children, called "a massacre."[23]

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17 "Calias Jungle is unrecognizable after bulldozing", *Daily Mail*, May 28, 2016, http://www.dailymail.co.uk/news/article-3511855/Death-Jungle-Incredible-aerial-images-reveal-Calais-slum-just-bare-earth-makeshift-homes-flattened-bulldozers-eviction-thousands-refugees.html#ixzz49ytihWY7.

18 Amelia Gentleman, "The horror of the Calias Refugee Camp," *The Guardian*, November 3, 2014, http://www.theguardian.com/world/2015/nov/03/refugees-horror-calais-jungle-refugee-camp-feel-like-dying-slowly.

19 "Migrants at Calais camp given dignity in death," *The Local Fr*, May 23, 2016, http://www.thelocal.fr/20160523/migrants-at-calais-camp-given-dignity-in-death.

20 "Almost 130 refugee kids vanish after 'Calais Jungle' demolition – charity," *RT online*, April 3, 2016, https://www.rt.com/news/338217-129-kids-missing-in-calais/.

21 Will Worley and Lizzie Dearden, "Greek refugee camp is 'as bad as a Nazi concentration camp', says minister," *The Independent*, March 18, 2016, http://www.independent.co.uk/news/world/europe/idomeni-refugee-dachau-nazi-concentration-camp-greek-minister-a6938826.html.

22 Gentleman, 2016.

23 Jim Yardley and Gaia Pianigiani, "Three Days, 700 Deaths on Mediterranean as Migrant Crisis Flares," *The New York Times,* May 29, 2016: A1 & A6.

Thousands of miles away, in the United States (which so far has taken only 2,500 of the promised 10,000 Syrian refugees), refugees live in detention centers that look like, and are run like, prisons, with locked cells, jumpsuits, and all. And, processing refugees takes months.[24] The United States operates the world's largest immigration detention system, and most centers providing substandard health care.[25] As in other prisons, conditions in detention centers are often poor, with inadequate health care, lack of facilities and personnel, and preventable deaths, including suicide.[26] A recent investigation into subpar health care in detention centers confirmed the lack of health care contributed to several deaths: "system-wide problems remain, including a failure to prevent or fix substandard medical care that literally kills people" and that isolation is improperly used to confine people suffering from mental health issues.[27] Human Rights First reports:

Since 2002, the number of immigrants detained each year has more than doubled - with an increase from 202,000 in 2002 to an estimated population of over 440,000 in 2009. The average daily detained population has grown from 20,662 in 2002 to 33,400 in 2009.

As this network has grown, problems of poor conditions, inadequate medical care, difficulty accessing legal counsel, or receiving religious services have also worsened. Of the hundreds of thousands of immigrants annually who find themselves caught up in this system - all for civil immigration violations - a few thousand are asylum seekers, individuals who come here to ask for protection from persecution.[28]

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[24] Cone Devon, "The Process for Interviewing, Vetting, and Resettling Syrian Refugees in America Is Incredibly Long and Thorough," *Foreign Policy*, November 30, 2015, http://foreignpolicy.com/2015/11/30/the-process-for-interviewing-vetting-and-resettling-syrian-refugees-in-america-is-incredibly-long-and-thorough/. Thanks to Jennifer Newman for bringing this to my attention.

[25] Janet Golden, "What will today's immigration detention centers look like to future Americans?" *Philadelphia Inquirer*, June 22, 2016, http://www.philly.com/philly/blogs/public_health/What-will-todays-immigration-detention-centers-look-like-to-future-Americans-.html.

[26] Megan Granski, Allen Keller and Homer Venters, "Death Rates among Detained Immigrants in the United States," *International Journal of Environmental Research and Public Health* 12 (2015): 14414–14419.

[27] "US: Deaths in Immigration Detention Newly Released Records Suggest Dangerous Lapses in Medical Care," Human Rights Watch, July 6, 2016, https://www.hrw.org/news/2016/07/06/us-deaths-immigration-detention.

[28] Ibid.

In addition, immigrants and asylum seekers have been denied due process, and locked up without legal recourse. According to Human Rights Watch, "Most of the hundreds of thousands of people held in this system each year are subject to harsh mandatory detention laws, which do not allow for an individualized review of the decision to detain them during their immigration proceedings."[29] Many asylum seekers suffer in detention centers for months before their cases are resolved.

If we take asylum seekers and refugees as a group, the circumstances of most refugees, whether in U.S. detention centers, or in international refugee camps, meet the criteria for genocide set out by the United Nations, which includes debilitating living conditions:

> Less obvious methods of destruction, such as the deliberate deprivation of resources needed for the group's physical survival and which are available to the rest of the population, such as clean water, food and medical services; Creation of circumstances that could lead to a slow death, such as lack of proper housing, clothing and hygiene or excessive work or physical exertion.

Hundreds of thousands of people are forced to live in situations without adequate clean water, food, shelter, medical care; and even if they do get those basic needs met, it is often at the expense of their personal security, liberty, mental health, and dignity. [30]

Indeed, no matter how many mind-boggling statistics we accumulate, we can never approach the human element of the equation, which cannot be quantified or reduced to a mere number. Furthermore, statistics piled one on top of the other can lead to "disaster fatigue," even for those most committed to help. Perhaps this is why most news sto-

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[29] Ibid.

[30] By all accounts, the term "genocide" was first used by Raphael Lemkin, a Polish-Jewish lawyer who fled Nazi Germany to the United States during World War II. Rather than limit genocide to mass murder, Lemkin's definition includes, "the destruction of the personal security, liberty, health, dignity, and even the lives of the individuals belonging to [national] groups." "Analysis Framework," United Nation Office of the UN Special Adviser on the Prevention of Genocide (OSAPG), accessed November 16, 2018, www.un.org/ar/preventgenocide/adviser/pdf/osapg_analysis_framework.pdf. Some theorists make a distinction between genocide and politicide wherein victims are targets for their political status. We could argue that refugees are victims of both. See Barbara Harff and Ted Robert Gurr, "Toward Empirical Theory of Genocides and Politicides: Identification and Measurement of Cases Since 1945," *International Studies Quarterly* 32, no. 3 (September 1988): 359–371.

ries begin and end with "human interest" angles that focus on the experiences of particular individuals to make the numbers come to life. Many news reports on the refugee crisis in Europe or Africa refer to a "humanitarian crisis" and the lack of human rights or inhumane living conditions. But the rhetoric of humanity cuts both ways. For example, one aid worker in the Calias camp described the situation: "There's no official structure, no camp leadership, just a group of people surviving, a random collection of humanity camped in a field." And, the same report says, "some of the newer British volunteers are cheerful as they hand out supplies. 'It's touching, isn't it?' they say, brightly. 'The humanity is amazing!'." Simultaneously, as we have seen, many of the refugees call on their hosts to treat them like human beings instead of animals.[31] The list of horrors from camps and detention centers goes on and on. And so do the statistics on numbers of displaced and dead, to the point that it becomes impossible to fully fathom the depths of the current "humanitarian crisis."

Contemporary detention centers and refugee camps are part and parcel of carceral humanitarianism that turns refugees into criminals and charity cases simultaneously, and which, in turn, becomes the troubling justification for locking them up or locking them in, increasingly in dangerous, disease-ridden, sorely inadequate conditions.[32] Refugees and asylum seekers become targets of the new humanitarian military, in the case of Syrian refugees, the navy and coast guard in particular. Their rescue at sea becomes way of containing their unauthorized movement. Once rescued, migrants are sorted, contained within fences and checkpoints, and monitored. Their freedom of movement is severely limited, and they are often forced to live in deplorable conditions. In what Martina Tazzioli calls *rescue politics*, migrants escaping wars and famine become shipwrecked people to be rescued.[33] Yet, as Tazzioli points out, "the government of migration is grounded on a politics of numbers that sorts people into 'risk' categories," where very few are

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31 Gentleman, 2016.
32 Tazzioli, "The politics of counting."
33 Ibid.

eventually granted permanent asylum and allowed to legally enter the host country.[34]

The military and security approach that treats refugees like prisoners of war, terrorist threats, or criminals, melds with the humanitarian approach that treats refugees as charity cases to be rescued and saved. Military and humanitarian organizations operate in tandem, and often in coordinated efforts, to both save and contain refugees. The international laws governing refugee status require illegal entry on the part of asylum seekers; and in turn, this illegal entry authorizes the host country to detain and interrogate asylum seekers. Indeed, the rights granted to asylum seekers by international law are very similar to rights granted to criminals, with the significant exception of due process and access to legal counsel. In the name of Homeland Security in the United States, and security against terrorist threats across the globe, in actuality, regardless of international law, asylum seekers have very few rights. The fact that refugee status requires the applicant to make it to a host country, and then prove his or her persecution at home, means that those fleeing war and famine must have a means of escape (which costs money), make it out of their home countries, make an illegal border crossing (unless they have proper passports and visas, which are extremely difficult, if not impossible, to obtain in regions fraught with war and violence), and then prove persecution (which is also difficult for those fleeing war or famine).

The United Nations 1951 Convention on Refugees defines a refugee as a person who:

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

Many refugees today who are fleeing war and violence in their home countries do not meet the letter of this definition insofar as they are not

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[34] Ibid.

being persecuted for reasons of race, religion, nationality, or membership of a particular social group or political opinion. In fact, the largest group of refugees today, those escaping violence in Syria, are not technically refugees according to this definition.

The irony is that if and when they reach a host country and are sorted, managed, detained, and fenced into camps, then they become members of a group who are denied basic human rights as defined by the United Nations, and if not persecuted, then allowed to slowly perish. If they don't die in war and violence and home, or on the perilous escape, they face disease and what some refugees call "slow death" in the camps. The international refugee protocol requires that refugees leave their home country and make their way to a possible host country before they can apply for asylum. In other words, they cannot apply for asylum from within their home country. This means that they must find their own way out of a precarious and dangerous situation, face further trauma and violence, only to arrive (if they are lucky) in a host country that accepts them into a camp or detention center where they are further traumatized, even interrogated like criminals or terrorists. Rescue politics and carceral humanitarianism produce the helpless, homeless, refugees as both charity cases and criminals, in order to justify detaining, monitoring, controlling, and containing them.

We must move beyond both rescue politics and carceral humanitarianism, which entails moving beyond fenced and walled national borders. In order to do so, we must reconceive of our relationships to other people who share planet earth, beyond citizenship and national identity. Furthermore, we must think of our obligations to others not just in terms of human rights or humanitarian aid, but also in terms of radical hospitality and responsibility. In conclusion, I turn to Jacques Derrida's conception of unconditional hospitality, and his distinction between visitation and invitation, to begin to rethink our obligations to asylum seekers beyond detention centers and refugee camps. In the end, I propose an earth ethics wherein our obligations are based on our common planetary home rather than on our national or individual homes. Rather than see ourselves as Americans or Europeans, offering aid to others less fortunate, we see ourselves as earthlings sharing the planet with others in our interdependence. Rather than a rescue poli-

tics that requires perilous escape and lifeboat scenarios, we consider our ethical obligations beyond national borders and beyond mere physical proximity. Once we consider our position in relation to others from an earthly perspective, we can no longer deny our interdependence, and our shared dependence on our planetary home.

Those familiar with Derrida's notion of unconditional hospitality know that he sets it against Kant's conditioned hospitality as the right of visitation in the third article of his essay on perpetual peace.[35] Kant articulates a right to limited hospitality of a guest, particularly in the context of commercial trade.[36] Derrida insists that true or just hospitality must be without conditions or limits. He opposes just hospitality to hospitality by right, which is always limited.[37]

For him, hospitality always operates between these two poles of the unconditional (the ethical demand) and the conditional (the political reality).[38] Justice is always on the horizon of this tension, not only be-

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[35] For example, against Kant's limited hospitality, Derrida argues: "At bottom, before even beginning, we could end our reflections here in the formalization of a law of hospitality which violently imposes a contradiction on the very concept of hospitality in fixing a limit to it, in determining it: hospitality is certainly, necessarily, a right, a duty, an obligation, the *greeting* of the foreign other [*l'autre étranger*] as a friend but on the condition that the host*, the *Wirt*, the one who receives, lodges or *gives asylum* remains the *patron*, the master of the household, on the condition that he maintains his own authority *in his own home*, that he looks after himself and sees to and considers all that concerns him [*qu'il se garde et garde et regarde ce qui le regarde*] and thereby affirms the law of hospitality as the law of the household, *oikonomia*, the law of his household, the law of a place (house, hotel, hospital, hospice, family, city, nation, language, etc.), the law of identity which de-limits the *very* place of proffered hospitality and maintains authority over it, maintains the truth of authority, remains the place of this maintaining, which is to say, of truth, thus limiting the gift proffered and making of this limitation, namely, the *being-oneself in one's own home*, the condition of the gift and of hospitality". Jacques Derrida, "Hostipitality," *Angelaki: Journal of the Theoretical Humanities* 5, no. 3 (2000): 3–18.

[36] For a sustained discussion of Kant's notion of hospitality and Derrida's criticisms of it, see Kelly Oliver, *Earth and World* (New York: Columbia University Press, 2015).

[37] For example, Derrida says, "The law of absolute hospitality commands a break with hospitality by right, with law or justice as rights. Just hospitality breaks with hospitality by right; not that it condemns or is opposed to it, and it can on the contrary set and maintain it in a perpetual progressive movement; but it is as strangely heterogeneous to it as justice is heterogeneous to the law to which it is yet so close, from which in truth it is indissociable." Jacques Derrida, *Hospitality* (Stanford: Stanford University Press, 2000), 25, 27.

[38] For example, Derrida says, "We will always be threatened by this dilemma between, on the one hand, unconditional hospitality that dispenses with law, duty, or even politics, and, on the other, hospitality circumscribed by law and duty. One of them can always corrupt the other,

cause it is always deferred, but also because of the inherent conflict between the concept of unconditional hospitality and the realities of limited hospitality. This gap between the two is so great, Derrida suggests we don't even understand or know what hospitality is, in large part, because hospitality is not just a matter of understanding or knowledge; it is not just a matter of categorical imperatives, duties, and reason, but also of compassion, desire, and a certain "madness" Derrida associated with Kierkegaard's madness of the impossible of faith. In fact, Derrida claims that as soon as we identify the guest as foreigner (or refugee), we have already done him violence by reducing him to a category that we think we understand. Furthermore, by questioning him, we continue our violence, not only because we may do so in a language unknown to him, and because we most likely are interrogating him in an unfamiliar legal process, but also because we are calling on him to account for himself and thereby subjecting him to our assumed superior judgment.[39]

Insofar as hospitality is the opening of the home or ethos, Derrida also insists it is not simply one obligation among others, but rather

Hospitality is culture itself and not simply one ethic amongst others. Insofar as it has to do with the *ethos*, that is, the residence, one's home, the

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and this capacity for perversion remains irreducible. It must remain so". Derrida, *Hospitality,* 135.
Consider also this passage: "It is a question of knowing how to transform and improve the law, and of knowing if this improvement is possible within an historical space which takes place *between* the Law of an unconditional hospitality, ordered *a priori* to every other, to all newcomers, *whoever they may be*, and *the* conditional laws of a right to hospitality, without which *The* unconditional Law of hospitality would be in danger of remaining a pious and irresponsible desire, without form and without potency, and of even being perverted at any moment." Jacques Derrida, *On Cosmopolitanism* (New York: Routledge, 2001), 22–23.

[39] For example, Derrida argues: "Hospitality is owed to the other as stranger. But if one determines the other as stranger, one is already introducing the circles of conditionality that are family, nation, state, and citizenship…It is doubtless necessary to know all that can be known of hospitality, and there is much to know; it is certainly necessary to bring this knowledge to the highest and fullest consciousness possible; but it is also necessary to know that hospitality gives itself, and gives itself to thought beyond knowledge" Jacques Derrida, "Hostipitality," 8.
Consider also this passage: "..the foreigner is first of all foreign to the legal language in which the duty of hospitality is formulated, the right to asylum, its limits, norms, policing, etc. He as to ask for hospitality in a language which by definition is not his own, the one imposed on him by the master of the house, the host, the king, the lord, the authorities, the nation, the State, the father, etc. This personage imposes on him translation into their own language, and that's the first act of violence." (Derrida, *Hospitality*, 15)

familiar place of dwelling, inasmuch as it is a manner of being there, the manner in which we relate to ourselves and to others, to others as our own or as foreigners, *ethics is hospitality*; ethics is so thoroughly coextensive with the experience of hospitality.[40]

Derrida identifies a paradox at the heart of hospitality between the need for a home with doors and windows, fences and borders--that is to say limits—and the openness required by unconditional hospitality. To be a host, one must have a home. Yet, as Derrida describes it, hospitality requires a reversal between host and guest such that the host becomes almost a hostage to his guest. His hyperbolic account of hospitality points to the assumptions of mastery and sovereignty already operating in our everyday notions of hospitality, particularly when it comes to welcoming foreigners and refugees. Derrida puts it thus:

> As a reaffirmation of mastery and being oneself in one's own home, from the outset hospitality limits itself at its very beginning…To take up the figure of the door, for there to be hospitality, there must be a door. But if there is a door, there is no longer hospitality. There is no hospitable house. There is no house without doors and windows. But as soon as there are a door and windows, it means that someone has the key to them and consequently controls the conditions of hospitality. There must be a threshold. But if there is a threshold, there is no longer hospitality.[41]

Certainly, national sovereignty is part and parcel of the law of hospitality, particularly as it is set out in international law concerning refugees and asylum seekers. And, as Derrida argues, national sovereignty is always in what he calls an autoimmune relationship with democracy. In terms of hospitality, this means not only that there is a conflict between the concept and practice of hospitality, but also that the concept itself operates according to an auto-immune logic wherein, "Hospitality is a self-contradictory concept and experience which can only self-destruct, put otherwise, produce itself as impossible, only be possible on the condition of its impossibility, or protect itself from itself, autoimmunize

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40 Derrida, *Cosmopolitainism,* 16-17, cf. Derrida, *Hospitality*, 149, 151.
41 Derrida, "Hostipitality," 14.

itself in some way, which is to say, deconstruct itself – precisely – in being put into practice."[42]

Derrida drives home the problems with our everyday notions of hospitality with his distinction between *the hospitality of invitation* and *the hospitality of visitation*: "In visitation there is no door. Anyone can come at any time and can come in without needing a key for the door. There are no customs checks with a visitation. But there are customs and police checks with an invitation."[43] The hospitality of invitation is a limited, controlled, monitored hospitality, whereas the hospitality of visitation is unconditional hospitality, which is not controlled by the host. The visitor arrives uninvited, unexpected, unknown, and perhaps even unwelcomed; and yet the host has an ethical obligation that comes from a hospitality of justice (rather than merely of rights), to take him in, even if his presence threatens our way of life: "a visitation could be an invasion by the worst. Unconditional hospitality must remain open without horizon of expectation, without anticipation, to any surprise visitation."[44] To avoid the worst–the worst violence–we must allow the possibility of the worst to enter. This is the autoimmune logic of hospitality. It must always remain open to what comes, for better or worse. And while our practices of hospitality can never live up to this ideal, without holding onto the concept of just unconditional, impossible hospitality, our everyday practices of hospitality are hollow, illusions of hospitality and self-deception at best, or alibis for continued violence at worst.

In light of Derrida's standard of unconditional or just hospitality, the humanitarian aid of refugee camps and detention centers falls far short. Indeed, camps and lock-ups hardly meet the basic criteria for limited, conditional hospitality. For, with very few exceptions, it is difficult to use the word hospitality to describe the situation of most refugees and asylum seekers when they arrive at the borders of their host countries. We have barely begun to provide for the basic needs of refugees and asylum seekers, human rights supposedly guaranteed by international

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42 Ibid., 5.
43 Ibid., 14.
44 Ibid., 17.

conventions. Moreover, insofar as climate change and climate displacement exacerbate, if not cause, most forced migration on the planet today, we need to come to terms with the fact that earth is our only home; and we have an obligation to it, and to those with whom we share the planet. Some

> climatologists say Syria is a grim preview of what could be in store for the larger Middle East, the Mediterranean and other parts of the world. The drought, they maintain, was exacerbated by climate change… Syria's drought has destroyed crops, killed livestock and displaced as many as 1.5 million Syrian farmers. In the process, it touched off the social turmoil that burst into civil war.[45]

In the last seven years, an estimated one person every second has been displaced by a disaster, and that number is on the rise thanks to climate change and poor design and planning.[46] There is evidence climate change plays a central role in mass migrations in Africa, and has lead to hundreds of thousands in refugee camps.[47] The problem of climate refugees is only going to get worse. And, international law and United Nations guidelines do not consider those escaping natural disasters and drought or climate change refugees. Can we say that people fleeing drought and famine, or flooding and receding shores, in their homelands are being persecuted? If so, by whom?

These questions make clear the need to rethink refugees beyond identity politics that requires one group at war with another, or the persecution of one group by another. Even in the Syrian refugee crisis, it is not clear in what sense refugees and asylum seekers are being singled

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[45] John Wendel, "The Ominous Story of Syria's Climate Refugees: Farmers who have escaped the battle-torn nation explain how drought and government abuse have driven social violence," *Scientific America*, December 17, 2015, https://www.scientificamerican.com/article/ominous-story-of-syria-climate-refugees/. See also, Collin Kelley et al., "Climate Change in the Fertile Crescent and Implications of the Recent Syrian Drought," *Proceedings of the National Academy of Sciences USA*, 112, no. 11 (2015): 3241–3246.

[46] "19.3 million displaced by disasters but 'mother nature not to blame' says new report," Internal Displacement Center, 20 July 2015, http://www.internal-displacement.org/assets/library/Media/201507-globalEstimates-2015/20150706-GE-2015Press-release-FINAL-v1.pdf.

[47] Peter Schwartzstein, "The climate-change refugee crisis is only just beginning," *Quartz,* January 31, 2016, http://qz.com/605609/the-climate-change-refugee-crisis-is-only-just-beginning/. See also, Josh Hrala, "Global warming could trigger a 'climate exodus' from the Middle East and North Africa Climate refugees," *Science Alert,* May 4, 2016.

out as part of a group and then targeted for violence, which is a standard criteria for determining refugee status under the UN guidelines. We must begin to think of ourselves and our relation to others beyond group identities or national identities, and towards inter-relationality determined by the interconnectedness of ecosystems and our biosphere.

What would it mean, then, to think beyond rights discourse, beyond borders, detention centers, and camps, to justice as radical hospitality? First, and foremost, we would have to move beyond notions of national sovereignty and citizenship. Rather than starting with human rights, or citizen's rights, as the basis of political (or ethical) obligations, we would have to acknowledge our interdependence on this shared planet, our only home. Rather than claim the sovereign right to welcome others into our own homes, we would have to acknowledge that the foundation for that home is the earth itself, which belongs to us not as property, but rather as what we share with every other earthling.

Bibliography

1. Aljazeera. "Hundreds of refugees died on way to Europe this year." Accessed November, 16, 2018. http://www.aljazeera.com/news/2016/02/400-refugees-die-europe-2016-160209133941502.html.
2. BBC. "Migrant Crisis: Migration to Europe explained in seven charts." Accessed September 16, 2018. http://www.bbc.com/news/world-europe-34131911.
3. Arendt, Hannah. "We Refugees." In *Altogether Elsewhere: Writers in Exile,* edited by Marc Robinson, 110–119. London: Faber & Faber, 1994.
4. Cone, Devon. "The Process for Interviewing, Vetting, and Resettling Syrian Refugees in America Is Incredibly Long and Thorough." *Foreign Policy*, November 30, 2015. http://foreignpolicy.com/2015/11/30/the-process-for-interviewing-vetting-and-resettling-syrian-refugees-in-america-is-incredibly-long-and-thorough/.
5. Courbet, David. "Migrants at Calais camp given dignity in death." *The Local Fr,* May 23, 2016. http://www.thelocal.fr/20160523/migrants-at-calais-camp-given-dignity-in-death.
6. Daily Mail. "Calias Jungle is unrecognizable after bulldozing." Accessed November 16, 2018. http://www.dailymail.co.uk/news/article-3511855/Death-Jungle-Incredible-aerial-images-reveal-Calais-slum-just-bare-earth-makeshift-homes-flattened-bulldozers-eviction-thousands-refugees.html#ixzz49ytihWY7.
7. Derrida, Jacques. "Hostipitality." *Angelaki: Journal of the Theoretical Humanities* 5, no. 3 (2000): 3–18.

8. Derrida, Jacques. *Hospitality.* Stanford: Stanford University Press, 2000.
9. Derrida, Jacques. *On Cosmopolitanism.* New York: Routledge, 2001.
10. Finnerty, Deirdre. "Migrant crisis: Trauma takes toll on mental health." *BBC News*, 22 December 2015. http://www.bbc.com/news/world-europe-35102320.
11. Fleming, Melissa. "Crossings of Mediterranean Sea exceeds 300,000, including 200,000 to Greece." *UNHCR: The UN Refugee Agency*, August 28, 2015. http://www.unhcr.org/en-us/news/latest/2015/8/55e06a5b6/crossings-mediterranean-sea-exceed-300000-including-200000-greece.html.
12. Gentleman, Amelia. "The horror of the Calias Refugee Camp." *The Guardian*, November 3, 2014. http://www.theguardian.com/world/2015/nov/03/refugees-horror-calais-jungle-refugee-camp-feel-like-dying-slowly.
13. Golden, Janet. "What will today's immigration detention centers look like to future Americans?" *Philadelphia Inquirer*, June 22, 2016. http://www.philly.com/philly/blogs/public_health/What-will-todays-immigration-detention-centers-look-like-to-future-Americans-.html.
14. Granski, Megan, Allen Keller and Homer Venters. "Death Rates among Detained Immigrants in the United States." *International Journal of Environmental Research and Public Health* 12 (2015): 14414–14419.
15. Harff, Barbara and Ted Robert Gurr. "Toward Empirical Theory of Genocides and Politicides: Identification and Measurement of Cases Since 1945." *International Studies Quarterly* 32, no. 3 (September 1988): 359–371.
16. Hrala, Josh. "Global warming could trigger a 'climate exodus' from the Middle East and North Africa Climate refugees." *Science Alert,* May 4, 2016.
17. Human Rights First. "U.S. Detention of Asylum Seekers Seeking Protection, Finding Prison." Accessed May 30, 2016. https://www.humanrightsfirst.org/wp-content/uploads/pdf/090429-RP-hrf-asylum-detention-report.pdf,
18. Human Rights Watch. "US: Deaths in Immigration Detention Newly Released Records Suggest Dangerous Lapses in Medical Care." Accessed November 16, 2018. https://www.hrw.org/news/2016/07/06/us-deaths-immigration-detention.
19. Internal Displacement Center. "19.3 million displaced by disasters but 'mother nature not to blame' says new report." Accessed November 16, 2018. https://www.nrc.no/news/2015/july/19.3-million-displaced-by-disasters-but-mother-nature-not-to-blame/.
20. Kelley, Collin, Shahrzad Mohtadi, Mark A. Cane, Richard Seager, and Yochanan Kushnir. "Climate Change in the Fertile Crescent and Implications of the Recent Syrian Drought." *Proceedings of the National Academy of Sciences USA* 112, no. 11 (2015): 3241– 3246.
21. McClelland, Mac. "How to build a perfect refugee camp." *The New York Times Magazine*, February 13, 2014.

22. Oliver, Kelly. *Witnessing: Beyond Recognition*. Minneapolis: University of Minnesota Press, 2001.
23. Oliver, Kelly. *Earth and World.* New York: Columbia University Press, 2015.
24. RT Online. "Almost 130 refugee kids vanish after 'Calais Jungle' demolition – charity." Accessed November 16, 2018. https://www.rt.com/news/338217-129-kids-missing-in-calais/.
25. Schwartzstein, Peter. "The climate-change refugee crisis is only just beginning." *Quartz,* January 31, 2016. http://qz.com/605609/the-climate-change-refugee-crisis-is-only-just-beginning/.
26. Sputnik International. "A Closer Look at "Europe's Worst" Refugee Camp." Accessed November 16, 2018. http://sputniknews.com/europe/20160124/1033644952/dunkirk-france-refugee-camp.html.
27. Tazzioli, Martina. "The politics of counting and the scene of rescue: Border deaths in the Mediterranean." *Radical Philosophy* 192 (2015): 2–6.
28. United Nations High Commissioner for Refugees (UNCHR). "Figures at a Glance." Accessed November 16, 2018. http://www.unhcr.org/en-us/figures-at-a-glance.html.
29. United Nations High Commissioner for Refugees (UNHCR). "Interviewing Applicants for Refugee Status (Rld 4)." Accessed November 16, 2018. http://www.unhcr.org/4d9485a69.pdf.
30. United Nations High Commissioner for Refugees (UNHCR). "Mediterranean Situation." Accessed November 16, 2018. http://data2.unhcr.org/en/situations/mediterranean.
31. United Nations High Commissioner for Refugees (UNHCR). "The 1951 Refugee Convention." Accessed November 16, 2018. http://www.unhcr.org/en-us/1951-refugee-convention.html.
32. Office of the UN Special Adviser on the Prevention of Genocide (OSAPG). "Analysis Framework." November 16, 2018. www.un.org/ar/preventgenocide/adviser/pdf/osapg_analysis_framework.pdf.
33. Wendel, John. "The Ominous Story of Syria's Climate Refugees: Farmers who have escaped the battle-torn nation explain how drought and government abuse have driven social violence." *Scientific America*, December 17, 2015. https://www.scientificamerican.com/article/ominous-story-of-syria-climate-refugees/.
34. Worley, Will and Lizzie Dearden. "Greek refugee camp is 'as bad as a Nazi concentration camp', says minister." *The Independent*, March 18, 2016. http://www.independent.co.uk/news/world/europe/idomeni-refugee-dachau-nazi-concentration-camp-greek-minister-a6938826.html.
35. Yardley, Jim and Gaia Pianigiani. "Three Days, 700 Deaths on Mediterranean as Migrant Crisis Flares." *The New York Times,* May 29, 2016: A1 & A6.

THE EXILE OF GREEK METIS: RECOVERING A MATERNAL DIVINE ONTOLOGY

Shé Hawke

Prolegomena …

The Orphic gods are very strange, starting with the First Born, the First Genitor, at once masculine and feminine, known as Phanes-Metis or Protogonos … and also Erikapaios. But there is also Zeus, in the fifth reign who … on the advice of Night replaces the First Born back within his body, thus turning himself into the matrix, the shell of an egg as large as the All. … Phanes-Metis [the unity of All] … undergoes [in the five reigns that follow] … the trial of separation and fragmentation through the process of differentiation.[1]

The divinity of woman is still hidden, veiled … we are deprived of our own ends and means.[2]

Phanes-Metis-Erikapaios appears as the tripartite progenitor of *All* in the first generation of the Orphic Pantheon, from which the Sacred Orphic and Bacchic and Eleusinian Mysteries (hereafter The Mysteries)[3] are spawned. The focus of this paper is to locate and recover the cosmic mucosity of the Metis fragment of the primordial trinity that is the "First Cause" or divine "First Genitor"[4] the totality both transcendent

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1 Marcel Detienne, *The Writing of Orpheus: Greek Myth in Cultural Contact,* trans. Janet Lloyd (Baltimore: Johns Hopkins University Press, 1989), 157.

2 Luce Irigaray, *Sexes and Genealogies,* trans. Gillian. C. Gill (New York: Columbia University Press, 1993), 71.

3 The word Mysteries is derived from the Greek *muo*, meaning to close the mouth, and not reveal hidden meanings. Mead says Thomas Taylor defines Mysteries as: "Sacred dramas performed at stated periods. The most celebrated were those of Isis, Sabazius, Cybele, and Eleusis … The selection of [Orphic] Logia, were generally called 'deposits'" of a reverential type. George Robert Stow Mead, *Orpheus* (London: The Theosophical Society, 1965), 37.

4 Thomas Taylor, *The Mystical Hymns of Orpheus: Translated from the Greek with a Preliminary Dissertation of the Life and Theology of Orpheus* (London: Self Published, 1787).

and immanent in all matter pertaining to the Orphic pantheon.[5] The transmission of what became known as the Orphic Mysteries is ascribed to Orpheus from the sixth generation of the Orphic pantheon, although Mead suggests there were multiple "Orphic narrators and editors,"[6] relating unified rights and principles from "testaments containing the divine will."[7] These Orphic Mysteries, Hymns and associated narratives of origin locate Metis in the holy order of things, and also describe how Zeus sought to encompass all her knowledge and wisdom. In a similar vein, I seek to determine and understand what provoked Zeus, in the fifth generation, to exceed the digestion of knowledge, and strike Metis from the record – to force her into theological exile. Feminist philosophical and theological critiques from Luce Irigaray, Jane Ellen Harrison and Pamela Sue Anderson, are further applied to problematize the impact on the modern world of the persistent disavowal of women's divinity initiated by Zeus. Concomitantly, the paper gives voice to the origin of the mother/daughter separation drama, proposed herein through Athena's loss of mother Metis, her original "love-object,"[8] and our collective Cosmic Mother.

Evidence of the specificity of the existence of the ultra-sexed Metis/Phanes/Erikapaios trinity (hereafter referred to as Metis or The Trinity), is paradoxically scant yet complex for several reasons, especially because she appears in two generations of the Orphic theogony in Olympian Greece – one in which she is revered, the other in which she is reviled.[9]

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5 Orphic Mysteries/Hymns represent the origin, doctrine, and expression of the *sacred dramas* of the Orphic Pantheon/Olympian Dynasty, of which the splitting of the Orphic Cosmic Egg is considered, a beginning. These terms are used interchangeably but all pertain to the same epoch. Scholars have applied the terms specific to their particular focus of inquiry, such as cosmogony, theology, mythology, mysteries. It is important to say at the outset however, that the ineffability of the Mysteries can only be roughly represented.

6 Mead, *Orpheus,* 26–35.

7 Ibid., 37.

8 See Sigmund Freud's use of this term in "Mourning and Melancholia," in *The Standard Edition of the Complete Psychological Works of Sigmund Freud, Vol. XIV*, trans. James Strachey (London: The Hogarth Press, 1957), 245.

9 See attached Genealogical Table in the Appendix for a composite rendition of the Olympian Dynasty, gleaned from the classics: Apollodorus, *Apollodorus I and II: The Library* (Cambridge: Cambridge University Press, 1921), and Hesiod, *Theogony,* trans. R. Lattimore (Michigan: Michigan University Press, 1959), and modern scholars such as Robert Graves, *Greek Myths and Legends* (London: Cassell 1956); Robert Graves, *The Greek Myths I and II* (Har-

Metis, as the originary gestational producer of life rests archetypally in the domain of the feminine. Her embodied and cosmic self throughout the Olympian Dynasty is rendered in the female, the numinous Creatrix, as I, Detienne, Campbell, Taylor and others imply further in their work:

> Mother of Gods, great nurse of all, draw near
> Divinely honor'd, and regard my pray'r …
> From thee at first both Gods and men arose
> From thee the sea and ev'ry river flows
> (Orphic Hymn XXVI to The Mother of the Gods)[10]

Throughout The Mysteries the identity of Metis is at times masked, and she is variously *called* "the thrice unknown darkness", the "mother substance", the "Cosmic Egg."[11] Yet Metis remains scantily *described*. Her veiling after this first generation is intentional for the purpose of preserving The Mysteries from the profanity of uninitiated mortals and lesser Gods.

The story of Metis becomes more complicated when she re-appears in the fifth reign of the Orphic Pantheon (mythically rather than mysteriously inscribed) as the victim of her husband Zeus' consumption of her and the creation wisdom she embodied … "But when Metis was about to bring forth bright-eyed Athena, Zeus craftily deceived her with cunning words"[12] and swallowed her after asking: "Could you … turn yourself into – say – a drop of water?"[13] After Hephaestus split open Zeus' aching head by the River Triton, Metis in her fluid form leaked away into Thalassa (historically and geographically understood as The Aegean Sea, although the myth is figuratively constituted) and took refuge in the aquascape where her familial water deities dwelt. Believing he had succeeded in the matricidal act, and in order to contain and privatise Metis' multigenerational knowledge and wisdom, Zeus claimed their daughter Athena as his alone – "un

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mondsworth: Penguin, 1960), and Edward E. Barthell, *Gods and Goddesses of Ancient Greece* (Florida: University of Miami Press, 1971).

10 Thomas Taylor, *The Eleusinian and Bacchic Mysteries* (London: Self Published, 1792), 151.

11 Mead, *Orpheus.*

12 Hesiod, *Theogony,* 143–145.

13 Joseph Campbell, *Occidental Mythology: The Masks of God* (New York: Penguin, 1991), 22.

mothered, born from his hydro-cephalic head – his best idea,"[14] an act that simultaneously rescinds Athena's matrilineage.

Despite these differently motivated attempts at obfuscation in the Grecian world, Metis is also located as counterpart to mysteries and myths from other regions, most notably Apsu in the Babylonian, meaning "the waters of Chaos before Creation."[15] These parallels and indeed her multiple naming and appearances, confuse the genealogical search immensely. This paper orbits around facets of the Orphic Genealogy of Gods and Goddesses un-yolked from the "Cosmic Egg" that begins the Olympian Dynasty, and actuates The Mysteries. To support the labour of that overdue enterprise, I attempt a trace in both source and meaning of the water deity Metis – Metis I from the first generation, to Metis II of the fifth generation of Olympus, in which her relinquishment of Athena and subsequent exile takes place.

However, scant the story remnants are, the creation mysteries (and later myths) pertaining to Metis show themselves to be both figurative progenitors and maternal co-informants to aqua-centric evolution, applied in this paper to disrupt dominant masculinised terra-centric doxology that privilege Zeus. Locating Metis, and her co-evolved sacred relationship to water myth/eologically, linguistically and symbolically, adds an elemental cross-current to this inquiry. The subsequent retrieval of Metis from her Zeusian exile and his appropriation and "introjection of her power"[16] constitutes a future focus that re-centres a feminine divine, hitherto located as a peripheral moon to a masculinised sun.[17] This paper also maps an ontology of maternal asylum, and a mythico-narrative refiguration of Metisian genealogy, and Noëtic intel-

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[14] Shé Hawke, *Aquamorphia* (Carindale: Interactive Publications, 2014), 7.

[15] See Mircea Eliade *Images and Symbols: Studies in Religious Symbolism* (Princeton: Princeton University Press, 1991), 41, for a discussion on the ethnographic parallel of water and symbols in the divine. Eliade retells the story of Apsu and Tiamet who are cast as aquatic monsters and who become buried "in the meshes and were put into caves" (110) which ever after located the divine hero Marduk (read as equivalent to Zeus) as sovereign. Metis also goes by the names of Libyan Medusa, Egyptian Maat, and Sanskrit Medha, all of which mean *sovereign female wisdom*. Until the fifth generation of Olympus, Metis was a revered deity representative of the Triple Goddess of creation, Metis/Phanes/Erikapaios from the 'Gens Orphica' (Mead, *Orpheus*, 27).

[16] Luce Irigaray, *This Sex Which is Not One,* trans. Catherine Porter (Cornell: Cornell University Press, 1985), 91.

[17] In Roman astronomy Metis is located as a peripheral moon to Jupiter/Zeus.

ligibility to rectify the erasure of maternal divinity, and to progress a transformational consciousness that responds to Irigaray's provocation to "unveil",[18] and reclaim "mother, daughter, holy spirit."[19] As Ferrell argues, "An absence of maternal ontology is a cause of anxiety."[20] By championing a maternal divine, with Metis as a refigured referent, I add a crucial fragment to an ontology of the maternal – of origin – that serves to interrogate the symbolic violence of patriarchal discourse and myth, and unbox the "containers" and "envelopes"[21] of the underwritten sovereign identity of women and their Mysteries.

The Mysterious Mysteries

> The Principle of Principles, i.e. of deiform processions from itself … super-essential ramifications, and super-luminous blossoms.[22]

Mapping the Orphic cosmogony and heavens is beset with ambiguity and mystification of terms, such as: "The Ineffable Mysteries", "Immense Principles", "The First Cause", "The Cosmic Egg" (Taylor 1787 & 1792; Mead 1965; Guthrie 1950, Judge 1893; Lafargue 1890). This paper discovers their links to an originary and unitary divine, and the fundamentals of triadic and monadic construction of Greek and Near Eastern cosmological structures evidenced in The Mysteries. These configurations locate an immense set of principles akin to a genealogy of the soul,[23] the fluid essence from which Metis dispersed all forms of creation, and in which:

> *being* simply considered, is represented under the symbol of an *egg*. And this is the first triad of the intelligible Gods … and here you may perceive that the egg is that which is united; but that the three-shaped [Phanes/ Metis/Eri-

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18 Irigaray, *This Sex Which Is Not One.*

19 Hawke, *Aquamorphia*, 6.

20 Robyn Ferrell, *Copula: Sexual Technologies, Reproductive Powers* (Albany: State University of New York Press, 2006), 2.

21 Irigaray, *Sexes and Genealogies,* 5.

22 Mead, *Orpheus,* 75.

23 Comparable to other Creation narratives and structures such as Genesis from the First Testament

kapaios] and really multiform God is the separating and discriminating cause of that which is intelligible.[24]

Such super-luminous archaic principles have been translated, diluted, lost and veiled over time and place for different purposes, not the least of which was Zeus' desire to become the *All,* as this paper discovers. Veiling after the first generation of Olympus, may have been a decisive act to protect Mysteries from falling into mortal and profane hands and the power-driven motivations of the extraordinary junior god that was Zeus. Taylor[25] further suggests that because the originary Mysteries are so "ineffable and unknown, and incapable of verbal enunciation," several commentators and poets simply pass over the whole intelligible order of the "Cosmic Egg" and commence their genealogies in the second and third generations with Night, Chaos, Eros and Gaea. I further argue that veiling represents a temporal or myth/eological exile, or asylum seeking and disappearing for safety reasons (such as to evade Zeus' terminal consuming passions, in the fifth generation). Mead, subsequent to Taylor's pronouncements states that later Greek philosophers such as Plato intellectualised the Orphic Life (rather than expressing its divine nature) to protect if from profanation, and this is where the sacred lineage of Metis and her creation wisdom comes into trouble – with this dilution of Mystery to protect the true sacred.[26] Robert Graves refers to this secreted telling as "a process of iconotropy."[27]Adepts and mystics are those who have gained the sacred knowledge and who are initiated into the deepest and most secret mysteries of life. They decide the direction of iconography and salutation and are licensed to narrate through symbols and allegory. Plato and Pythagoras, are among their number according to Neo-Platonists Taylor (1787), and Mead (1965). The more commonly known line of descent in mystical Orphic, Bac-

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[24] Taylor, *The Hymns of Orpheus,* xv.

[25] Taylor, *The Hymns of Orpheus,* xix.

[26] As a result we end up with surface philosophy and parables palatable for the polis of the day. Mead suggests the veiling of Mysteries and Orphic rites (in which Metis is located), is akin to what Shankaracharya did with the Upanishads. "Orpheus was to the Greeks what Veda Vyasa was to the Hindus, Enoch to the Ethiopians, and Hermes to the Egyptians" (Mead, *Orpheus,* 47), that is, he was guardian to much but invented nothing – a mystical choreographer.

[27] Graves, *Greek Myths and Legends,* 31.

chic and Eleusinian knowledge and narration, according to those commentators is represented below:

Orpheus
Hesiod and Homer
Pherecydes
Onomacritus
Pythagoras
Plato
Charax of Syria
Damascius
Hierocles
Taylor

Figure 1. Orphic Line of Succession

In the Preface to *The Hymns of Orpheus,* Manly P. Hall says of Taylor and his translation of Orphic divinities:

> Thomas Taylor was fully aware that the choicest secrets of the divine learning were entrusted not to words but to emblems, symbols, allegories, myths and legends. Only the philosophic few whose hearts and minds were illuminated by the contemplation of eternals could lift the veil that covered the face of the Mother of the Gods.[28]

The cloaking of the "Mother of the Gods" through analogy and allegory from the first generation of Olympus onwards may hence be understood as a necessary order of secrecy, or ontological émigré. Whereas in the fifth generation, and at the hands of Zeus, Metisian exile was a life-preserving necessity – life-preserving for Athena, the progenic fragment of the *All!* Taylor suggests that the ways of knowing common to modern philosophy are flawed, and do not sufficiently account for the sort of transcendental theology he has translated from archaic Greek

[28] Manly P. Hall, 'Preface,' to Taylor, *The Hymns of Orpheus,* n.p.

sources, such as The Orphic Hymns.[29] Mead (who is the intellectual and theological successor of Taylor), warns the Neo-platonic student regarding recovery of the soul and the divine, that, "minds deeply steeped in materialism will be repelled by the sublime metaphysics of mystical religion, but the blame should lie rather with the poverty of our language."[30]

Mead, Taylor, Blavatsky, and more latterly Graves, Kerényi, Harrison, Campbell, and Walker[31] present sketches of the cosmology of the Orphic heaven from "Orphic mystagogy"[32] in simplistic terms for easier access of uninitiated mortals, re-presented here in the figures that follow. These myth/eologists extrapolate on what are known as the Septenary Scale (scale of sevens) and Triads (scale of threes) that are pivotal to grasping the state of the Orphic Heaven before it took material form. Their representations are weighted with esotericism, exotericism, mysticism, and philosophy. Mead, and Taylor particularly trace matter back to the first materiality of ultra-milk that emanated from the splitting of the "Cosmic Egg", or for the purposes of this paper: Metis I.[33]

Metisian Genealogy in two parts

Metis was infinitely wise. She in fact, knew more than all the Gods.[34]

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[29] See also Plato's *Philebus,* and Proclus on the *Theology of Plato,* in Mead, *Orpheus*. "It is said that the hieroglyphical treatise on the famous Columns of Hermes or Seth, which Josephus affirms were still existing in his time (De Mirville, *Pneumatologie,* iii. 70), was the source of the sacred science of Khem, and that Orpheus, Hesiod, Pythagoras and Plato took from there the elements of their theology. There were a number of Hermes', the greatest being called Trismegistus, the 'Thrice Greatest' because it spoke of the three great powers that 'veiled the one divinity' (Chron. Alexand., 47)" in Mead, *Orpheus,* 63.

[30] Mead, *Orpheus*, 50.

[31] Some of them are translators of the Hesiodic and Orphic Theogonies, Apollodorus, Plato and Sophocles.

[32] Mead, *Orpheus*, 2.

[33] However, Mead sometimes ascribes the Cosmic Egg to Chaos. Somewhere in the ineffable "whirlpool" came the "Dawn of First Creation" variously named and situated in the Cosmos. Mead, *Orpheus,* 155.

[34] Campbell, *Occidental Mythology,* 49.

So who was this "venerated parthenogenetic Creatrix of All,"[35] Metis I – from the first generation of the Orphic Pantheon – and why does her refiguration matter? For Irigaray and contemporary feminist philosophy, Metis matters because without a feminine divine referent there seem to be clear and enduring limits to the spiritual life of women. Without coherent reference *woman* is in danger of ongoing estrangement from her source, as is evident in the myth of Athena.[36] As Penelope Deutscher argues, "feminist practices can only be amended when philosophical conceptions of divinity are amended"[37], when divine women like Metis are returned from their exile, and afforded their place in myth/eology and philosophy. Irigaray too, extrapolates about *woman* being generically lost in relation to deification – eternally exiled, "Defined as the often dark, even occult mother-substance … we are in need of our *subject,* our *substantive,* our *word,* our *predicates:* … our generic incarnation, our genealogy."[38] Carol P. Christ concurs, suggesting that oppressive "symbolic systems cannot simply be rejected, they must be replaced."[39] Hence, our task may not be to simply reinstall feminine divinity but to simultaneously exceed the boundaries of "masculine domination"[40] that have prevailed for so long, lest we "revert to familiar structures in times of crisis, bafflement or defeat,"[41] that rob us of our subjectivity.

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35 Hawke, *Aquamorphia,* 5.

36 Freud influenced by Greek myths, advanced the notion that the mother/daughter separation drama was evidence of daughters' retraction from supposedly monstrous, diabolical mothers, rather than holding to account the theft of those daughters by masculine perpetrators. Freud barely skims the phallic pond in this regard.

37 Penelope Deutscher, "The Only Diabolical Thing About Women: Luce Irigaray on Divinity," *Hypatia* 9, no. 4 (1994): 88.

38 Irigaray, *Sexes and Genealogies*, 71.

39 Carol P. Christ, "Why Women Need the Goddess: Phenomenological, Psychological and Political Reflections" in *The Politics of Women's Spirituality: Essays by Founding Mothers of the Movement,* ed. Charlene Spretnak (New York: Anchor Books, 1982), 73.

40 Pierre Bourdieu, *Masculine Domination,* trans. Richard Nice (Stanford: Stanford University Press, 2001).

41 Christ, "Why Women Need the Goddess," 73.

Metis I in the Mysteries

The "Mother of the Gods" that Manly P. Hall mentions in his introduction to Taylor (1792), is sparingly narrated in the story of the Orphic heavens. Only a Platonist descended through the line of Pythagoras the mystic,[42] could make proper sense of the material. Quoted here verbatim in old English, Taylor says:

> And here I muft acquaint the reader, that I fhall everywhere deduce my information from the writings of the latter Platonifts; as the only fources, on this fublime and obfolete enquiry. The vulgar fyftems of mythology are here entirely ufelefs; and he who fhould attempt to elucidate the theology, or hymns of Orpheus, by any modern hypothefis, would be as ridiculously employed, as he who fhould expect to find the origin of a copious ftream, by purfuing it to its laft and moft intricate involutions.[43]

Taylor's point is that cosmology and theology according to his predecessors Plato and Pythagoras, are aligned with maths, mysticism and cosmic waters, and that the collision between these facets is challenging for modern theologians, philosophers and cosmologists alike. Yet it is critical to realising divinity.

In the writings of Mead, Taylor and the Theosophists, the cosmomathematical Septenary Scale (structured in sevens) is the base explanation of all that exists in the cosmos, and this is where we first encounter Metis – the origin of origins. The Septenary Scale represents a magical set of coordinates, yet the significance of the numbering and naming of the components of the scale is not made entirely clear to the uninitiated. The specificity of this knowledge seems to be confined to those deeply engaged in esoteric inquiry.[44] Theosophists such as Blavatsky and Judge describe the scale as follows:

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[42] Orphism or the Orphic Mysteries share coherency with the Bacchic and Eleusinian Mysteries, which according to Taylor (informed by Herodotus ii: 81) have their origins in Egyptian and Pythagorean rites. Mead, *Orpheus,* 3, suggests the Orphic rites were revealed via symbols and consistent with the times for conveying divine lore. Mead also offers lengthy comparisons to Vedic Lore and divinity. See also Proclus (*Theol, I. v. 9*) in Mead, *Orpheus*.

[43] Taylor, *The Hymns of Orpheus,* 13 (This is a 1981 facsimile reprint of the original in Old English 1787).

[44] And as such is beyond the specificity of this inquiry.

> The divisions of the sevenfold universe may be laid down roughly as: The Absolute [or space], Spirit, Mind, Matter, Will, Akasa or aether, and Life. … Our knowledge begins with differentiation, and all manifested objects, beings, or powers are only differentiations of the Great Unknown.[45]

Judge further explains that all universal cataclysms (for instance, the Big Bang; the Great Flood) are evolutionary imperatives for the *Great Unknown* to assume its preferred form until perfection is attained. Essentially there is a constant cycle of evolution, and involution, that is designed by a primordial essence or energy, formless and genderless. The entity (rather than the gross mass) of the Earth is sevenfold and associated with six other entities. This chain of sevenfold-ed-ness is called the "Earth Chain" or "Sevenfold Planetary Chain,"[46] and refers to man's[47] consciousness of such concepts. As with the planets, man himself is constituted of seven parts of which only the body is visible. The last three parts are recognised as the Holy Trinity[48] or the Higher Vehicles of the *real man* [read as "real subject"] (See Figure 2). The Lower Four Vehicles relate more to embodiment and are subject to transience, disintegration, and separation from each other prior to and upon death. However, as Judge[49] (drawing on the classification of A.P. Sinnett) explains below: within these is the visible physical man (brain and body) and the unseen visible man, such as the Astral Body (spirit body), Passions and Desires (libidinal body), and Life principle (vitality):

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[45] William Q. Judge, *The Ocean of Theosophy* (London: Theosophical University Press, 1893), 14.

[46] Judge, *Ocean of Theosophy,* 23. See also Helena. P. Blavatsky, *Isis Unveiled Vol. 1* (London: Theosophical Society Press, 1877). Her comparative discussion on mysticism between east and west is extensive if unwieldy.

[47] The word 'man' is an example of one of those poorly translated terms that stand in for all humans.

[48] The Holy Trinity is described in Christian Doctrine (following from this archaic knowledge) as Father, Son and Holy Ghost. It could be reconfigured thus: giver of life, receiver of life, and the unseen life. Jewish, Kabbalistic, Babylonian and Egyptian cosmology uses similar scales and representations, unlike Hinduism that divides the cosmos into four.

[49] Judge, *Ocean of Theosophy,* 31.

1.	The Body	(Rupa)
2.	Vitality	(Prana-Jiva)
3.	Astral Body	(Linga-Sarira)
4.	Animal Soul	(Kama-Rupa)
5.	Human Soul	(Manas)
6.	Spiritual Soul	(Buddhi)
7.	Spirit	(Atma)

Figure 2. Western schema and Sanskrit equivalents

The goal for humankind is to live the correct path according to divine laws.[50] If upon death the life has been good and correct, reunion with the divine, mother substance [Metis], or the fluid light of the universe is possible. If the work is not complete, the soul remnant descends to Tartarus (the underworld) waiting for the time of renewal of spirit and form. The Theosophists (for whom Mead was secretary) were informed by Indian, Tibetan, and Chinese mysticism. Sanskrit language permeates their explanations offered here for comparative purposes and to locate Metis I against the architecture of eastern mysticism.

Taylor, and Mead[51] also describe the Septenary Scale specific to Greek cosmology. This is a crucial underlay to a greater inquiry because it is where the first trace of Metis is located and presented textually. The intricacies of the greater schema are the work of a bigger project of inquiry.

"Taylor sums up the emanation of primal principles or monads, setting forth the Septenary order."[52] This septenary framework consists of

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[50] This implies the divine laws of the Mysteries, not the plot of common myths.

[51] The poets W B. Yeats, William Blake, and Oscar Wilde were also cognisant of these scales and their mythic meaning. Psychoanalysts Sigmund Freud and Sándor Ferenczi spent time discussing the mystical with Yeats and Wilde (see Nancy A. Smith, "Angels in the Architecture: Contemporary Case of Orphic Functioning," in *Journal of the American Academy of Psychoanalysis* 29, no. 4 (2001): 575–584. Yeats was a member of the Golden Dawn (the Western equivalent of the Theosophical Society) whose doctrine was informed by the Buddhi of India and Tibet, and Egyptian creationism.

[52] Mead, *Orpheus*, 60.

a monad (structured as the irreducible elemental unity of a greater system, both organic and inorganic) and two triads (structured in threes) as the following diagrams[53] indicate:

1.	The Ineffable
2.	Being
3.	Life
4.	Intellect
5.	Soul
6.	Nature
7.	Body

Figure 3a: The Septenary Scale 1

This order has parallel scales although there is no logical transference except for the repetition of the sevens, broken down into two triads and one monad. It doesn't have obvious correspondences; it is a different kind of maths not immediately reasonable, but the scale continues thus, if somewhat superimposed:

1.	Primordial
2.	Noëtic
3.	Noëtic and Noëric
4.	Noëric
5.	Supercosmic
6.	Liberated or Supercelestial
7.	Cosmic

Figure 3b: Septenary Scale 2 – The Triads

[53] Ibid., 61–62.

This is how it is written for the metaphysical mind to grasp, delivered through Judge's more accessible reading of it in *The Ocean of Theosophy*. Other representations, via adepts and poetic inscriptions are more confusing still, adding their own mystical inflections to archaic traces of knowledge.[54]

As Mead explains, the Noëtic Triad is "classified according to Father (F.), Power (P.), and Intellect (I.),"[55] with Metis representing the latter aspect of Intellect, and Phanes and Erikapaios aligned with Father and Power respectively and allegedly all parts of the "one many all".[56] I am interested in the Intellectual (I) third of the Noëtic (intelligible and therefore of superior dignity) and Noëric (intellectual and of high order to an ordinary mind but not a dignified one) Triads reported in Taylor's translation of the Orphic Theogony and Mead's diagrammatic account. Metis is located in the more dignified Noëtic triad, whereas Zeus is located in the less dignified Noëric Triad. My reading here may be simplistic, even vulgar in Taylor's reckoning, but the Noëtic [Intelligible] Triad is composed of "Gods which are conjoined to the *one itself*,"[57] meaning fragments of the one.

Words such as *father* do complicate the picture. These terms were constructed to explain the emerging materiality of the cosmos and its earthly creations. At this stage of mythological history, *father* was not a privileged term *per se*. As Judge explains, "Human beings [as diluted apostatic forms of the divine] did not appear here in two sexes first. The first were of no sex, then they altered into hermaphrodite, and lastly separated into male and female."[58] It was not until Zeus' reign, five generations after the emanation of matter from the splitting of the *Cosmic Egg* that the generic words *father* and *he* entered into story and gained primacy and privilege. As Mead says of this time, "the insanity of phallicism inculcated its virus into the community."[59] This has been

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[54] The French poet Jules Michelet in his work *The Sea [La Mer]* (London: Thomas Nelson and Sons, 1883) explains the ineffable monad in poetic terms, as does Wystan Hugh Auden, in *The Enchafed Flood: The Romantic Iconography of the Sea* (New York: Hoik, 1967).

[55] Mead, *Orpheus,* 69.

[56] Ibid., 67.

[57] Ibid., 64.

[58] Judge, *Ocean of Theosophy,* 78.

[59] Mead, *Orpheus,* 3.

sustained, and as French sociologist Pierre Bourdieu suggests of "masculine domination", it is simply empowered by its constant reiteration: "When we try to understand masculine domination, we are … likely to resort to modes of thinking that are the product of that domination."[60] Gatens[61] similarly argues, "It cannot simply be a matter of removing superficial biases, since the bias is now understood as intrinsic to the structure of the theories in question;" what is required is new structures, or refiguring of originary structures. Hence, some scholars have colluded with this semiotic use of the personal pronoun to substantiate the particularities of their gender bias, while others have sought to overhaul it or explain its use. As White has observed:

> For the Orphics, Metis is the great primordial goddess, aquatic and polymorphous, and to show that she can never be subordinated to any *oversimplified Olympic ordering principle,* [italics mine] they no longer represent her as female but, in a male dominated society, give her masculine status.[62]

Hence, in the Orphic pantheon, Metis I was both she and he, a holy water deity representing the creative power that predates a differentiated cosmos. In the following table of the Noëtic Triad, Metis' place in the order of the primordial and divine or as the core part of *the first cause* is quite apparent, as Figure 4. adapted from Taylor, and Mead, shows:

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[60] Bourdieu, *Masculine Domination,* 5.

[61] Moira Gatens, "A Critique of the Sex Gender Distinction" in *Imaginary Bodies: Ethics, Power and Corporeality* (London: Routledge, 1986), 120.

[62] Kenneth White, "A Wave and Wind Philosophy" in *The Southern Eastern Review* 1 (1990): 113–120.

	(f.)	Aether		
(F.)	(p.)	Chaos		
	(i.)	Egg		
	(f.)		The	
(P.)	(p.)	Egg containing	Triple	chaos, time and necessity
	(i.)		God	
(I.)	(f.)	Phanes		
	(p.)	Erikapaios/Protogonus		
	(i.)	Metis		

Figure 4: The Noëtic [Intelligible] Triad

The Noëtic/Noëric Triad is problematic as it combines the Intelligible and the Intellectual, that is, more dignified and less dignified immense principles and deities. Following from that however, we come to Zeus in the Noëric Triad. Cronus occupies the position of the Father (F.), Rhea occupies Power (P.), and Zeus occupies Intellect (I.).[63] This may become clearer by consulting the genealogy chart (See Appendix).

Mead continues with the simple explanation that these "immense principles" from the "first cause" are beyond our generic present human comprehension, "and is a reflection of that 'thrice-unknown darkness' which is the veil of the Ineffable … and the membrane of the cosmos."[64] To demonstrate his meaning as precisely as possible, Mead further quotes from Taylor's *Mystical Hymns of Orpheus* p. xxiv*:*

> according to the theology of Orpheus, all things emanate from an immense principle, to which through the imbecility and poverty of human conception we give a name, though it is perfectly ineffable, and in the reverential language of the Egyptians is a *thrice-unknown darkness,* in the contemplation of which all knowledge is refunded into ignorance.[65]

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[63] Mead, *Orpheus,* 74.
[64] Ibid., 63.
[65] Ibid., 63.

It may be enough to know that the Triple God born from and parallel to the "Cosmic Egg", Phanes, Metis, and Erikapaios (Holy Trinity) is of one power that created Chaos and subsequently the new dynasty of Mt Olympus, and indeed the whole cosmos. According to Orphic theogony, which is in itself timeless, the *first principle* follows thus:

> Time is symbolically placed for the one principle of the universe; but Æther and Chaos for the two posterior to this one; and Being, simply considered, is represented under the symbol of an Egg. And this is the first of the intelligible [Noëtic] Gods.[66]

Mead further explains that all that *became* from the moist opened Egg, came first from a boundless "Mother Substance", which manifests endless change, that is, Metis, Phanes, and Erikapaios[67] who represent Consciousness, Light and Life respectively. They/it/she continued to do the work of the universe and fragment the original mucosity to make manifest the cosmos and world as we know it, as Judge's description attempts to explain. This fluid over-soul or "mother substance" is the archaic holy trinity, or "the first born".[68]

The discussions of Mead and Taylor regarding the soul and its mathematical dilutions and divisions are frustrated by a lack of corporeal and literary accessibility, suspended in conjecture and trace. Those texts that allude to Metis (in her first and subsequent forms) do so in accordance with their own archaeological, anthropological, theological and mythological excavations and writerly bias, as well as a duty of care to protect the true sacred.[69] It follows that the representation of the first Metis as the primordial moist mother substance from which Chaos emerged, did not suffer so much from falling into the *disavowed* spaces of darkness. On the contrary, the story of Metis I was deliberately secreted. Disavowal appears four generations later, and becomes exile.

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[66] Wolfii in Mead, *Orpheus,* 68.

[67] Translators apply different spellings for the Gods and Goddesses. Where I quote verbatim, I use the spelling of the source. Outside of direct references I use one spelling consistently.

[68] Detienne, *The Writing of Orpheus,* 157.

[69] See also the excavative works of Maria Gimbutus, *The Living Goddesses* (Berkeley: University of California Press, 1999); Monica Sjoo and Barbara Mor, *The Great Cosmic Mother* (San Francisco: HarperOne, 1987).

Transitioning from Mystery to Myth: Metis I to Metis II

Woman is hidden in the thought of the father … and the voice clearly expresses the father's wishes.[70]

In the beginning then, after the "Cosmic Egg" dispersed its moist contents – although this was not the first or only beginning – there were the First Divinities, which included Chaos, Night, Eros and Gaea, who were non-gendered and self-creating[71]. The Twelve Titans[72] were gendered and followed these Divinities in the fourth generation. These were the new gods of Mt Olympus of whom Zeus and Metis II are progeny (See Appendix for Genealogical Table). In the generations to come the Titans would produce demi-gods and mortals. Chaos is thought of as the comprehensible beginning (as opposed to the ineffable beginning already discussed through cosmic architecture) for many mythographers.

The story of the beginning is represented popularly in Hesiod's *Theogony*, a long theological song about the creation of the dynasty of the New Gods of Mt Olympus. It also appears in the more poetic Homeric tales and hymns, Apollodorus and Sophocles and, as discussed, in The Orphic Hymns and associated Mysteries. Each of these discussants preferences different generational beginnings and it is only the latter that prefigures Phanes/Metis/Erikapaios as the originary progenitors. According to Kerényi[73] Hesiod was the last mythological account that always mentioned the female deity first, a sign that sometime after his *Theogony,* (written circa 800BC), the politics and/or memory of Mt Olympus and the gendered representations of myth (primarily through

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[70] Luce Irigaray, *Marine Lover of Friedrich Nietzsche* (New York: Columbia University Press, 1991), 196.

[71] Please see Apollodorus, *Apollodorus I and II*; Hesiod, *Theogony*; Vernant, *The Universe*; Graves, *Greek Myths and Legend*; Graves, *The Greek Myths I and II*; Campbell, *Occidental Mythology* for elaboration.

[72] Oceanus and Tethys appeared first and are the parents of Metis II. They were thought of as the rivers encircling the world related to all 3,000 water deities, and were followed by Iapetus, Clymene, Hyperion, Thea, Coeus, Phoebe, Themis, Mnemosyne, Rhea and Cronus, the parents of Zeus.

[73] Kerényi, *The Gods of the Greeks* (Middlesex: Penguin, 1958).

Homer) had changed and would be empowered and spoken in favour of the masculine/heroic voice.[74]

Under Zeus' reign a non-tender mood flourished, with repression of the feminine divine one of his imperatives, while the perceived naturalness of andriocentrism proliferated. Zeus knew Metis II was the embodiment of all wisdom so he sought to marry[75] her and continue the royal line in his favour. However, Gaea had prophesied that Metis II would deliver a deposing son. Apollodorus, Graves, and Harrison[76] explain that on the back of that prophecy, Zeus decided to literally consume Metis II having impregnated her, in order to embody all her wisdom and become the ALL, concomitantly ridding himself of a possible deposing son.

Mead explains that original and sublime theology was over time transposed into myth – such as those myths we know of Zeus – the consequence of which was the "commencement of a degraded and barren period, [in which] the theology became corrupted through the negligence and confusion of its votaries,"[77] but remained iterated, even if poorly so, with feminine originary divinity one of the casualties. Campbell reports: "The function of the female has been systematically devalued, not only in a cosmological sense, but also in a personal psychological [sense]"[78] This shift resulted from the imperious matricidal tendencies of Zeus. But there is more to the story than Zeusian myths tell …

Apart from being the undisputed progenic embodiment of wisdom at this time, Metis II was a shape-shifter, not an uncommon attribute for sea-related creatures (aquagenies) and deities. As Graves, and Camp-

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[74] Ibid., 19.

[75] First and second-generation deities produce in and of themselves, not with consorts. Marriage in Greek cosmology: is "a co-arrangement of the Gods, a connascent co-operation in their productions." Mead, *Orpheus,* 11. This could be read as Zeus as Metis II's consort to produce the next generation in the royal Orphic line. After Zeus's matricidal act he reverses the consorting rights for subsequent generations.

[76] Please see Apollodorus, *Apollodorus I and I*, Graves, *Greek Myths and Legends,* and Jane E. Harrison, *Prolegomena to the Study of Greek Religion* (Cambridge: Cambridge University Press, 1922) for elaboration.

[77] Mead, *Orpheus,* vii.

[78] Campbell, *Occidental Mythology,* 152–158.

bell explain, Metis was a patient entity but finally became tired of Zeus' painstaking efforts to engage her as a consort. She succumbed to his efforts of seduction, knowing it would be thus and would create the next in the lineage of the great Arché that she was.

> Metis is … the ability to foresee everything, never to be caught short or taken aback … Metis has the power to transform herself … a duel of wits develops between the spouses, Metis and Zeus. Who will win?[79]

Zeus remembered the prophecy passed down from Gaea, that sons overthrow fathers, at the time Metis was impregnated. He was afraid Metis would bear a deposing son and had to devise a way to rid the world of them both while somehow managing to maintain Metis' wisdom. He challenged her shape-shifting cleverness. To appease him, she provided evidence of her skill. She changed into a lion, among other things. He finally set the ultimate challenge – "Could you even turn yourself into – a drop of water?"[80] She met this challenge and he swallowed her down, consumed her whole, not realising that she had transformed herself into the primordial elemental aspect from which she created the universe.

> But when she was about to bring forth the goddess bright-eyed Athene, Zeus craftily deceived her with cunning words and put her in his own belly, as Earth and starry Heaven devised. For they advised him so, … for very wise children were destined to be born of her, first the maiden Tritogeneia, equal to her father in strength and wise understanding; but afterwards to bear a son of overbearing spirit, king of gods and men.[81]

Jane Ellen Harrison suggests the subsequent denaturalised birth of Athena from Zeus' head was "a dark desperate effort to make *thought* the basis of being and reality, (and the shadowy parent in the *Kypria* is the Orphic Metis) … patriarchalism wished to rid her of her matriarchal ancestry."[82] Athena Tritogeneia,[83] thus becomes a mouthpiece

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79 Ibid., 22.
80 Ibid., 22.
81 Hesiod, *Theogony,* 143–145.
82 Jane E. Harrison, *Prolegomena*, 648.
83 *Tritogeneia* is a name attributed to Athena because she was born by the River Triton. But, *Tritogeneia* etymologically speaking also means "thrice-born", the "ternary number of the

of Zeusian intention.[84] Graves goes on to explain "It is also dogmatic insistence on wisdom as a male prerogative; hitherto the Goddess alone had been wise."[85] Zeus now acted as if he embodied all the wisdom of the universe and that he had become, "Better than a mother … working out the idea of mother, of the maternal ideal … as [a] reflexive extension of his 'own' gaze".[86] In the process, woman and mothering were despatched from the economy as Metis sought refuge in the Thalassal Ocean of her own creation from the first generation. Campbell continues:

> So the great problem of sovereignty is solved. The world has a leader [due to his embodiment of Metis and his birth of Athena] whose authority can never again be open to question, because he is sovereign to himself. Nothing can threaten the cosmic order now?[87]

Myth tells us that Athena was born as the result of an intense headache suffered by Zeus, cured by Hephaestus who split his head open with an axe. He had somehow swallowed Metis and not killed the baby! That baby had magically developed into a woman fully grown, fully armed and fully wise.[88] It is a tall story indeed, yet it has prevailed.

After Athena's birth, Metis is not mentioned again in popular myth and Athena becomes the spokesperson of the gods, denying, or living in ignorance of her birthright, her divine aquatic maternal origins. She "no longer has any divinity deriving from her sex… there is no longer any woman God, and God the mother of the daughter, there is no

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Pythagorean doctrine". Paul Lafargue, "The Myth of Athena," *Marxists Internet Archive,* trans. Einide O' Callaghan, 1890, https://www.marxists.org/archive/lafargue/1890/09/athena.htm .

84 Graves, *Greek Myths and Legends.*

85 Ibid., 46.

86 Luce Irigaray, *Speculum of the Other Woman,* trans. Gillian C. Gill (Ithaca: Cornell University Press, 1985), 81.

87 Campbell, *Occidental Mythology,* 26–29.

88 In psychoanalytic terms this is called the *wise baby* syndrome, where the infant is forced through lack of maternal care to develop quickly and wisely. Ferenczi's notion of the *Thalassal Trend* partially takes up these concerns through an analysis of longing and melancholia. See Sándor Ferenczi, *Thalassa: A Theory of Genitality* (New York: Norton, 1955).

longer any spirit if divinity, circulating between mother and daughter, woman and woman"[89] because as Athena declares …

> No mother gave me birth.
> I honour the male, in all things but marriage.
> Yes, with all my heart I am my Father's child …[90]

Through his supposed embodiment of Metis, Zeus alleged that he had successfully annulled the prophecy of Gaea and ensured for himself private internal access to the wisdom of Metis, thereby making himself, as Vernant say "Métioesis – the god who is fully Metis: resourcefulness personified"[91] Wisdom/intellect had up until this point been attributed to the element of water through Metis, but Zeus changed the elemental conditions and thereafter attributed wisdom to himself, as the God of intellectual air, that would become the domain of masculine governance cosmically and in an embodied sense in the polis of Athens. Yet, if we return to the Orphic Theogony and the expression of the "Cosmic Egg", Metis as Intellect was present in soul form before any amount of embodiment or mortal agency was evident. We can speculate that as a divine deity, she could not have been completely eliminated; that Zeus' plan failed while Metis lives on in the Thalassal and cosmic worlds.

I marvel at the successful way the western tradition has stitched up women's divinity and imbued the popularly told story of Zeus and his legacy of masculine domination as an accepted referent and the associated relegation of *woman* to the realm of the monstrous, diabolical or dangerous. Zeus has not been brought to justice for his cannibalisation of Metis, and theft of Athena, mythically or through theological analysis. The critique of millennia-old patriarchy is weighted by the enduring absence of, and access to Mysteries, that include a feminine divine. The remedy must include new and different modes of being and understanding.

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[89] Luce Irigaray, *Elemental Passions,* trans. Joanne Collie and Judith Still (New York: Routledge, 1992), 1–2.
[90] Euminides 736-40 in Irigaray, *Marine Lover*, 95.
[91] Jean-Pierre Vernant, *The Universe, The Gods and Men,* trans. Linda Asher (New York: Harper Perennial, 2001), 29.

Where other versions of creation and the heavens would leave Metis out of the telling, or drastically minimise her contribution, The Hymns of Orpheus and associated theogony would locate Metis and bring forth her story from antiquity. Further, the Orphic theogony and later commentaries would name Zeus's original sin for what it was; the consumption not just of Metis, but also of all that had preceded him and universal access to female divinity. "Zeus is diligently, jealously active. He takes as his own all women, those receptacles of past and future power: ancestress, mother, wives, sisters, daughters."[92] Zeus has been falsely remembered – having "enbosomed" his progenitor[93]– as creator of *All*, through mythic reiteration that remains a gross misrepresentation of the holy Mysteries, as Guthrie demonstrates:

> Of our world Zeus was not simply ruler, but creator. How can this be, since all was created before he was born? … Zeus swallows Phanes [Metis' duplicity], and with Phanes, who is the first-born, and the origin of all, he may be regarded as taking into himself all things that exist… in the hollow of his own belly … Therefore together with him all things within Zeus were created anew, the shining height of the broad *aither* and the sky, the seat of the unharvested sea and the noble earth, great Ocean and the lowest depths beneath the earth, and rivers and boundless sea and all else … mingled like streams in the belly of Zeus.[94]

Yet, Metis as the bearer of deep wisdom existed before Time as a formless Creatrix, although poorly narrated as we have seen. Marcel Detienne, and Jean-PierreVernant suggests the whole Metis discussion in mythology and history is comparatively virgin ground made conspicuous in Greek thought by its absence.[95] This discussion has already located Metis in that conspicuous absence, not as someone polluted or corrupted by Zeus' version of wisdom (métioesis), which is superficial mimicry at best, but as an originary source of a more tender wisdom derived from *Immense Principles*.

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[92] Irigaray, *Marine Lover,* 150.

[93] Mead, *Orpheus,* 70

[94] William Keith Chambers Guthrie, *Orpheus and Greek Religion: A Study of the Orphic Movement* (London: Methuen, 1935), 80–83.

[95] Marcel Detienne and Jean-Pierre Vernant, *Cunning and Intelligence in Greek Culture and Society*, trans. Janet Lloyd (Chicago: Chicago University Press, 1991), 1–34.

While Detienne and Vernant have produced a detailed study of the nature of Metis (proper noun) or métioesis (adjectival) as wily intelligence, they admit that they fail, as other Greek historians and mythologists do, to give Metis mother of Athena more than "a walk-on part." [96] They do, however, corroborate the findings of Taylor and Mead that, "In the theogonies attributed to Orpheus, … Metis plays a major role and is presented as a great primordial deity at the beginning of the world" [97] spawned from an original amniosis, and aligned with intelligence and creation. In the Orphic Theogony she is clearly considered the *All*, the inventor of creation, rationality and wisdom.[98]

Un-hemming Philosophical Context

And his most beloved daughter [Athena], born of his voracious loves with Metis woman of the sea, will have only one passion, to be her father's thought.[99]

Calling Zeus to account for what Irigaray calls his "original sin"[100] is not a new or singular line of inquiry. Irigaray has long been a proponent of speaking "truth's other side"[101] articulating the subsequent and persistent exile and disavowal of maternal divinity that women the world over have endured for millennia. French feminisms have contributed much to the re-discovery of the "originality of our works"[102] along with scholars such as Gatens who reminds us that

Classical Athens … is named after Athena who was born not "of woman" but "of man": she sprang from the head of Zeus... Like Hobbes' artificial man, she is the product of man's reason; she has no mother. Or has she? An often

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96 Ibid., 5.
97 Ibid., 5.
98 This tension between air and water is covered ficto-critically by Irigaray in *Marine Lover*.
99 Ibid., 150.
100 Ibid., 173.
101 Luce Irigaray, "When Our Lips Speak Together," *Signs: Journal of Women in Culture and Society* 6, no. 1 (1980): 69–79.
102 Irigaray, *Sexes and Genealogies,* 111.

neglected part of this myth is that Zeus "gave birth" to Athena only after he swallowed whole the body of his pregnant wife [Metis].[103]

Discovering a myth/eological truth and responding to the challenge of maternal disavowal is crucial to a refiguration[104] of Metis as a maternal divine referent for feminine sovereignty. Hence, the provocation to map an ontology of maternal asylum towards both embodied and sacred refiguration of women's divinity, in which "the corpus of a triple figuration, calling forth the notion of a fluidity of body of the many and the one, the human and the divine ... re-imagine and re-invent."[105]

In her book *Feminist Philosophy of Religion* Pamela Sue Anderson argues that feminists "have to find new configurations of old myths continually, in creating mimetic refigurations of mythical visions."[106] She articulates the common desire of understanding the sacred and suggests that understanding occurs philosophically, symbolically and mythically, as Irigaray also suggests. Anderson follows the mimetic lead of Paul Ricoeur, in reading the three forms of mimesis [imitation] "as narrative prefiguration, configuration and refiguration."[107] She uses this technique to undermine the *economy of the same* that has cast women as marginal and men as central. Anderson explains:

> First, as prefiguration, mimesis represents the pre-understanding which is necessary for the narrative constitution of practical knowledge of the everyday world.[108]

Prefiguration can be read as the accepted knowledge that follows some sense of coherency and normalcy in the face of changing conditions. In a prefigurative sense, Metis resides outside coherent and accepted story. When mentioned at all, she is situated as secreted (Me-

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[103] Moira Gatens, cited in Rosalyn Diprose and Robyn Ferrell, *Cartographies: Post-structuralism and the Mapping of Bodies and Spaces* (Sydney: Allen and Unwin, 1991), 81.

[104] As posited by Paul Ricoeur, *Time and Narrative,* trans. Kathleen McLaughlin and David Pellauer (Chicago: Chicago University Press, 1984); and Pamela Sue Anderson, *A Feminist Philosophy of Religion* (London: Blackwell, 1997).

[105] Sigrid Hackenberg y Almansa, "The Distant ('dis-tent) Stillness that is 'Breth," in *Breathing with Luce Irigaray,* eds. Emily. A. Holmes and Lenart Škof (London: Bloomsbury Academic, 2013), 207.

[106] Anderson, *Feminist Philosophy of Religion,* 139.

[107] Ibid., 144.

[108] Ibid., 144.

tis I) or marginal (Metis II). Writing both Metis fragments back into story suggests a change in conditions, or an expansion or re-ordering of knowledge. Continuing Anderson's three forms, the second is configuration. This, she says:

> Represents the synthesizing activity by which the knowledges of actions and characters are made the object, or the text, of a conscious and systematic unity as in the organised plot of an historical narrative… textual configurations can also be mythical … the text of a myth is not strictly speaking the mimesis of an actual event, but it does give unity and meaning to historical events.[109]

In this context, the story of Zeus and his theft of Athena gives unity and meaning to a particular community and historical discourse – myth. Recovering Metis from her absence (protective custody) or minimisation (asylum) threatens to disrupt the accepted, coherent, patriarchal mythic story, particularly of Metis II. This is where the third form of mimesis – refiguration – becomes useful:

> The activity of the reader(s) who uses knowledge of prefiguring and configuring to go beyond the narrative unity of a configured text; this could mean to move beyond a dominant myth in order to create the world(s) of patriarchy.[110]

While Greek mythic interpretations, translations or refigurations have favoured the masculine, refiguration can also be used to re-install the mystical Metis, and dis-assemble the normative frames of Zeusian patriarchy, and masculine morphology. In so doing, refiguration becomes an operative narrative tool in overturning pre-existent figuration that serve as reiterations of fiction, rather than histo/theologically located Mysteries. Anderson elucidates Irigaray's refiguration that interrupts that which has buried female conceptions of desire and power for millennia. Irigaray's response to Nietzsche in *Marine Lover of Friedrich Nietzsche* preluded in her earlier work on *Divine Women* is a meticulous account of such refiguration that interrogates Nietzsche's hydrophobia and fear of the feminine and points to the currency of my inquiry. Refiguration is a potent tool in re-dressing the cosmic justice, and dis-

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109 Ibid., 145.
110 Ibid., 145.

figuring the "economy of the same", as Irigaray posits: "it seems to me that we certainly have to incite a return [refiguration] to the cosmic, but at the same time ask ourselves why we were stopped, as we were becoming divine." [111]

Future promise from a shrouded past

Without representation of the mother-daughter relationship – divine or corporeal – *woman* exists in a state of de facto exclusion.[112]

Retrieval of Metis from her Zeusian exile extends Irigaray's provocation to unveil what has been obscured from the symbolic order and the language and "law of the father", and the philosophical imaginary as Anderson (1997) describes it. This retrieval further, "(re)-discover[s] a possible space for the feminine imaginary"[113] to evolve and champion its correlative relation to water as the "liquid ground,"[114]despite patriarchal discourse that has consumed and effaced the immanence and transcendence of our fluid gestational origins: "You have swallowed my gaze. You see, inwardly by my gaze."[115] The ongoing challenge of future focus is to restore the generative gestational water deity Metis from asylum to sovereignty, and interrogate the constant hegemonic reiteration of masculine domination. As psychologist of religion and myth, Eliade explains of water:

> The Waters symbolise the entire universe of the virtual; they are the *fons et origo,* the reservoir of all potentialities of existence; they *precede* every form and *sustain* every creation … To the aquatic cosmogony correspond … the hylogonies, the beliefs according to which mankind is born of the Waters.[116]

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[111] Luce Irigaray, *Divine Women,* trans. Stephen Muecke (Sydney: Local Consumption Press, 1986), 3.

[112] Diane Perpich, "Subjectivity and Sexual Difference: New Figures of the Feminine in Irigaray and Cavarero," in *Breathing with Irigaray Luce Irigaray,* eds. Emily. A. Holmes and Lenart Škof (London: Bloomsbury Academic, 2013), 167.

[113] Irigaray, *Speculum of the Other Woman,* trans. Gillian C. Gill (Ithaca: Cornell University Press, 1985), 164.

[114] Irigaray, *Marine Lover.*

[115] Irigaray, *Elemental Passions,* 50.

[116] Eliade, *Images and Symbols,* 151.

The verdict of this myth/eological inquiry is that water has been exiled in the common imaginary, and with it Metis its progenitor, and ours. The classic works of Hesiod and Apollodorus make similar if oblique claims. Until now, Metis has remained undiscovered in the clefts beneath and beyond the abyss, awaiting her recovery and restoration to the vatic stage, despite being the "self produced primeval matter, the ocean of uterine blood before creation, holding future forms in the condition of formlessness or Chaos"[117] or the divine cosmic origin of Irigaray's analysis.[118]

The interpretation of myth and the Mysteries (and for the purposes of this inquiry, feminine divine Mysteries) as a discourse of "multiplicity" also opens up the space for reparation through the creative industry of narrative poiesis – writing anew what was lost in the old. Athena, the subject of the first mother/daughter separation drama, may yet be reunited with her maternal divinity. As Irigaray reminds us, "No human subjectivity, no human society has ever been established without the help of the divine,"[119] but locating the specificity of that divine and fusing the discursive split, has remained a trial. Mythologically, Zeus has been complicit in removing daughters from mothers, such as Athena, Aphrodite and Persephone, and "None of these daughters had a mother in whom to confide."[120] Freudian[121] psychoanalysis has partnered in that complicity in the modern age by naming the mother/daughter separation drama, and the loss of the first "love object" as, "daughters turning away from mothers,"[122] effectively removing the value of the "placental economy" [123] from discourse. In fact, those daughters have

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117 Barbara C. Walker, *Women's Encyclopedia of Myths and Secrets* (San Francisco: Harper, 1983), 723.

118 Also hailed as Isis of Egypt, Neith of Sumaria, Kali Ma in the Hindu, Sophia/Hokkhmah in the Judeo-Christian tradition, or the generic but often un-named Divine Mother in Greece.

119 Irigaray, *Sexes and Genealogies,* 62.

120 Irigaray, *Thinking the Difference: For a Peaceful Revolution,* trans. Karin Montin (Routledge, 1994), 106.

121 Freud, "Mourning and Melancholia", 258.

122 Ibid.

123 Irigaray, *Sexes and Genealogies,* 41.

all been stolen by Zeus: "framed, buried, encircled, entombed."[124] How to proceed?

Making the unknowable knowable and recognisable is predicated on the retrieval of obscure, fragmented and vulnerable components, such as the divine maternal lineage of Metis, and the restoration of daughters to mothers. The unveiling exploration in this inquiry recognises the precariousness of story surrounding the maternal loss of the originary *love object* Metis, and the advance of the masculine enterprise to render corporeal femininity flawed and fragile as Irigaray has analysed:[125] "She cannot turn back toward her mother, or lay claim … to that place of origin; she will not represent "her" relation to "her" origin; she will never go back inside her mother,"[126], resulting in what Freud himself declares as "*displacement* of the origin desire for the little girl."[127].

Unveiling is vital and expands Irigaray's earlier work to decode traces of both water story and maternal divinity. Such critical work necessitates an untangling of the fixed-ness of epistemological inquiry and bordered thinking that have reduced (almost to invisibility) the fragmented ephemeral utterings and interpretations of obscure mysteries and cosmogony, preferring instead the commonly upheld myths that champion male figures and winners as heroic and factual. Such meta-narratives do not serve the quest for origin, as Irigaray reminds us: "as long as woman lacks a divine made in her image, she cannot establish her subjectivity."[128]

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[124] Irigaray, *Elemental Passions,* 24, among other writers and writing, engages in lengthy critique of Freud's flawed proposition about mother/daughter relations, especially Persephone and Demeter. Freud uses common Greek myth as evidence in his incomplete narrative analysis of Sophocles play about Oedipus from which he derived the Oedipus complex. The complex of sons deposing fathers, I argue begins with Cronus (Zeus' father) deposing Uranus (Zeus' grandfather) and is completed in the Orphic pantheon with Zeus eating his wife just in case she bore him a deposing son. I elaborate in work forthcoming.

[125] See Freud, "Mourning and Melancholia," for his take on the *first love object* and maternal longing.

[126] Irigaray, *Speculum of the Other Woman,* 42.

[127] Freud cited in Irigaray, *Speculum of the Other Woman*, 42.

[128] Irigaray, *Sexes and Genealogies,* 63.

Evolving Eternal Waters

Mythologist Paul Lafargue[129] offers an evolutionary explanation for the location and displacement of some of the mysterious and mythic characters and fragments of story addressed in this exposition, to help communicate how sacred mysteries became syncretised over time to re-appear as common myths. For instance:

> The myth of Athena [daughter of Metis] was not produced all of a piece, nor does it present the immutability of mathematical formula. In common with all things, both in the natural and the intellectual world, it has been subject to the laws of evolution.[130]

Lafargue implies that representations of myth as dilutions of mysteries over millennia have been adapted to serve the human conditions of the time and the power structures that inform them. Following his evolutionary suggestion, Metis, as Athena's mother, and Athena as Metis' stolen daughter, has suffered from epistemological and ontological extinction, in accordance with a greater evolutionary and in-volutionary predisposition.

This paper has engaged in a clarification of what the story of Metis was/is and might mean; of how she has been (or not been) metamorphosed, secreted, remodelled, reconfigured and interpellated over different ages for different purposes – from the locus of the sacred Orphic Mysteries in the first reign of Olympus, to a cameo presence in the life and myth of Athena in the fifth reign of Olympus. By enacting a *remodelling,* I have situated Metis as a central player not only in Orphic sacred mysteries generally, but in women's mysteries specifically, and as the under-explored site of the first mother/ daughter loss, monstrously reiterated through modern psychoanalysis. I, along with Irigaray, fairly and squarely *throw the book* at the matricidal manoeuvres of Zeus, from whom we inherit the tragic legacy of estrangement from our divine source, along with a habitus of precariousness, for simply being woman-born. In *Divine Women,* Irigaray sums up the arrogation of our origin, our separation, our exile, thus:

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129 Lafargue, *The Myth of Athena*, n.p.
130 Ibid.

"The only diabolical thing about women is their absence of God, and the fact that, without a God, they find themselves squeezed into modes which don't suit them, which exile them … mask them … taking away their progress in love, art, thought, her/their ideal and divine achievement."[131]

While it may be impossible to truly grasp the vastness of the deities of Orphic Ancient Greece, it must become possible to re-think what we believe we know so well, what we have accepted over time about mother/daughter relations and maternal divinity, and in a more immediate sense the work that both mysteries and myth perform. Our access to divine motifs, which Athena herself was denied, becomes critical if we are to enact a feminist poiesis, a refiguration, and reconciliation of past erasures of maternal divinity. My original provocation to re-install our maternal divine past in the present, serves to imagine a future differently oriented, a future in which the ontological and exilic theology of Metis can be resolved and re-made as sacred …

Her holy moist Metisian fragments …
a sovereign orb atomised by cosmic mayhem …
this Aquamater …
invites us home to the sacred covenant …
through Phanes/Metis/Erikapaios …
mother
daughter
Holy Spirit[132]

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131 Irigaray, *Divine Women,* 6.
132 Hawke, *Aquamorphia,* 5–6.

Metisian Genealogy

Phanes/Metis/Erikapaios

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Chaos

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Gaia = Uranus

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Oceanus=Tethys/ Cronus=Rhea/ Iapetus=Clymene/ Hyperion=Theia/ Crius/ Coes=Phoebe/ Themis/ Mnemosyne=Zeus/ Cyclops/ Hundred Handers

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Rivers/Oceanids/**Metis= Zeus** | Prometheus/Epimetheus | Leto=Zeus/ Asteria=Perses | The Muses (Calliope=Eagrus)

|

Athena | Apollo/Artemis | **Orpheus** = Eurydice

|

Helios/Selene/Eos | Hecate

Hestia/Hera=Zeus/Demeter=Zeus/Hades/Poseidon

|

Persephone=Hades

Ares/Eileithyia/Hebe/Hephaestus

Appendix 1: Orphic/Metisian Genealogical Table

Bibliography

1. Anderson, Pamela Sue. *A Feminist Philosophy of Religion.* London: Blackwell, 1997.
2. Apollodorus. *Apollodorus I and II: The Library.* Cambridge: Cambridge University Press, 1921 Edition.
3. Auden, Wystan Hugh. *The Enchafèd Flood*: *The Romantic Iconography of the Sea.* New York: Hoik, 1967.
4. Barthell, Edward E. Jr. *Gods and Goddesses of Ancient Greece.* Florida: University of Miami Press, 1971.
5. Blavatsky, Madame Helena P. *Isis Unveiled.* London: Theosophical Society Press, 1877.
6. Bourdieu, Pierre. *Masculine Domination.* Translated by Richard Nice. Stanford: Stanford University Press, 2001.
7. Campbell, Joseph. *Occidental Mythology: The Masks of God.* New York: Penguin, 1991.
8. Christ, Carol. P. "Why Women Need the Goddess: Phenomenological, Psychological and Political Reflections." In *The Politics of Women's Spirituality: Essays by Founding Mothers of the Movement,* edited by Charlene Spretnak, 71–86. New York: Anchor Books, 1982.
9. Christ, Carol, P. and Judith Plaskow. *Womanspirit Rising: A Feminist Reader in Religion.* San Francisco: Harper, 1992.
10. Detienne, Marcel, and Jean-Pierre Vernant. *Cunning Intelligence in Greek Culture and Society.* Translated by Janet Lloyd. Chicago: University of Chicago Press, 1991.
11. Detienne, Marcel. *The Writing of Orpheus: Greek Myth in Cultural contact.* Translated by Janet Lloyd. Baltimore: The Johns Hopkins University, 1989.
12. Deutscher, Penelope. "The Only Diabolical Thing About Women: Luce Irigaray on Divinity." *Hypatia* 9, no. 4 (1994): 88–124.
13. Diprose, Rosalyn, and Robyn Ferrell. *Cartographies: Post-structuralism and the Mapping of Bodies and Spaces.* Sydney: Allen & Unwin, 1991.
14. Eliade, Mircea. *Images and Symbols: Studies in Religious Symbolism.* Princeton: Princeton University Press, 1991.
15. Ferenczi, Sándor. *Thalassa: A Theory of Genitality.* New York: Norton, 1955[1933].
16. Ferrell, Robyn. *Copula: Sexual Technologies, Reproductive Powers.* Albany: State University of New York Press, 2006.
17. Freud, Sigmund. "Mourning and Melancholia." In *The Standard Edition of the Complete Psychological Works of Sigmund Freud, Vol. XIV*. Translated by James Strachey, 237–258. London: The Hogarth Press, 1957 [1915].

18. Gatens, Moira. *Imaginary Bodies: Ethics, Power and Corporeality*. London: Routledge, 1996.
19. Gimbutus, Marija. *The Living Goddesses.* Berkeley: University of California Press, 1999.
20. Graves, Robert. *Greek Myths and Legends*. London: Cassell, 1956.
21. Graves, Robert. *The Greek Myths 1 and 2*. Harmondsworth: Penguin, 1960.
22. Guthrie, William Keith Chambers. *Orpheus and Greek Religion: A Study of the Orphic Movement*. London: Methuen, 1935.
23. Hackenberg y Almansa, Sigrid. "The Distant ('dis-tent) Stillness that is 'Breth." In *Breathing with Irigaray Luce Irigaray,* edited by Emily. A. Holmes and Lenart Škof, 203–214. London: Bloomsbury Academic, 2013.
24. Harrison, Jane Ellen. *Prolegomena to the Study of Greek Religion.* Cambridge: Cambridge University Press, 1922.
25. Hawke, Shé. *Aquamorphia: Falling for Water.* Carindale: Interactive Publications, 2014.
26. Hawke, Shé. "Aquamater: A Genealogy of Water." *Feminist Review–Open Space* 103 (2013): 120–132.
27. Irigaray, Luce. "When Our Lips Speak Together." *Signs* 6, no. 1 (1980): 70–79.
28. Irigaray, Luce. *Speculum of the Other Woman.* Translated by Gillian C. Gill. Ithaca: Cornell University Press, 1985.
29. Irigaray, Luce. *This Sex Which is Not One.* Cornell: Cornell University Press, 1985.
30. Irigaray, Luce. *Divine Women.* Translated by Stephen Muecke. Sydney: Local Consumption Publications, 1986.
31. Irigaray, Luce. *Marine Lover of Friedrich Nietzsche*. Translated by Gillian C. Gill. New York: Columbia University Press, 1991.
32. Irigaray, Luce. *Elemental Passions*. Translated by Joanne Collie and Judith Still. New York: Routledge, 1992.
33. Irigaray, Luce. *Sexes and Genealogies*. Translated by Gillian C. Gill. New York: Columbia University Press, 1993.
34. Irigaray, Luce. *Thinking the Difference: For a Peaceful Revolution.* Translated by Karin Montin. London: Routledge, 1994.
35. Judge, William Q. *The Ocean of Theosophy.* London: Theosophical University Press, 1893.
36. Kerenyi, Karl. *The Gods of the Greeks.* Middlesex: Penguin, 1958.
37. Lafargue, Paul. "The Myth of Athena." *Marxists Internet Archive.* Translated by Einide O' Callaghan. 1890. https://www.marxists.org/archive/lafargue/1890/09/athena.htm.

38. Mead, George Robert Stow. *Orpheus.* London: The Theosophical Publishing Society, 1965 [1896].
39. Michelet, Jules. *The Sea [La Mer]*. London: Thomas Nelson and Sons, 1883.
40. Perpich, Diane. "Subjectivity and Sexual Difference: New Figures of the Feminine in Irigaray and Caverero." In *Breathing with Luce Irigaray,* edited by Emily. A. Holmes and Lenart Škof, 167–185. London: Bloomsbury Academic, 2013.
41. Ricoeur, Paul. "Metaphorical Process as Cognition, Imagination and Feeling." In *On Metaphor*, edited by Sheldon Sacks, 143–159. Chicago: Chicago University Press, 1979.
42. Ricoeur, Paul. *Time and Narrative*. Translated by Kathleen McLaughlin and David Pellauer. Chicago: Chicago University Press, 1984.
43. Sjöö, Monica and Barbara Mor. *The Great Cosmic Mother.* San Francisco: HarperOne, 1987.
44. Smith, Nancy A. "Angels in the Architecture: Contemporary Case of Orphic Functioning." *Journal of the American Academy of Psychoanalysis* 29, no. 4 (2001): 575–584.
45. Taylor, Thomas. *Translations of The Mystical Hymns of Orpheus*, *Translated from the Greek with a Preliminary Dissertation of the Life and Theology of Orpheus.* London: Theosophical Research Society, 1981 facsimile reprint from London: Self-Published, 1787.
46. Taylor, Thomas. *A Dissertation on The Eleusinian and Bacchic Mysteries.* London: Theosophical Research Society, 1981 facsimile reprint from London: Self Published, 1792.
47. Vernant, Jean-Pierre. *The Universe, The Gods and Men.* Translated by Linda Asher. New York: Harper Perennial, 2001.
48. Walker, Barbara, C. *Women's Encyclopedia of Myths and Secrets.* San Francisco: Harper, 1983.
49. White, Kenneth. "A Wave and Wind Philosophy." *The Southern Eastern Review* 1, no. 1 (1990): 113–120.
50. Whitford, Margaret. *Luce Irigaray Philosophy in the Feminine.* London and New York: Routledge, 1991.

GENDER-BASED VIOLENCE, RELIGION AND MIGRATION: WOMEN AS SYMBOLS OF CULTURAL IDENTITY

Nadja Furlan Štante

Introduction

The paper deals with some of the gender and religious aspects of migrations and contemporary refugee crisis. The issue of migration is becoming one of the major issues of our era. Today, all around the world, people are on the move for different reasons: they are migrating to escape poverty, improve their livelihood and opportunities, or escaping conflict and devastation in their own countries.[1] Migration has become global phenomenon, and the peoples of all nations, religions and genders are facing ethical, moral and socio-political issues in view of it. The issue of misleading fixed (religious) identities, negative stereotypes and prejudices and fear of sharing common space (geographical, national, religious, cultural…) needs to be questioned with the moral imperative of hospitality, acceptance, tolerance and yet borders.

United Nations Refugee Agency (UNHCR), United Nations Population Fund (UNFPA) and Women's Refugee Commission (WRC) Initial Assessment Report states: "For the first time since World War II, Europe is experiencing a massive movement of refugees and migrants, women, girls, men and boys of all ages, fleeing armed conflicts, mass killings, persecution, and pervasive sexual and gender-based violence

[1] World Economic Forum reports that at the end of 2017 there were 68.5 million forcibly displaced people; they included 25.4 million refugees, 40 million internally displaced people and 3.1 million asylum seekers. See "What are the issues facing refugee resettlement?" World Economic Forum, 2018, https://www.weforum.org/agenda/2018/10/the-needs-challenges-and-power-dynamics-of-refugee-resettlement/.

(SGBV)."[2] Although large movements of refugees and migrants are not a new phenomenon, the images of the past few years have shocked the world's conscience: rickety boats piled high with people seeking safety; women, men, and children drowning in their attempts to escape violence and poverty; fences going up at borders where people used to cross freely; and thousands of girls and boys going missing, many falling prey to criminal groups. Unable to find safe ways to move, people suffer and die in search of safety while crossing the Sahara Desert, the Andaman Sea, the Mediterranean, and dozens of other dangerous places around the world.[3]

The UN Refugee Agency's annual Global Trends study reports 68.5 million people had been driven from their homes across the world at the end of 2017. Refugees who have fled their countries to escape conflict and persecution accounted for 25.4 million. This is 2.9 million more than in 2016, also the biggest increase UNHCR has ever seen in a single year. New displacement is also growing, with 16.2 million people displaced during 2017 itself, either for the first time or repeatedly. That is an average of one person displaced every two seconds.[4] And large movements of people will continue or possibly increase as a result of violent conflict, poverty, inequality, climate change, disasters and environmental degradation.[5]

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2 "Initial assessment report: Protection Risks for Women and Girls in the European Refugee and Migrant Crisis," January 19, 2016, 3, UNHCR, UNFPA and WRC, https://www.unhcr.org/569f8f419.pdf.

3 "In Safety and Dignity: addressing large movements of refugees and migrants," UN General Assembly, April 21, 2016, https://refugeesmigrants.un.org/sites/default/files/in_safety_and_dignity_-_addressing_large_movements_of_refugees_and_migrants.pdf.

4 Adrian Edwards, "Forced displacement at record 68.5 million," UNCHR, June 19, 2018, http://www.unhcr.org/news/stories/2018/6/5b222c494/forced-displacement-record-685-million.html.

5 Storms and other weather-related hazards are also a leading cause of displacement, with the latest data showing that 76% of the 31.1 million people displaced during 2016 were forced from their homes as a result of weather-related events. See "Global Risks 2018: Fractures, Fears and Failures," World Economic Forum, 2018, http://reports.weforum.org/global-risks-2018/global-risks-2018-fractures-fears-and-failures/.

On Hospitality and Migrations from Feminist Perspective

Migrations, displacement, voluntary or forced (caused by violent conflicts, war and persecution) is human condition of today. Both voluntary migration and forced displacement have been part of the human condition throughout history, and most people in the world are likely to have experience of such movements in their family histories. Given our globalizing and interdependent world, international migration is likely to become even more prevalent in the future. Despite the ambiguities, hospitality is a glaring moral imperative because of the escalation of world violence, global disparities in quality-of-life issues, international alliances, globalization, and widespread migration. We need to rethink the ethical-moral virtue of hospitality and find new ethics of acceptance and solidarity. In terms of Maurice Hamington, hospitality could be understood as a performative act of identity. "To give comfort or make welcome the stranger, the host must act; to resettle displaced people, a host nation must act. In the process of this action, the performance of hospitality, the host - whether it is an individual or a nation-state - is instantiating identity. There must be an "I" who gives, welcomes, and comforts, and that "I" is only known through action."[6] The same as, feminist hospitality drives at a non-hierarchical understanding of hospitality that mitigates the expression of power differential, while seeking greater connection and understanding for the mutual benefit of both host and guest, the understanding of migrations as a human condition needs to acknowledge the humanity and human dignity of every migrant person. Or as Seyla Benhabib has put it: "We need to decriminalize the worldwide movement of peoples, and treat each person, whatever his or her political citizenship status, in accordance with the dignity of moral personhood."[7]

Accordingly, feminist hospitality does not assume autonomously acting moral agents; the feminist hospitality that Maurice Hamington proposes creates and strengthens relationships, but not without the risk

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[6] Maurice Hamington, "Toward a Theory of Feminist Hospitality," *Feminist Formations* 22, no. 1 (2010), 23.

[7] Seyla Banhabib, *The Rights of Others: Aliens, Residents and Citizens* (New York: Cambridge University Press, 2004), 177.

that comes from the vulnerability of human sharing. Similarly, the impact of migration could be overwhelmingly positive, both for countries of origin and receiving countries, as United Nations General Assembly report states:

> With the necessary political will, the world's responses to large movements of people can be grounded in shared values of responsibility-sharing, non-discrimination and respect for human rights, while also taking full advantage of the opportunity migration provides to stimulate development and economic growth.[8]

Throughout this paper, this feminist understanding of hospitality as a humane solution to one's suspicions regarding the ill disposition of a stranger, will be the proposed ethical platform. As such, it represents a deterrent to conflict or war and a desire for peaceful coexistence. It encourages frequent social intercourse between strangers. It is based upon the realization that a social contract - not to harm so as not be harmed - is preferable to the law of the jungle.

Because feminist theory has been driven by the experience of those marginalized in society, feminist hospitality should be particularly attentive to inclusive definitions of guest - guest as a migrant, as a refugee, as a stranger. Hospitality can be an occasion to enact feminist commitment to diversity and its acceptance.

On Vulnerability and Migrations: Gender-Based Violence against Women

Around half of the world's international migrants are women. Women and girls make for around 50 percent of all refugees, internally displaced or stateless population, and those who are unaccompanied, pregnant, heads of households, disabled or elderly are especially vulnerable. The situation for female refugees is considered to be more difficult, where they are more likely to fall as victims of violence and sexual abuse (UNHCR, Women). UN General Assembly[9] and UNHCR (Ini-

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8 UN General Assembly, "In Safety and Dignity."

9 Ibid.

tial Assessment Report)[10] explain that the risk of sexual and gender-based violence is high, as was illustrated in recent study on violence experienced by both Central American women travelling to the United States of America and refugee and migrant women on route to Europe (at least 1 in 5 refugees or displaced women are estimated to have experienced sexual violence); other challenges, particularly for women and girls in transit, include family separation, psychosocial stress and trauma, health complications, physical harm and injuries, and risks of exploitation. Trauma among refugees and asylum seekers is undeniable, and the vulnerability of women and unaccompanied girls heightens the risk of further abuse at all stages of the migration's journey.

European Union Agency for Fundamental Rights has stated that gender-based violence can occur in the context of conflict, during the migration journey, and in host EU Member States (for example, in reception and/or detention facilities). In the current report, gender-based violence – focusing on women and girls' experiences of violence – is understood as encompassing physical, sexual and psychological violence, including threats of such acts, coercion or arbitrary deprivation of liberty. The violence relates to incidents that occur in either public or private places. It can therefore encompass violence by family members (intimate partner violence and domestic violence by different family members), and also forms of sexual harassment, alongside other forms of sexual violence, by different perpetrators. There is increasing evidence that gender-based violence is a major issue for migrant women and girls. A recent field assessment of risks for refugee and migrant women and girls identified instances of sexual and gender-based violence, including early and forced marriage, transactional sex, domestic violence, rape, sexual harassment and physical assault in the country of origin and during the journey to Europe.[11] Displaced or migrant women and girls are especially vulnerable.

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[10] UNHCR, UNFPA and WRC, "Initial assessment report."

[11] "Thematic focus: Gender-based violence," European Union Agency for Fundamental Rights, June 2016, http://fra.europa.eu/en/theme/asylum-migration-borders/overviews/focus-gender-based-violence.

Apart of understanding vulnerability as universal and inevitable part of embodiment,[12] the other possible understanding of vulnerability would be also the one that deals with emotions.

Psychoanalyst, philosopher, feminist Julia Kristeva describes vulnerability not primarily as the result of heaving bodies that can be wounded, but rather exists because we occupy a place between being and meaning, between bodies and words. And precisely this gap between bodies and words, the ways in which words are never quite adequate to capture bodily experience, is figured as a wound. And according to Kristeva, this wound is the seat of our vulnerability. She suggests that the encounter with other puts us face to face with our own vulnerability with and for others. In this view, it is the fear and denial of our own vulnerability that causes us to hate and exploit the vulnerability of others.[13] And this view of vulnerability is also linked with vulnerability in terms of gender-based violence, which is defined as "violence that is directed against a person on the basis of gender or sex," according to the UNHCR. Though men and boys can also suffer from sexual assault, the majority of victims are women and girls, who tend to be the most vulnerable. Unequal power relations create the conditions for gender-based violence to occur, and it can be perpetrated or condoned by relatives, community members, or government actors. Such abuse inflicts sexual, physical, or mental harm, and can take the form of threats, coercion, sexual assault, intimate partner violence, or honor killings. Survivors experience a range of physical and psychosocial effects, including injury, sexually transmitted diseases, depression, post-traumatic stress disorder, social stigma, rejection, and isolation. While gender violence

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[12] Understanding vulnerability as universal and inevitable part of embodiment deals with the question of body - through the body, we are exposed, opened onto the world and to others, even as for others we are the ones to whom they are exposed and vulnerable. In this sense, vulnerability is universal, an inevitable part of embodiment. Social bonds condition my existence. Regarding this question cf. my essay Nadja Furlan Štante, "Women's Voices and Vulnerability: Invisible and Visible Obstacles," in *Borders/Debordering*, eds. Maja Bjelica and Helena Motoh (Koper: Annales University Press, 2016).

[13] Julia Kristeva, *Hatred and Forgiveness* (Colombia: Colombia University Press, 2012), 115.

is not uncommon among female migrants, individual cases of trauma and experiences accessing support vary considerably.[14]

On Migration and Religion

The resurgence of religion is relevant in main fold contexts, e.g. in the context of democratic politics, in the context of political extremism and terrorism, or in the context of integration or non-integration of immigrants. Some of the ongoing discussions are connecting the latter two, particularly religious-political extremism and terrorism with failed integration.[15]

UNCHR (Note on the Integration of Refugees in the European Union) states that many integration challenges faced by refugees are similar to those faced by other third country nationals staying legally in the European Union. Discrimination and xenophobic attitudes affect refugees and other migrants alike, as does the need to bridge language and cultural barriers, including those relating to different gender roles and religion.[16]

The teachings, traditions and habits of a specific religion will influence migrants in their behaviors, approaches to situations and relations to each other. A person's value system is often based on religion. Religion can be an important part of the cultural capital of an individual, and if somebody migrates to another country they will carry these elements of faith. Even if all material possessions are lost, this religious capital will remain with the migrant. Religion can become an important part of the identity of migrants, even if they hold little interest in religious matters before leaving home country. When found in new situations without family and social links and when individual migrants feel the need to

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[14] Anja Parish, "Gender-Based Violence against Women: Both Cause for Migration and Risk along the Journey," Migration Policy Institute, September 7, 2017, https://www.migrationpolicy.org/article/gender-based-violence-against-women-both-cause-migration-and-risk-along-journey.

[15] Sybille Drexler and Friderich Heckmann, "The Role of Religion for the Integration of Migrants. A Conference Report," December 2005, http://www.efms.uni-bamberg.de/pdf/tagungsbericht_gmf7.pdf.pdf.

[16] "Note on the Integration of Refugees in the European Union," UNCHR, May 2007, https://www.unhcr.org/463b462c4.pdf, 2.

defend their identities, religion becomes essential. Depending on what migrant will find in the host country, religion will become a positive or negative element in the personal integration process. Therefore, the analyses of the role of religion in integration process is of a great importance for the integration of religious immigrants and has the greatest impact when it is locally defined. Existing studies indicate that education is the main area of weakness in the integration policies in most countries. That is why the implementation of a profound knowledge of religion in education system of primary schools and religious instruction for in public schools is of utmost importance.

Religion plays a complex role in modern conflicts, serving as both justification for violence and an inspiration and possibility for peace. In this context, the paper addresses the issue of understanding women as a symbol of cultural identity. This is strongly marked with the prejudice of inferior pro-creative role of women. Because of the negative stereotyping of women and their pro-creative role, women are consequently perceived as the "holy womb of nation" and as such vulnerable, violated and "conquered".

Women as Symbols of Cultural Identity

Women's sexual role in the contemporary (Western - Christian) culture is still strongly marked by the impact of negative gender stereotypes, mainly related to the emphasis on the exclusive reproductive role of women, "child-bearing machines" in the service of procreation of the nation. Paradoxically, the very pro-creative role of a woman in certain frameworks is understood as the sacred and inviolable, as the highest value, the matrix of a certain society and cultural identity, which needs to be strictly protected and revenged in the event of desecration. Here we can draw the connection between the glorification of the subordinate role of a woman who is subdued to her husband and is chained to the domestic fireplace (the keeper of domestic fire) with the subordination of the woman, and her procreativity, to the society whose mirror the woman is. In this context, more purity or integrity is expected from women.

When external pressures on a society increase, a common reaction is to uphold women's virtue as a vital element of cultural identity, and thus try to protect and control this virtue. In France, during the second world war, women who were believed to have fraternised with the occupying German army were humiliated in public by having their heads shaved: in Somalia, women seen talking to American soldiers during "Operation Restore Hope" were stripped naked and beaten.[17]

Excessive emphasis on the exclusively familiar role of women, of woman as a mother, substantiated and justified the "division of labour myth" and kept the woman in the private, domestic sphere. The negative impact of division of labour myth is possible to trace also in dominant conceptions of gender roles in war, where female and child victims represent the most effective symbols of collective innocence and therefore moral righteousness which can be extended to other actions and decisions made on behalf of the collectivity.[18] In this context, women as a symbol of cultural identity are a "treasure trove" of a certain culture or society and represent a vulnerable prey, a target in the sense of a collective victim. In the context of biased concept where the female body is viewed as a "child-bearing machine" of the nation's descendants and the "mother" for preserving a particular society, the female body as such is an "object" of the overwhelming power of the occupier.

Women's Bodies, Power-over and Rape

Religion (Christianity) has been one of the patriarchal structures that have objectified women and denigrated their bodies. At this point, we should briefly mention the strong negative impact of prejudice of perceiving women's body as the seed of carnal wickedness and seductive wilderness, imprinted negative stereotype by church fathers and perpetuated throughout church history.[19]

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[17] Judy El-Bushra and Cecile Mukarubuga, "Women, War and Transition," *Gender and Development* 3, no. 3 (1995), 18.

[18] Elissa Helms, "Rejecting Angelina: Bosnian War Rape Survivors and the Ambiguities of Sex in War," *Slavic Review* 73, no. 3 (2014), 615.

[19] Nadja Furlan, *Manjkajoče rebro* [*The Missing Rib*] (Koper: Annales, 2006), 117.

And that brings us to the problem of vulnerability and its myths and common misconceptions about a weakness of women on one hand, and the danger of their sexuality, on the other. The prejudice of the virgin-whore dichotomy setup within cultures that historically have excluded female bodies from the properly social and political realm is well known. Women have been figured as either innocent virgins or dirty whores.

Among other negative consequences that negative gender stereotypes regarding women's bodies have had on the perception of women as embodied subjects, the vulnerability of women's bodies and their abuse is far more destructive. In this regard, Kelly Oliver examines various ways in which women involved in the war in the Middle East have been imagined as dangerous weapons linked with death. Within popular discourse, women's bodies, menstrual blood, and female sexuality can be used as tactics of war because of the potency of their association with the danger of nature.[20] To that extent the vulnerability of women's bodies could be understood as the one being violated and abused by violet others.

Patriarchal culture demeans and denies the elemental power of the female body. The strong stigma of female body and its procreative role is connected with the prejudice of impurity, savagery, with fear and respect at the same time. Because of all these negative stereotyping femininity, woman, and her body become extremely vulnerable. Among other negative consequences that negative gender stereotypes regarding women's bodies have had on the perception of women as embodied subjects, the vulnerability of women's bodies and their abuse is far more destructive. In this context women are also victims of torture under official definitions as military or civilian prisoners or as members of defeated populations in war, and are more often subjected to sexual torture, which until recently has not been understood either as torture or even a war crime.[21] In armed conflict, there is a widespread practice of targeting women for particular abuse, precisely because of their asso-

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[20] Kelly Oliver, *Women as Weapons of War: Iraq, Sex, and the Media* (New York: Columbia University Press, 2007).

[21] Christine E. Gudorf, "Feminist Approaches to Religion and Torture," *The Journal of Religious Ethics* 39, no. 4 (2011), 613.

ciation with the identity and well-being of their community. The use of rape and other forms of sexual humiliation as a weapon of war has been documented in ex-Yugoslavia, but as a strategy as old as war itself.[22] Female rape survivors might therefore seem to fit well in nationalist frameworks as symbols of collective victimhood. Rape of the nation's women and simultaneously of the land itself – the ultimate threat posed by the (men of the) Other and thus the reason for man to fight and why women must be sheltered and protected.[23] Their rape could expose the failure of "their" men to protect and defend them. From this perspective, the bodies of women are not considered fully their own, but are evidently considered in these circumstances to be the property of men at large. Such explanations supply the background that creates callousness toward even the most violent denials of women's body right. According to Kelly Dawn Askin, "… triumph over women by rape became a way to measure victory, part of a soldier's proof of masculinity and success, a tangible reward for services rendered… an actual reward for war."[24]

The extreme dehumanization and the objectification of the female body as an object of "ultimate victory" by the invader in the act of rape represents the extreme form of torture and a claim of female body. But this is often justified with the negative stereotypes and prejudices of a woman's wild, unclean nature, which must be tamed once and for all.

Even the victims themselves often come to feel that torture is socially inevitable, that women were created to suffer, that nothing and no one can make them safe from abuse. In fact, this is the root of the sin of torture: it strips victims of their humanity, their selfhood.[25]

It had been clear that rape was treated very differently within the same army depending upon the identity of the raped women. A classic case is the comparison of World War II. German military rape trials in occupied France with those in occupied Poland and the Soviet Union. Though rape by German soldiers was believed to be much less common in France than in the Slavic areas, punishments for rape in France were

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22 El-Bushra and Mukarubuga, "Women, War and Transition," 16.

23 Helms, "Rejecting Angelina," 616.

24 Kelley Dawn Askin, *War Crimes Against Women: Prosecutions in International War Crimes Tribunals* (Leiden: Martinus Nijhoff Publishers 1997), 45.

25 Gudorf, "Feminist Approaches to Religion," 619.

severe, while rape charges were often dismissed or treated very lightly in the Slavic areas. Common explanations for why rapes – even mass rape, serial rapes by superiors, or brutal rapes- are usually not considered torture, share two related assumptions. First, it assumes nonconsensual sex is the ordinary lot of women, who until relatively recently were legally property of men; second, it assumes that men's sexual desire makes any unprotected women – including all women in "male space" –fair game.

There are also several cases of so called concept of genocidal rape – or rape as a weapon of ethnic conflict. For example, during the 1947 partition of India, thousands of women were abducted, Hindu and Sikh women by Muslim men, and Muslim women by Hindu and Sikh men, and taken to the newly nationally inscribed territories created by the new states of India and Pakistan. Abduction was presumed to mean rape. Many women killed themselves or were killed by male family members to avoid the shame, but some were also "given" to men known to their families, but of another religion. Treated in this context much the same way as ethno-religious operate in BIH, as a way of saving both their lives and their honor. The rape camps run by Serb forces in the Bosnian war where non-Serb women were imprisoned for the purposes of rape, forced impregnation, and other sexualized humiliations should present just such an unambiguous case of blamelessness. Similarly, in Rwanda, where sexual violence against women has taken many more forms and been committed over a longer period of time than that defined by the 1994 genocide.

The impact of the pregnancies that result from rape is massively damaging. Estimates of rape pregnancies in warfare include 20-50.000 Bosnian women in 1993 and around 5.000 women in Rwanda in 1994.[26]

Women are even on the "altar of war" often the collective victims of patriarchal androcentrism. An act of rape is understood as the last fortress of a cultural identity that has fallen and been subdued, and the women usually carry the consequences and the burden of brutal atrocities themselves. But if rape is seen as dishonoring a woman, even as genocidal for the way in which it is assumed to end a victim's sexual and reproductive capacity or plant the »seed of the enemy«, thus de-

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[26] El-Bushra and Mukarubuga, "Women, War and Transition," 17.

priving the nation of its offspring, then it is not surprising that rape survivors are subject to suspicion and stigma in their own communities.

Women in the Process of Healing Traumas and Religious Peace-building

Yet the destructive capacity of war derives not from physical violence alone but also from the deep injuries to people's sense of themselves and their sense of identity as a member of a community. In war, both the physical and the moral underpinnings of society are brought into question.

Women as victims of war violence (in the form of rape) are often left to themselves after the war finishes, they are driven to the margins of society or even outcast and murdered. These women used to be a symbol of purity and social identity, as sacrificial lambs, however, the society excludes them or does not provide enough support and recognition. This is also pointed out by Zilka Spahić-Šiljak who describes the wound healing process after the war and religious peace-building in BiH. For most women in BiH, religion was an important tool with which to ease their suffering and pain. However, the religious Muslim community in BiH was not ready to deal with this influx of traumatized women seeking refuge in faith. The only religious move made to help Muslim women during the war was to issue a decree (fatwa) by the Islamic Community of BiH "that raped women should be considered our hero-ines", with the recommendation that family members and society "accept these women and help them heal their traumas". Although this statement important, it was largely symbolic. What Muslim women needed from their religious leaders was a safe space in which to tell their stories and to be heard, but the men who led the Muslim communities in BiH felt that they lacked the tools to help these women. Without tangible support, these women had only partial spiritual relief and not the concrete help they needed to overcome traumatic experiences and huge social trauma. However, this fatwa could indeed serve as a first

step in reducing the burden of shame and trauma carried by victims of sexual assault during the war.[27]

Post-conflict reconciliation and reconstruction likewise offers the opportunity to acknowledge the contributions and sacrifices made by different groups of people during the war. It also provides opportunities for change in social relationships including gender relations.

Women's voices and help in the process of reconciliation, healing traumas and religious peace-building is of utmost importance. Tseard Bouta, Ayse Kadayifci-Orellana and Mohammed Abu-Nimer present the meaning of the contribution of women's forms of religious peace with the following words: "Women allow emotional and spiritual support and care for many communities in crisis area and war zones; they work to mobilize their communities and direct them towards peace and non-violence, acting as mediators between the two opposing sides, encouraging reconciliation, dialogue, disarmament, demobilization and reintegration."[28] When the war started in Balkans in 1991, some feminist theologians became active in secular women's organizations in Bosnia and Herzegovina (BiH) to help women and children survive traumas sustained during the war and after, in the war camps.

Although the voice of women and their engagement in interreligious, intercultural dialogue and in the religious establishment of peace, at least on an overt formal level, is often omitted or ignored, it is on informal levels, in the expression of concrete actions that women's effort to restore peace is very much alive and present. In 2007, the Centre for Religious Tolerance organized international workshops for the empowerment of women's interreligious cooperation in Amman, Jordan. In 2009, an international conference on the topic of women, religions and globalization was organized at Yale University, where a special panel was dedicated to the issue of women's religious search for peace. Organizations like the Global Peace Initiative of Women (GPIW) and the World Conference on Religions for Peace (WCRP) are working to recognize

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[27] Zilka Spahić Šiljak, "Do It and Name It: Feminist Theology and Peace Building in Bosnia and Herzegovina," *Journal of Feminist Studies in Religion* 29, no. 2 (2013), 177.

[28] Tseard Bouta, Ayse Kadayifci-Orellana and Mohammed Abu-Nimer, *Faith-Based Peace--Building: Mapping and Analysis of Christian, Muslim, and Multi-Faith Actors* (Washington, DC: Netherlands Institute of International Rrelations, 2005), ix.

women's engagement in the process of religious peace-building and intercultural and interreligious cooperation.

The personal calling of the female individuals who knit the network of intercultural and interreligious cooperation in the context of the religious establishment of peace is a very important driving force for their endeavours. For example, Ayse Kadayifci-Orellana observes that many women understand their engagement in the quest for religious peace-building as a way of serving God. This also encourages them to persist despite the many difficult obstacles they face.[29] It should be noted, however, that the issue of equal gender recognition or recognition of women and their visible role at formal levels is in fact very closely related to the question of understanding and positioning of the religious (O)ther. Therefore, the key to equal recognition of women is one of the key components of a quality interreligious dialogue, or a key to the equal recognition of the religious (O)ther. Both are crucial in transforming and raising human consciousness both on the individual and collective levels.

Conclusion

Women are often victims of brutal patriarchal torture and violence in the war and even in migration process. Because of rape, their bodies are degraded and objectified. As symbols of cultural and social identity, they are the last targets for the invader. Despite being subject to harassment and humiliation by both the military invaders and, consequently, by their own families, societies and religions, they are often left to themselves. In this regard, we can say that the influence of negative gender stereotypes and prejudices related to a woman, her sexual role and her body, which have been shaped and preserved throughout history in the sphere of cultural sociability and religious sphere, is evident. Therefore, the importance of actively involving women in the process of reconciliation, healing traumas and religious peace-building is of utmost

[29] Katherine Marshall et al., *Women in Religious Peacebuilding* (Berkeley: United States Institute of Peace, 2011), 11, http://www.usip.org/sites/default/files/PW71-Women_Religious_Peacebuilding.pdf.

importance. Consequently, it also recognizes and critically deconstructs negative gender stereotypes and strengthens the self-image and social-religious image of a woman. Above all, it empowers both women actively involved in the process as well as the victims who get the support provided. With the help of women's religious-peace-building, women's voices are thus heard and recognized.

Bibliography

1. Askin, Kelley Dawn. *War Crimes Against Women: Prosecutions in International War Crimes Tribunals*. Leiden: Martinus Nijhoff Publishers, 1997.
2. Banhabib, Seyla. *The Rights of Others: Aliens, Residents and Citizens*. New York: Cambridge University Press, 2004.
3. El-Bushra Judy and Cecile Mukarubuga. "Women, War and Transition." *Gender and Development* 3, no. 3 (1995), 16–22.
4. Bouta, Tsjeard, Ayse Kadayifci-Orellana and Mohammed Abu-Nimer. *Faith-Based Peace-Building: Mapping and Analysis of Christian, Muslim, and Multi-Faith Actors*. Washington, DC: Netherlands Institute of International Relations, 2005.
5. Drexler, Sybille and Friderich Heckmann. "The Role of Religion for the Integration of Migrants. A Conference Report." December 2005. http://www.efms.uni-bamberg.de/pdf/tagungsbericht_gmf7.pdf.pdf.
6. Edwards, Adrian. "Forced displacement at record 68.5 million." UNCHR, June 19, 2018. http://www.unhcr.org/news/stories/2018/6/5b222c494/forced-displacement-record-685-million.html.
7. European Union Agency for Fundamental Rights (EU FRA). "Thematic focus: Gender-based violence." June 2016. http://fra.europa.eu/en/theme/asylum-migration-borders/overviews/focus-gender-based-violence.
8. Furlan, Nadja. *Manjkajoče rebro* [*The Missing Rib*]. Koper: Annales, 2006.
9. Furlan Štante, Nadja. "Women's Voices and Vulnerability: Invisible and Visible Obstacles." In *Borders/Debordering*, edited by Maja Bjelica and Helena Motoh, 149–165. Koper: Annales University Press, 2016.
10. Gudorf, Christine E. "Feminist Approaches to religion and Torture." *The Journal of Religious Ethics* 39, no. 4 (2011), 613–621.
11. Hamington, Maurice. "Toward a Theory of Feminist Hospitality." *Feminist Formations* 22, no. 1 (2010), 21–38.
12. Helms, Elissa. "Rejecting Angelina: Bosnian War Rape Survivors and the Ambiguities of Sex in War." *Slavic Review* 73, no. 3 (2014), 612–634.

13. Kristeva, Julia. *Hatred and Forgiveness*. Colombia: Colombia University Press, 2012.
14. Marshall, Katherine, Susan Hayward, Claudia Zambra, Esther Breger and Sarah Jackson. *Women in Religious Peacebuilding*. Berkeley: United States Institute of Peace, 2011.
15. Oliver, Kelly. *Women as Weapons of War: Iraq, Sex, and the Media*. New York: Columbia University Press, 2007.
16. Parish, Anja. "Gender-Based Violence against Women: Both Cause for Migration and Risk along the Journey." Migration Policy Institute, September 17, 2017. https://www.migrationpolicy.org/article/gender-based-violence-against-women-both-cause-migration-and-risk-along-journey.
17. Spahić Šiljak, Zilka. "Do It and Name It: Feminist Theology and Peace Building in Bosnia and Herzegovina." *Journal of Feminist Studies in Religion* 29, no. 2 (2013), 176–184.
18. United Nations High Commissioner for Refugees (UNHCR). "Note on the Integration of Refugees in the European Union." May 2007, 2. https://www.unhcr.org/463b462c4.pdf.
19. United Nations High Commissioner for Refugees (UNHCR), United Nations Population Fund (UNFPA) and Women's Refugee Commission (WRC). "Initial assessment report: Protection Risks for Women and Girls in the European Refugee and Migrant Crisis." Januar 19, 2016. https://www.unhcr.org/569f8f419.pdf.
20. UN General Assembly. "In Safety and Dignity: addressing large movements of refugees and migrants." April 21, 2016. https://refugeesmigrants.un.org/sites/default/files/in_safety_and_dignity_-_addressing_large_movements_of_refugees_and_migrants.pdf.
21. World Economic Forum. "What are the issues facing refugee resettlement?" October 24, 2018. https://www.weforum.org/agenda/2018/10/the-needs-challenges-and-power-dynamics-of-refugee-resettlement/.
22. World Economic forum. "Global Risks 2018: Fractures, Fears and Failures." Accessed November 15, 2018. http://reports.weforum.org/global-risks-2018/global-risks-2018-fractures-fears-and-failures/.

REFUGEE CRISIS, VULNERABILITY AND ETHICS OF COHABITATION

Lenart Škof

The ethics of liberation has no desire to appear to be some kind of novelty. It wishes instead to appear as the updated version of a millenarian tradition that has been trodden underfoot by the cynicism of globalizing capitalism, which struts about as if it were the maximum exponent of science and reason, when in truth it amounts to a decadent ethics of irrationality which is deaf to the pain of its victims.[1]

In 2015 our world was faced with the photography of the death of a three-year old migrant child Aylan Kurdi. Syrian poet Adonis characterized this young child from Syria as a paradigm of a totally innocent victim, comparable even to Christ. This ethically impossible death of a child was one of the last calls, sent to us – as members of *one* global community – to rethink the nature of our civic lives and the scope of our compassions in this world.

Related to this tragic event, and related events, the purpose of this essay is to question some politicoethical responses to the current migration crisis. According to the International Organization for Migration, more than 30,000 refugees and migrants died in the Mediterranean Sea alone trying to reach Europe from the year 2000 onwards.[2] These events and the consequences they bear have not yet been discussed sufficiently in an ethical framework. This calls for a new attention regarding some of the most fundamental questions of humanity, which, as a consequence, should influence further research in humanities and social sciences, especially in contemporary philosophy (political ethics), but also in theology (political theology), sociology and political geography, and in

[1] Enrique Dussel, *Ethics of Liberation: In the Age of Globalization and Exclusion* (Durham and London: Duke University Press, 2013), 451.

[2] See "Mediterranean migrant arrivals," International Organization for Migration, accessed September 2, 2018, https://www.iom.int/.

various approaches to migration which could be labelled with what Shé Hawke calls "an ontology of asylum".[3] It is an awareness that we would like to raise – to confront the problems of our age, which Zygmunt Bauman designated as an age of the loss of sensitivity. Enrique Dussel, the Argentinian-Mexican theologian and philosopher of liberation, also claims in his *Ethics of Liberation* that there is a need for new ethical criterion in today's unjust world.[4] Dussel is a radical critic of the prevalent world system, demanding from so many people to search for the new opportunities by risking their lives – and lives of their children – facing various borders or obstacles. The consequences, as translated into our political and economic systems and lives, of the loss of sensitivity toward, and grave injustice experienced by real individuals traversing the Mediterranean, and other parts of Europe and elsewhere in the world, must be interrogated. We might yet discover that we are all much more connected than we have ever been willing to admit.

Upon his 2013 visit of Lampedusa, Pope Francis – in his speech about the indifference of *our* global community – posited the following ethical question: *Has any one wept? Today has anyone wept in our world?*[5] We could in this sense be reminded of an ancient story from the Bible – the story of Cain and Abel, in which, through the interpretation of St. Augustine, Cain founded a city, whereas Abel, a pilgrim, did not found one. It is on this basis that, in a profoundly politico-ethical *and* theological manner, Mariano Barbato proposes a new political theology and indeed political ethics, based on St. Augustine's theory of the state (*Civitas Dei*). These thoughts of Barbato are based on an ethics of the twofold constellation – of a terrestrial, or earthly city *vs*. heavenly, or utopian City of God. The earlier is the Pilgrim City, in which *all of us* (global community) are striving to overcome our selfish bounderies (later this will translate into the ethics of vulnerability): *we all* are pilgrims

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[3] Referring to "ontology of asylum" as expressed in Hawke's chapter "Graft versus Host: Waters that Convey and Harbors that Reject Liminal Subjects – Toward a New Ethics of Hospitality," in *Borders and Debordering: Topologies, Praxes, Hospitableness,* eds. Tomaž Grušovnik, Eduardo Mendieta and Lenart Škof (Lanham: Lexington Books, 2018), 198.

[4] Cf. Dussel, *Ethics of Liberation;* see on this aspect of a new materially sensitive ethics especially ch. 4 of his book.

[5] See Pope Francis, *Visit to Lampedusa: Homily of the Holy Father* (Rome: Libreria Editrice Vaticana, 2013).

in our lives, and it is our task, as humans, to overcome our selfishness by sharing what we have in common with the others.[6] Derrida's idea of a *city of refuge* further represents this thought, which endows the old concept of the city with new meaning: one being sensitive to vulnerable bodies and identities, and thus being of a kind of *another politics of the city.* This guides us towards the new thinking regarding a community, and towards a new future kind of cohabitation on this Earth.[7] For all those, who have lost their autonomy and have instead become extremely vulnerable to external conditions of their lives (food, security, shelter, autonomy, education, work, but also play for children) *there is no shelter in our cities and in our communities*. All these profound messages are not limited to only one community, one religion, or one single church, but are a part of a universal, or cosmopolitan idea of a future community, based on closely related politico-ethical ideals of hospitality and justice.

In this essay we wish to discuss two basic concepts of contemporary political ethics: community and vulnerability. Our argument is that in response to the migration and refugee crisis, an ethico-democratic response needs to be offered, one that is infused with an imaginaive capacity for both remembrance as well as for a future hope. In his beautiful essay "Prophetic Religion and the Future of Capitalist Civilization", Cornel West states:

> What I find so fascinating is that when we talk about the future of capitalist civilization – with the U.S empire in decline and its culture in decay – and its democratic possibilities waning, can we imagine having a public discourse without there being voices – not just echoes, voices – keeping track of the catastrophic, so that unaccountable elites at the top don't run amok with greed and narrow empathy and truncated imagination?[8]

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[6] Mariano Barbato, "Pilgrim City or Belonging beyond the State: St. Augustine, Pope Francis and the Refugee Crisis," in *The Refugee Crisis and Religion*, eds. Luca Maveli and Erin Wilson (London and New York: Rowman & Littlefield, 2017), 132f.

[7] On the "city of refugee" see Jacques Derrida, *Cosmopolitanism and Forgiveness* (London and New York: Routledge, 2001), 8.

[8] Cornel West, "Prophetic Religion and the Future of Capitalist Civilization," in *The Power of Religion in the Public Sphere,* eds. Eduardo Mendieta and Jonathan Vanantwerpen (New York: Columbia University Press, 2011), 97.

West is a pragmatist with a visionary stance and his trade mark is a prophetic language full of pragmatist hope in the midst of our broken, pervert and narcissistic capitalist culture: it is to expand and broaden our sympathies and compassions, and to expand our imagination towards the impossible, indeed, towards the superabundance of love. These words, namely about the catastrophic (or disastrous) state of our broken culture of cohabitation need to be highlighted. We may ask ourselves: in what culture do we live today? Are not the old Biblical words – *to love the orphan, the widow, the stranger* – more needed in our world than ever? What these thoughts therefore bring us is that empathy and faith for a better future should be more related to and intertwined into our politics than we have recognised before.

The ethical question to pose – on community and vulnerability – is ultimately the question of justice: from Levinas or Derrida to Caputo we know that the name of justice should be hope – hope for the cohabitation in a future civilization, being in a close proximity to the secular-eschatological hope – if we may paraphraze the late Rorty –, "that some day my remote descendants will live in a global civilization in which love is pretty much the only law".[9] This thought thus rests on a certain superabundance of imagination and related ideals of political ethics, which were always so vital for the American pragmatists, as it is the case with John Dewey, Richard Rorty, Cornel West, or R. M. Unger – who claims in his *The Religion of the Future* that it is perhaps our only real task to hope for greater love, the higher forms of cooperation, and, perhaps most importantly, that we need to live through accepting the vulnerability we all are sharing. According to Unger:

> The first context is personal love, founded upon the imagination of the other and a heightened acceptance of vulnerability and resulting, when it survives, in our most complete experience of success in reconciling the contradictory requirements self-assertion.[10]

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[9] Richard Rorty and Gianni Vattimo, *The Future of Religion* (New York: Columbia University Press, 2005), 40. On the issue of religion and social justice see also Richard Rorty, *An Ethics for Today* (New York: Columbia University Press, 2011).

[10] Roberto Mangabeira Unger, *The Religion of the Future* (Cambridge, MA: Harvard University Press, 2014), 375.

An indispensable part of this process is also compassion and a higher awareness of being a part of a community. From this view any loss of human life and its potentials is a sign of grave injustice, and a catastrophe from the ethical point of view. It is for this reason that according to Benjamin, we may even look at the history as such as a catastrophe, a pile of debris, or simply as a place of immense suffering – wasted potential of too many precious persons drowned, killed … – but also and despite all this – as a place where recurrent hope for a future community and its immanent peaceful cohabitation is reborn.[11]

For the purpose of this essay we propose that, apart from the well-known (mainly Far-right) populist responses within politics, we basically have two lines of approaches to the current refugee crisis in the academia: the first one would be oriented more towards political economy, and the second more towards political ethics. Regarding the political economy approach it is appropriate to consider a brief analysis and a critical address of the recent intervention of a group of thinkers, gathered around Slavoj Žižek. In *The Final Countdown: Europe, Refugees and the Left,* we find a series of critical and innovative interventions, basically dedicated to the crisis of the liberal Left in Europe. It seems that the main idea for Žižek in his essay "Terrorists with a Human Face" is that the effects of various humanitarian and ethical appeals to com-

[11] I think of his famous "Theses On the Concept of History" (cf. for citation Judith Butler and her chapter in *The Power of Religion in the Public Sphere,* eds. Eduardo Mendieta and Jonathan VanAntwerpen (New York: Columbia University Press, 2011), 81ff.). Cf, here Benjamin's answer to Horkheimer's letter, in Walter Benjamin, *The Arcades Project*, trans. Howard Eiland and Kevin McLaughlin (Cambridge, MA: The Belknap Press of Harvard University Press, 2002), 6: "On the question of incompleteness of history, Horkheimer's letter of March 16, 1937: 'The determination of incompleteness is idealistic if completeness is not comprised within it. Past injustice has occurred and is completed. The slain are really slain. If one takes the lack of closure entirely seriously, one must believe in the Last Judgement. Perhaps, with regard to incompleteness, there is a difference between the positive and the negative, so that only the injustice, the horror, the sufferings of the past are irreparable (…).' The corrective to this line of thinking may be found in the consideration that history is not simply a science but also and not least a form of remembrance <*Eingedenken*>. What science has 'determined', remembrance can modify. Such mindfulness can make the incomplete (happiness) into something complete, and the complete (suffering) into something incomplete. That is theology; but in remembrance we have an experience that forbids us to conceive of history as fundamentally atheological, little as it may be granted us to try to write it with immediately theological concepts."

passion and solidarity regarding the current refugee crisis "are null".[12] These and related appeals would of course more typically come from the Left. Žižek also criticizes another typical "leftist" trait – namely the self-culpabilization of Europe – as visible, for example, in various accounts about "murderous Europe leaving thousands of drowned bodies at its borders" which, again, do not have any emancipatory potential for him whatsoever. Ultimately, humanitarian approach, for Žižek, transforms "a politico-economic problem into a moral one" and thus – using Dante's *Divina comedia* – for all these humanitarians in deep circle of hell a very special place has kindly been reserved by Žižek. A general observation of *The Final Countdown* could be that the Left has not provided an alternative to the global capitalism, and that, if we focus on the current refugee crisis, we do not get any better. In this context, according to another contributor from this volume, Agon Hamza, when the Left is weak, "the economic crises do not open up the field for a radical emancipatory project, but rather they necessitate the rise of populism, wars, poverty, and greater social division".[13] The Far Right takes over, as a consequence, and the circle is closed. Even worse, by patronizing and *humanizing* of the refugees, the Left itself infantilizes the entire group of people, and thus itself becomes racist, according to Hamza. The economic causes, and capitalism as such, remain intact and, again, the crisis is depoliticized. What is to be done, then? What should the radical emancipatory project presuppose? How should we go on? Our argument is that despite such criticism we still need to insist on an ethical approach, since nothing else could provide us with a better tool for coping with the current crisis of global capitalism, and for the prospects of its overcoming.

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[12] Slavoj Žižek, "Terrorists with a Human Face," in *The Final Countdown: Europe, Refugees, and the Left*, ed. Jela Krečič (Ljubljana and Vienna: IRWIN & Wiener Festwochen, 2017), 196. Cf. also his reflection on the problem of suffering on the shores of Lampedusa and at similar places across the Mediterranean: "The other dimension is the tragi-comic spectacle of the endless self-culpabilization of Europe, which allegedly betrayed its humanity; of a murderous Europe leaving thousands of drowned bodies at its borders – a self-serving exercise with no emancipatory potential whatsoever." (195) One may ask why a simple, but ethically profound humanitarian help might need to be related to any emancipatory potential at all?

[13] Ibid., 174.

The remaining paragraphs of this essay defend and therefore preserve ethical and humanitarian approach to the refugee crisis, but by focusing on another paradigm – the politico-ethical thought. If in these difficult times we again sacrifice (as it was done by Communist movements) ethics to (political) economy, we are in danger. Let us try to outline a proposal of an ethics which could perhaps revive democratic emancipatory project, and, quite in an experimental pragmatist manner, deepen and strengthen our political sensibilities and democratic vistas far beyond mere critical or even cynical approaches. We know from John Rawls' *A Theory of Justice* the famous principle called the *veil of ignorance*. The principle assumes that, in advance, or, within the imagined original position, "no one really knows his place in society, his class position or social status; nor does he know his fortune in the distribution of natural assets and abililites, his intelligence and strength, and the like".[14] The principle is an excellent social proviso and has an immense ethical potential. This potential was beautifully developed or extended, and indeed radicalized into a new ethical maxim by Clemens Sedmak. The new maxim is now based on vulnerability and fragility of our lives, and our existence as such. In his essay "Peace, Vulnerability, and Human Imagination" Sedmak labels it with the name a *wound of knowledge,* and explains it with the following thoughts:

> What does it mean to live life with a wound of knowledge that makes the experience of vulnerability tangible and thick and unavoidable? Or, suppose I know now that I will end my life suffering with Alzheimer's disease, in dependence and helplessness, suffering from experiences of loss and confusion – how would I live my life now? (…) A wound of knowledge makes it easier for us to accept that behind our roles, and the masks we often wear, we are all vulnerable and struggling human beings, whose hearts are more needy than we would dare to admit at times.[15]

This maxim might serve as the most radical critique of capitalism and nationalism, and their anti-immigration and anti-refugee political narratives, and represents an ethical response to the broken laws

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[14] John Rawls, *A Theory of Justice: Revised Edition* (Oxford: Oxford University Press, 1999), 118.

[15] Clemens Sedmak, "Peace, Vulnerability, and Human Imagination," in *The Poesis of Peace: Narratives, Cultures, and Philosophies*, eds. Klaus-Gerd Giesen, Carool Kersten and Lenart Škof (New York and London: Routledge, 2017), 33.

of our global community ("Suppose I know now that I will end my life being displaced, in a refugee camp, with my family, suffering from experiences of loss and confusion – how would I live my life now?") To imagine a future political ethics based on mutual recognition of our vulnerability, fragility and, at least at times in our lives, *humility,* is what is missing in our political order of neoliberal capitalism. Vulnerability is thus my first concept: with Cornel West – this is Greek *ananke*, radical finitude and fallibility in the midst of our lives. And it demands another kind of a politics, perhaps even into a new political theology, one being attuned to the one and only possible credo of *any* religion, as posited by our prophetic pragmatist – and this is from George Santayana's *Winds of Doctrine*: "Religion is the love of life in the consciousness of impotence."[16] How could this politico-ethico-theological emotion be translated into the life of community as a form of cohabitation? This is my second, and final concept in this essay. According to Judith Butler in her essay "Is Judaism Zionism",

> we must actively preserve the nonchosen character of inclusive and plural cohabitation: we not only live with those we never chose, and to whom we may feel no social sense or belonging, but we are also obliged to preserve those lives and the plurality of which they form a part. In this sense, concrete political norms and ethical prescriptions emerge from the unchosen character of these modes of cohabitation. To cohabit the earth is prior to any possible community or nation or neighborhood. We may choose where to live, and who to live by, but we cannot choose with whom to cohabit the earth.[17]

This is the principle of community. It includes the acceptance of an enhanced vulnerability, and is an immanent critique of the prevailing selfish and brutal neoliberal capitalist order. We have to resist the disastrous capitalism, not only by fighting on political level but first and foremost by strenghtening our ethical sensibilities, which is the ideal of any cohabitation on this earth. Ideally, for those rare individuals, following this path, this communal ethics could be extended even to *exiling oneself to the other as he or she is* (Agamben)[18] – to offer hospitality to

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16 For citation see West, "Prophetic Religion," 94.

17 Butler, "Is Judaism Zionism," 84.

18 Giorgio Agamben, *The Coming Community,* trans. Michael Hardt (Minneapolis and London: University of Minnesota Press, 2009), 23. This citation refers to Agamben's elaboration on

those in need, exiled, persecuted, raped, tortured. Hospitality that was not offered to Alyan Kurdi. This substitution of oneself for the other – first of me to myself within the *wound of knowledge* maxim, followed by the substitution as taking-place of other (symbolically, or by a concrete act of hospitality), is the gesture of offering out of the most precious gift we may have – a gift from our vulnerable, fragile and compassionate being. For Agamben, finally, this compassionate gesture represents "an unconditioned substitutability, without either representation or possible description – an absolutely unrepresentable community".[19]

Bibliography

1. Agamben, Giorgio. *The Coming Community.* Translated by Micheal Hardt. Minneapolis and London: University of Minnesota Press, 2009.
2. Barbato, Mariano. "Pilgrim City or Belonging beyond the State: St. Augustine, Pope Francis and the Refugee Crisis." In *The Refugee Crisis and Religion*, edited by Luca Maveli and Erin Wilson, 131–144. London and New York: Rowman & Littlefield, 2017.
3. Benjamin, Walter. *The Arcades Project*. Translated by Howard Eiland and Kevin McLaughlin. Cambridge, MA: The Belknap Press of Harvard University Press, 2002.
4. Butler, Judith. "Is Judaism Zionism?" In *The Power of Religion in the Public Sphere*, edited by Eduardo Mendieta and Jonathan VanAntwerpen, 70–91. New York: Columbia University Press.
5. Dussel, Enrique. *Ethics of Liberation.* Translated by Eduardo Mendieta, Camilo Pérez Bustillo, Yolanda Angulo and Nelson Maldonado-Torres. Durham and London: Duke University Press, 2013.
6. Francis, Pope. *Visit to Lampedusa: Homily of the Holy Father*. Rome: Libreria Editrice Vaticana, 2013.
7. Grušovnik, Tomaž, Eduardo Mendieta and Lenart Škof, eds. *Borders and Debordering: Topologies, Praxes, Hospitableness*. Lanham: Lexington Books, 2018.
8. Hawke, Shé. "Graft versus Host: Waters that Convey and Harbors that Reject Liminal Subjects – Toward a New Ethics of Hospitality." In *Borders and*

Louis Masignon and his concept of Badaliya or substitution – which means *substituting someone for someone else* – now in a deep anti-žižekian ethical sense.

[19] Ibid.

Debordering: Topologies, Praxes, Hospitableness, edited by Tomaž Grušovnik, Eduardo Mendieta and Lenart Škof, 193–206. Lanham: Lexington Books, 2018.
9. International Organization for Migrants (IOM). "Mediterranean migrant arrivals." Accessed September 2, 2018. https://www.iom.int/.
10. Rawls, John. *A Theory of Justice.* Oxford: Oxford University Press, 1999.
11. Rorty, Richard and Gianni Vattimo. *The Future of Religion.* New York: Columbia University Press, 2005.
12. Rorty, Richard. *An Ethics for Today.* New York: Columbia University Press, 2011.
13. Sedmak, Clemens. "Peace, Vulnerability, and Human Imagination." In *The Poesis of Peace,* edited by Klaus-Gerd Giesen, Carool Kersten and Lenart Škof, 27–40. New York and London: Routledge, 2017.
14. Unger, Roberto Mangabeira. *The Religion of the Future.* Cambridge, MA: Harvard University Press, 2014.
15. West, Cornel. "Prophetic Religion and the Future of Capitalist Civilization." In *The Power of Religion in the Public Sphere*, edited by Eduardo Mendieta and Jonathan Vanantwerpen, 92–100. New York: Columbia University Press, 2011.
16. Žižek, Slavoj. "Terrorists with a Human Face." In *The Final Countdown: Europe, Refugees, and the Left,* edited by Jela Krečič, 187–201. Ljubljana and Vienna: IRWIN & Wiener Festwochen, 2017.

'UNDER THE SHADOW OF MY ROOF' (GEN. 19:8). THE LAW OF HOSPITALITY IN THE BIBLE

Samo Skralovnik

Introduction

In ancient Israel, hospitality was not merely a question of good manners, but a moral institution which grew out of the harsh desert and (semi) nomadic way of live. This institution of welcoming the weary traveller and of receiving it in one's midst developed from the necessity of the desert into a highly esteemed virtue in Jewish (Christian and also Muslim) tradition.

The Bible overflows with examples of this hospitality. As soon as Abraham, "sitting by the entrance to his tent near the sacred trees of Mamre" (Gen. 18:1), saw three men standing nearby, he hurried to invite them into "under the shadow of his home", and said: "Please come to my home where I can serve you. I'll have some water brought, so you can wash your feet, then you can rest under the tree. Let me get you some food to give you strength before you leave. I would be honoured to serve you." (Gen. 18:3-5). Similarly, Laban was eager to welcome Abraham's servant (Gen. 24:28-32) while Rebekah attended to the comfort of his camels. Manoah did not allow the angel to depart before he had partaken of his hospitality (Judg. 13:15), and the Shunammite woman had a special room prepared for the prophet Elisha (2 Kings 4:8-11). One of Job's claims (appeals) is that he "opened (his) doors to the traveller" (Job 31:32).

The extreme to which hospitality was taken is shown by the stories of Lot and the old man of Gibeah who were prepared to sacrifice the honour of their daughters in order to protect their guests, who were to them complete strangers: "Friends, please don't do such a terrible thing!

I have two daughters who have never been married. I'll bring them out, and you can do what you want with them. But don't harm these men. They are guests in my home." (Gen. 19:4-8; Judg. 19:23-24)

Failing to show hospitality, on the other hand, was punished. Gideon punished the elders of Succoth and Penuel since they did not want to host / feed his army (Judg. 8:5-9): "Gideon made a whip from thorn plants and used it to beat the town officials (of Succoth). Afterwards he went to Penuel, where he tore down the tower and killed all the town officials there." The men of Israel made war on the Benjamites for their breach of hospitality (Judg. 19–20):

> My wife and I went into the town of Gibeah in Benjamin to spend the night. Later that night, the men of Gibeah surrounded the house. They wanted to kill me, but instead they raped and killed my wife. It was a terrible thing for Israelites to do! … Everyone agreed that Gibeah had to be punished.

Nabal's natural death (suffering a heart attack) was understood as the punishment for having failed to offer hospitality to David's men (1 Sam. 25,2-38).[1]

Hence, the "law" of hospitality is a strongly rooted custom in the Bible (tradition). But what are the reasons for such "irrational" behaviour towards stranger(s)? To properly answer these questions, one must first assess a wider cultural and historical context. In many respects, the Israelites were inspired by the customs of the neighbouring nations; the attitude toward the weak members of society is by rule no exception.

A Wider Cultural and Historical Context of Ancient Mesopotamia

The aim of this chapter is not to establish or even suggest literary or customary dependence but rather to reveal a range of ideas that were to some degree present (or absent) in the ancient world of fertile crescent (before the historical emergence of Israel).

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[1] "Hospitality," Jewish Virtual Library, AICE 1998–2018, accessed August 16, 2018, https://www.jewishvirtuallibrary.org/hospitality-in-judaism.

A special relation toward the weak members of the society – widows, orphans, and the poor – is not Israel's uniqueness. Centuries before the historical appearance of Israel the civilizations of ancient Mesopotamia have established a special relationship toward the weak, and even legalized it. In the cultures of the fertile crescent we encounter the first attempts to create the social and legal standards of human and social behaviour with the so-called law collections or codes. The oldest known and preserved code, the Code of Ur-Namu, was written on cuneiform tablets c. 2100–2050 BC. The most famous (or known), the *C*ode of Hammurabi, is three centuries younger and dates back to about 1754 BC. In this context we must (at least) mention the Code of Lipit-Ishtar (c. 1870 BC) and the Code or the Laws of Eshnunna (Bilalama) (c. 1930 BC).

These codes or laws compilations unwittingly give us a peek, a riveting glimpse into the daily life of early human societies and civilization. It is noteworthy that all the mentioned codes – and also the reforms of Urukagina,[2] a ruler of the city-state of Lagash c. 24th century BC, which are sometimes cited as the first example of a legal code in recorded history – expose consistently the concern for protection of powerless as one of the fundamental characteristics of the rulers.

Thus, the earliest legislator, Ur-Namu, in the epilogue of his code, typical of Mesopotamian law codes, invokes the deities for Ur-Nammu's kingship, Nanna and Utu, and decrees "equity in the land". He ensures that "the orphan was not delivered up to the rich man; the widow was not delivered up to the mighty man; the man of one shekel[3] was not delivered up to the man of one mina". Hammurabi similarly claims that on the orders of the god Marduk, with his code, he will guarantee justice and prosperity. In the prologue and epilogue, we read:

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[2] He is best known for his reforms to combat corruption, which are sometimes cited as the first example of a legal code in recorded history. Although the actual text has not been discovered, much of its content may be surmised from other references to it that have been found. In it, he exempted widows and orphans from taxes; compelled the city to pay funeral expenses (including the ritual food and drink libation for the journey of the dead into the lower world); and decreed that the rich must use silver when purchasing from the poor, and if the poor does not wish to sell, the powerful man (the rich man or the priest) cannot force them to do so.

[3] "The man of one shekel" means the poor, and "the man of one mina are" the rich.

… then Anu and Bel called by name me, Hammurabi, the exalted prince, who feared God, to bring about the rule of righteousness in the land, to destroy the wicked and the evil-doers; so that the strong should not harm the weak (…)

That the strong might not injure the weak, in order to protect the widows and orphans (…) In E-Sagil, which I love, let my name be ever repeated; let the oppressed, who has a case at law, come and stand before this my image as king of righteousness; let him read the inscription, and understand my precious words: the inscription will explain his case to him; he will find out what is just, and his heart will be glad.

What is of paramount importance, and must not be overlooked, is the fact of dichotomy between the epilogue and the prologue on the one hand and the legislation (laws) on the other. "When the laws are sandwiched between a prologue and epilogue which proclaims the deeds and divine mandate of the king, then the law collection is part of a royal *apologia*", van Houten argues.[4] Laws, which are separated from religious and historically coloured epilogues and prologues, do not establish direct relationship toward the powerless, and it would also be in vain to look for social provisions.[5] Norman Lohfink, with Hammurabi's assurances in mind, writes:

Suppose an "oppressed man," or an orphan or a widow, following Hammurabi's advice, went to E-Sagil and read the 282 paragraphs of the law code. They would not find even a single occurrence of the words "poor" or "oppressed." Could that put their mind at ease? There is no social legislation in the code of Hammurabi. Nor is such to be found in the laws of Ur-Nammu, nor in the laws of Lipit-Ishtar, nor in any other law collection of Mesopotamia. To be sure, few laws in these codes make a distant approach to the topic of the problems of the poor. But they never deal directly with the poor or with their rights in society. The language of the proper law lacks the semantic field of poverty and oppression. There is a well-known linguistic difference between prologues and epilogues on the one hand, and the proper laws on

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4 Christiana van Houten, *The Alien in Israelite Law; A Study of the Changing Legal Status of Strangers in Ancient Israel* (Sheffield: Sheffield Academic Press, 1991), 29–30.

5 Norbert Lohfink, "Poverty in the Laws of the Ancient Near East and of the Bible," *Theological Studies* 52 (1991): 34–50; Léon Epsztein, *Social Justice in the Ancient Near East and the People of the Bible* (Paris: SCM Press, 1986), 16; Shalom M. Paul, *Studies in the Book of the Covenant in the Light of Cuneiform and Biblical Law* (Leiden: Brill 1970(2005)), 20–21.

the other. It concerns dialect and style. But we should add that there is also a difference in the worlds created by the two segments in the text of the law codes. The prologues and the epilogues outline a world in which everything aims at caring for the poor. But the proper laws do not even mention the poor. We do not imagine that this is because these laws suppose that poverty no longer exists in the world they regulate. The laws simply pass poverty by in silence—and that in spite of the fact that by their prologues and epilogues, at least in the case of Hammurabi, these very laws are proclaimed as a reason why the oppressed can set their minds at ease.[6]

The social principles presented in epilogues and prologues are thus "regulations" without legal sanctions and, consequently, with a very limited possibility of use in real life.

However, have foreigners (aliens and refugees) been considered as "a weak member of society" and thus protected? Leo A. Oppenheim writes regarding this topic insightfully:

> It remains uncertain to what extent foreigners – non-citizens or non-natives – were admitted into the city [i.e. city state, the most commonly organized lifestyle regarding the time and place]. Typically, their status must have been diplomatic, that is, dependent on their relation to the palace. Foreign emissaries, traders, political refugees, and others were able to move in and out under royal protection or could even be incorporated into the royal house--hold. It is probable that, to some extent, non-citizens were allowed to settle in the *kāru*, the harbour of the city, a section outside of the town proper. They enjoyed a special administrative, political, and social status. The institution of "sojourners" or resident aliens, allowed to live within the city, which is known to us from the Old Testament, appears in Mesopotamia only in the west where a text from Ugarit speaks of "the citizens of the city of Carchemish together with the people (allowed to live) within their gates." At those periods of Mesopotamian economic history when much of the overland trade was in private or semiprivate hands, a special section (*bït ub(a)ri*) within the city wall seems to have been set aside for foreign visitors or merchants, e.g., the "Street-of-the-People-from-Eshnunna" in Sippar. Evidence from the Nippur of the Persian period might indicate the practice of having foreigners, and certain social classes (also craftsmen), live in separate quarters or streets, since they are all said to be under the supervision of special officials. *An observation on the relation to foreigners may be in order in this context: the concept of, and*

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6 Lohfink, "Poverty in the Laws," 37.

terminology relating to, hospitality is conspicuously absent in Mesopotamia. This contrasts with the Old Testament, where the nomadic background can be readily adduced as explanation, but presents an instructive similarity to Greece—not the Greece of Homer and its reflection in literature, but that of the polis, with its aversion to the non-citizen and all its discrimination, economic as well as social, against the alien. Since family ties were generally ineffective in Mesopotamia and clan-relationships not in evidence in cities, other forms of association assumed their function in providing status and protection for the individual. Such associations could be professional, religious, or political.[7] (emphasis added)

In the Words of Christiana van Houten:

It would be illuminating to this study of how the Pentateuchal laws deal with the alien if we could compare them with the way in which other ancient legal collections treated them. In looking for comparative material, we presume that the existence of aliens was not confined to the people of Israel, nor to the land of Canaan. The causes of leaving one's homeland which are described in the Old Testament, i.e. famine, war, family conflict and blood guilt, are common to all peoples.

My search for laws which would regulate how the citizens of the land are to treat an outsider who needs to stay among them for some time yielded nothing in the Mesopotamian legal collections. Instead, the Laws of Eshnunna, the Code of Hammurabi and the Middle Assyrian laws each contained only one law pertaining to the alien, and in each case it dealt with the phenomenon of the alien only from the vantage point of the family left behind.[8] (emphasis added)

The fact that the alien is mentioned in all the law collections in the Pentateuch, and "not at all in the Mesopotamian codes", does not necessarily mean that the Babylonians were unsympathetic to the alien. Hospitality to the stranger may have been one of the accepted mores of the culture and yet may not have been included in the legal tradition, she argues.[9]

The omission can be explained by noting that these law codes are addressed to the citizens of a land in order to establish justice among them. The aliens as non-citizens are not part of the intended audience,

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7 Leo A. Oppenheim, *Ancient Mesopotamia: Portrait of a Dead Civilization* (Chicago: University of Chicago, 1977), 78–79.

8 Van Houten, *The Alien in Israelite Law*, 34.

9 Ibid., 36

although they may in fact be members of the society.[10] "The second possible reason is that the mentioned codes, in fact, were not laws in the strict (modern) sense. If we define a law code as a body of law which seeks to be comprehensive and to which judges are bound when deciding cases, then none of the law collections qualify as a law code."[11] Firstly, it is clear that they are not intended to be exhaustive. For example, the Laws of Hammurabi contain no laws pertaining to murder, the Code does not say what would be the penalty for murder.[12] Therefore, it is important to keep in mind the nature, purpose and scope of these ancient Mesopotamian law codes.[13]

Despite the fact that the alien is not mentioned "at all in the Mesopotamian codes" and absence of "the concept of, and terminology relating to, hospitality" one must clearly see that a special relation toward the weak members of the society emerged centuries before the historical appearance of Israel. Israel, therefore, enters in the already formed and legalized tradition, but adds or exposes its specialty, i.e. the attitude toward the foreigners.

The historical experience of Egypt, the experience "to be an alien", "to be a refugee" is key to this addition. Based on the hostile attitude from Egypt, the Israelites were invited not to do the same: "Don't mistreat any foreigners who live in your land. Instead, treat them as well as you treat citizens and love them as much as you love yourself. Remem-

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10 Ibid.

11 Ibid.

12 Ibid., 26.

13 "The fact that the Code of Hammurabi was recopied for more than a millennium with no significant changes indicates that at some point it had changed its genre. It had become canonical literature and was recopied in scribal schools for its own sake. In conclusion, Westbrook claims that when the legal texts are copied without changes being made, then they are no longer functioning as references for judges, but that when legal collections are being revised, this indicates that they are being applied in the courts." (van Houten, *The Alien in Israelite Law*, 29; Raymond Westbrook, *Biblical and Cuneiform Law* (Paris: Gabalda, 1988), 256) "In these matters, the Old Testament laws seem to be similar. As the Laws of Hammurabi were not referred to in legal practice, so also the biblical laws are not referred to by the judges, or any other practitioners of the law in the biblical text. For example, when Boaz seeks to carry out a legal transaction at the city gate (Ruth 4), no law collection is cited or referred to, yet all parties understood and agreed to the legal procedure and the consequences. It was clearly an authoritative legal tradition operating, and yet the text gives us no indication whether it was written or oral or both." (van Houten, *The Alien in Israelite Law*, 30)

ber, you were once foreigners in the land of Egypt. I am the Lord your God." (Lev. 19:33-34)

It seems, therefore, that the right place to look for an explanation of this difference is in the particular history of the Israelite people. Bearing in mind not only the historical experience of Egypt – since some scholars dispute it or even do not acknowledge to Exodus any historical value – one must focus on nomadic roots of the Israel's ancestors. The patriarchs are portrayed as aliens, both in Canaan and Egypt. These traditions play an important role in the legal collections in the *Old Testament* (Exod. 22:20; 23:9) and may also have led to the formation of laws which protected not only widows, orphans and the poor, but also the alien.

The Nomadic Roots of Israel and the Alien

Israel begins in the desert: "My ancestor was homeless, an Aramean (יִבֹּא דֵבֹא יִמַרֶא)" (Deut. 26:5) The Hebrew verb דַבאָ, "to be homeless / to wander / to be(come) lost" refers to Israel's nomadic roots, to the ancestors of the Israelis which at the beginning of their history lived a nomadic and semi-nomadic life. Although Israel has never been a real nomad, a real Bedouin, the values of nomadic way of life are / were not foreign there.

Determining a precise time frame of this period, i.e. the period of the "founding fathers" (Abraham, Isaac, and Jacob) is impossible. The three-generation narrative probably reflects centuries-long processes of settling of the Semitic tribes in the regions of the fertile crescent. Most scholars understood the travelling narrative of the Abraham tribe in the context of the expansion of the nomadic tribes from the desert and steppe regions of Asia to the area of the city states of Mesopotamia, the fertile land between Tigris and Euphrates, and Kanaan in the first half of the 2nd millennium BC. Although there is insufficient historical evidence to accurately determine the timeline, their arrival at Kánaan can be placed in the period between the 20th and 17th centuries BC.

Nomadic life dictates a special social order and a special way of behaviour. In the desert, an individual who has separated from his group must necessarily count on the reception by the groups he meets or to

whom he joins. Hospitality was a necessity for nomadic peoples because there were no "hotels" in the wilderness. Even within the towns and cities there were often no inns available.[14] Hospitality is therefore a necessity for living in the desert, but this necessity has become an "ethical imperative".

Through hospitality, the host and the guest, who were previously unknown to each other, now enjoy social interaction. The function of hospitality is to transform an unknown person (who may pose a threat) into a guest, thus removing the threat (2 Sam. 12:4; Job 31:32 and other texts).[15] The fundamental purpose of hospitality is to turn strangers into guests. Therefore, Malina writes: "Hospitality might be defined as the process by means of which an outsider's status is changed from stranger to guest ... The outsider is 'received' and socially transformed from stranger to guest ... Hospitality, then, differs from entertaining family and friends."[16]

Scholars have drawn analogies between the alien referred to in the *Old Testament* and other fringe peoples. R. de Vaux, when discussing the practice of hospitality in the *Old Testament*, showed, for example, that Abraham's hospitality at Mambre (Gen. 18:1-8) refers to the customs of nomads. The law of asylum which he sees functioning in modem Bedouin societies is reflected, he claims, in the *Old Testament* institution of protecting the alien.[17] De Vaux argues:

> Hospitality, we have said, is a necessity of life in the desert, but among the nomads this necessity has become a virtue, and a most highly esteemed one. The guest is sacred: the honour of providing for him is disputed, but generally falls to the sheikh. The stranger can avail himself of this hospitality for three days, and even after leaving has a right to protection for a given time. This time varies from tribe to tribe: among some it is "until the salt he has eaten

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[14] Martin Lee Roy, "Old Testament Foundations for Christian Hospitality," *Verbum et Ecclesia* 35 (2014): 2.

[15] Raymond T. Hobbs, "Hospitality in the First Testament and the Teleological Fallacy," *Journal for the Study of the Old Testament* 95 (2001): 17.

[16] Bruce John Malina, "The Received View and What It Cannot Do: III John and Hospitality," *Semeia* 35 (1986): 181.

[17] Van Houten, *The Alien in Israelite Law*, 36–37.

has left his stomach," in big tribes like the Ruwalla of Syria it is for three more days and within a radius of 100 miles.[18]

Similarly, V. H. Kooy describes the duty of hospitality to a stranger in terms of present-day Bedouin customs[19].

However, some scholars have expressed doubts whether the nomadic way of life could have survived through millennia and through the settlement process. But the practice of hospitality is not the only one that has survived. Blood-vengeance, which is the law of the wilderness, has become a permanent institution, solidarity of the clan has too never disappeared.[20] De Vaux on the other hand claims that language, Hebrew,

> which is even more conservative than customs, retained several traces of that life of years gone by. For example, generations after the conquest, a house was called a "tent", and not only in poetry (where it is frequent) but also in everyday speech (Judg. 19:9; 20:8; 1 Sam. 13:2; 1 Kings 8:66). Disbanded soldiers return "every man to his own tent" (1 Sam. 4:10; 2 Sam. 18:17). "To your tents, Israel" was the cry of revolt under David (2 Sam. 20:1) and after the death of Solomon (1 Kings 12:16).[21]

However, this expression did not last, for afterwards we read how every man returned "to his house" (1 Kings 22:17) or "his town" (1 Kings 22:36).

Though it is less significant, the frequent use, in Old Testament poetry, of metaphors borrowed from nomadic life should not pass unnoticed. Death, for example, is the cut tent-rope, or the peg which is pulled out (Job 4:21), or the tent itself which is carried off (Isa. 38:12). Desolation is represented by the broken ropes, the tent blown down (Jer. 10:20), whereas security is the tent with tight ropes and firm pegs (Isa. 33:20). A nation whose numbers are increasing is a tent being extended (Isa. 54:2): Lastly, there are countless allusions to the pastoral life, and Yahweh or his Messiah are frequently represented as the Good Shepherd (Ps. 23; Isa. 40:11; Jer. 23:1-6; Ezek 34, etc.).[22]

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18 Roland de Vaux, *Ancient Israel: Its Life and Instructions* (Grand Rapids, Michigan: Wm. B. Eerdmans Publishing, 1997), 10.

19 Vernon H. Kooy, "Hospitality," in *The Interpreter's Dictionary of the Bible, vol. II*, ed. Georhe Arthur Buttrick (New York: Abingdon Press, 1962), 654.

20 Ibid., 11, 13.

21 Ibid., 13.

22 Ibid., 13.

We have other indicators that the practise of hospitality did not decline with the changes in social conditions. Even in later times, when the Jews were settled in cities, this virtue was held in highest esteem. Isaiah (58:7) preferred charity and hospitality over fasting (or as the true way of fasting). Job, in complaining of his misfortunes in spite of the fact that he had led a virtuous life, mentions among other things that he had always opened his door to the stranger (Job 31:32); while Eliphaz as the reason for misery which had befallen Job points that he had not been hospitable (22:7). Ben Sira condemns the habits of the man who takes advantage of the custom of hospitality (Sir. 29:23-28; 40,28.30).

This is also evident from the later sources. In the *Testament of Abraham* (20:15), a pseudo-epigraphic text of the *Old Testament*, we can read: "Let us too, my beloved brothers, imitate the hospitality of the patriarch Abraham." The writer of Hebrews, *New Testament* epistle, alluding to Abraham's experience, admonishes his hearers: "Do not neglect hospitality, for by this some have unknowingly hosted angels" (Heb. 13:2). Abraham's hospitality become the foundation for later encouragements to hospitality in *New Testament* (Rom. 12:13; 1 Pet. 4:9; 1 Tim. 3:2; Titus 1:8). 1 Peter 4:9 (KJV): "Use hospitality one to another without grudging." Paul makes this especially the duty of a Christian bishop, as he claims in 1 Timothy 3:2, "A bishop then must ...be given to hospitality".

This is not all. Taking into account the texts, depicting the end of the world, we can assume that this custom will be kept up to the end of the world and even beyond. Hospitality is especially enjoined by the Saviour: "He that receiveth you receiveth me ..." (Matt. 10:40.42). The abandonment of hospitality is one of the charges which the Judge of mankind will allege against the wicked, and on which he will condemn them: "I was a stranger, and ye took me not in." (Matt. 25:43)

Hospitality in Hebrew Bible

From biblical and other ancient texts, Andrew E. Arterbury arrived at a definition of hospitality in the ancient Mediterranean world: "At its core, hospitality is the Mediterranean social convention that was employed when a person chose to assist a traveller who was away from

his or her home region by supplying him or her with provisions and protection."[23]

From the scattered references an idea can be formed about who was entitled to enjoy hospitality and of the manner in which a guest was received in an ancient Jewish household.

The Object of Hospitality Is an Alien Traveller, not a Resident Alien

Throughout the history of discussions on hospitality, Abraham – the archetype of the Hebrew race – has served as the example of biblical hospitality. His encounter with three "men" is cited repeatedly in Jewish and Christian literature, as already mentioned, including *Jubilees,* Philo, Josephus, *1 Clement, Testament of Abraham, Apocalypse of Paul,* Origen, John Chrysostom, Augustine, *Genesis Rabbah* and the Babylonian Talmud.[24]

According to Bruce J. Malina, the narrative of Genesis 18 as the first stage of hospitality illustrates *evaluating the stranger* (usually through some tests about whether guest status is possible).[25] It is evident from Abraham's greeting that he recognised his visitors as alien and travellers. However, hospitality was not offered to everyone.[26] Two types of people would not be welcomed as guests. The first would be traders who travel in the process of their business (cf. Gen. 37).[27] The second would be "strangers," *gerîm*.

But, who were "strangers," *gerîm*? Although nowadays a "stranger" can mean "a person or thing that is unknown or with whom one is

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[23] Andrew E. Arterbury, *Entertaining Angels: Early Christian Hospitality in Its Mediterranean Setting* (Sheffield: Sheffield Phoenix Press, 2005), 132.

[24] Andrew E. Arterbury, "Abraham's Hospitality among Jewish and Early Christian Writers: A Tradition History of Gen. 18:1-16 and Its Relevance for the Study of the New Testament," *Perspectives in Religious Studies* 30 (2003): 359–367.

[25] Malina, "The Received View," 182.

[26] Amy Plantinga Pauw ("Hell and hospitality," *Word & World* 31 (2011), 13–14) observes that even God's hospitality is not without limits. Moab is excluded from the eschatological feast of Isaiah 25. She cites other examples of God's exclusionary hospitality: Psalms 23:5; Isaiah 65:13; Zephaniah 1:7; Matthew 22:13; Luke 1:53 and Revelation 19.

[27] Hobbs, "Hospitality in the First Testament," 18.

unacquainted", in Hebrew Bible the term "stranger" (*ger*) signifies more specifically a "sojourner, resident alien".[28]

The word may be used of individuals or groups. Abraham was a *ger* at Hebron (Gen. 23:4), and Moses in Midian (Exod. 2:22; 18:3). A man of Bethlehem went with his family to settle as a *ger* in Moab (Ruth 1:1). The Israelites were *gerîm* in Egypt (Exod. 22:20; 23:9; Deut. 10:19; 23:8).[29]

The ancient texts considered an Israelite who went to live among another tribe as a *ger*: a man of Ephraim was a ger at Gibeah, where the Benjaminites live (Judg. 19:16). … From the social point of wiew, these resident aliens were free men, not slaves, but they did not possess full civic rights, and so differed from Israelite citizens. … Since all landed property was in Israelite hands, the *gerîm* were reduced to hiring out their services (Deut. 24:14), as the Levites did for their own profession (Judg. 17:8-10). As a rule, they were poor, and are grouped with the poor, the widows and the orphans, all the "economically weak" who were recommended to the Israelites' charity. The fallen fruit, the olives left behind on the tree, the leavings of the grapes, the gleanings after the harvest were to be left for them (Lev. 19:10; 23:22; Deut. 24:19-21, etc., cf. Jer. 7:6; 22:3; Ezek. 22:7; Zech. 7:10). …. The Israelites were to help them, remembering that they themselves had once been *gerîm* in Egypt (Exod. 22:20; 23:9; Deut. 24:18.22), and for the same reason they were charged to love these aliens as themselves (Lev. 19:34; Deut. 10:19).

They were to share in the tithe collected every third year (Deut. 14:29), and in the produce of the Sabbatical year (Lev. 25:6), and the cities of refuge were open to them (Num. 35:15). In legal actions, they were entitled to justice just like the Israelites (Deut. 1:16), but were liable to the same penalties (Lev. 20:2; 24:16.22). In everyday life there was no barrier between *gerîm* and Israelites. Some *gerîm* acquired a fortune (Lev. 25:47; cf. Deut. 28:43) …[30]

A "stranger" (*ger*), therefore, is a person who has entered the community from the outside and who has taken up residence more or less permanently.[31] Therefore, the stranger (*ger*) may not be unknown at all; in fact, the stranger might be a neighbour and / or friend and would

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[28] Lee Roy, "Old Testament foundations," 2; David John Alfred Clines, ed., *The Concise Dictionary of Classical Hebrew* (Sheffield: Sheffield Phoenix Press, 2009), 70.

[29] De Vaux, *Ancient Israel,* 75.

[30] Ibid. "It is noteworthy that nearly all these passages were written shortly before the Exile: Deuteronomy, Jeremias and the Law of Holiness in Leviticus. Thus it seems that at the end of the monarchy the number of *gerîm* in Judah had increased, and provision had to be made for them. There had probably been an influx of refugees from the former northern kingdom."

[31] Hobbs, "Hospitality in the First Testament," 20.

not be considered a potential threat.[32] The *ger* is protected by a number of laws, see the above citation, and the Israelites must not oppress or exploit the resident alien, but there is *not a single case* in Old Testament where hospitality is extended to a defined stranger (*ger*).[33]

Hospitality is Limited to a Fixed Period of Time and Includes Protection

Keeping in mind the archetypal Gen. 18, Abraham's offer of hospitality does not include overnight accommodation. He invites the travellers to wash their feet, eat, and rest, but he says to them, "after that you may go on" (Gen. 18:5). He will not detain them after they have eaten and rested.[34] When the travellers respond saying, "Do as you say", they are accepting Abraham's offer, acknowledging its extent and agreeing to his terms. Visitors would usually remain over night, but hospitality was normally limited to no more than three days.[35] If a guest stayed longer, he would become a burden or, conversely, if the host kept the guest longer, this could be interpreted as hostility (Gen 24,31.54-61).[36]

Guests are not expected to compensate the host, but there was a sense of reciprocity, Koenig argues, that often results in a benefit to the host. For example, the custom requires the guest to report any news and to express gratitude.[37] The expression of gratitude may be in the form of a blessing, as it was in the case of Abraham's visitors, who promised that Abraham's wife Sarah would have a son (Gen. 18:10-14). Through

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32 Walter Vogels, "Hospitality in Biblical Perspective," *Liturgical Ministry* 11 (2002): 165.

33 Hobbs, "Hospitality in the First Testament," 20–21; Lee Roy, "Old Testament Foundations," 2–3.

34 Arterbury, "Abraham's Hospitality," 360.

35 Hobbs, "Hospitality in the First Testament," 3.

36 Vogels, "Hospitality in Biblical Perspective," 166; "In the case of Genesis 18, the men were not travelling with any animals, but normally the host would also care for any animals that might accompany the guests. In Judges 19, for example, the Levite's host 'gave his donkeys fodder' (19,21; cf. Gn 24,31-32)." (Lee Roy, "Old Testament foundations," 3)

37 John Koenig, "Hospitality," in *The Anchor Bible Dictionary,* vol. III, ed. D. N. Freedman (New York: Doubleday, 1992), 299; Vogels, "Hospitality in Biblical Perspective," 166.

Abraham's generosity and risk, God blesses the host by granting Sarah a child.[38]

Abraham's story is not the only narrative of hospitality in which God is "discovered redemptively in the meeting" and "the vulnerable stranger, the one who ostensibly has nothing to offer, becomes a source of enrichment to the reconfigured household".[39] After hosting and protecting "two men", the angels, Lot and his family are delivered from Sodom (Gen. 19). When Abraham sends his servant on a quest to find a wife for Isaac, the event of hospitality serves as the setting for the fulfilment of the divine plan.[40] The poor widow of Zarephath with a "handful of flour and a little olive oil" (1 Kings 17:12) is rewarded by two miracles; she and her son are sustained through a time of drought, "she and her family had enough food for a long time", and when her son unexpectedly dies, he is raised from the dead:[41]

> "Bring me your son," Elijah said. Then he took the boy from her arms and carried him upstairs to the room where he was staying. Elijah laid the boy on his bed and prayed, "Lord God, why did you do such a terrible thing to this woman? She's letting me stay here, and now you've let her son die." Elijah stretched himself out over the boy three times, while praying, "Lord God, bring this boy back to life!" The Lord answered Elijah's prayer, and the boy started breathing again. (1 Kings 17:19-22)

During the stay of the guest, the host was personally responsible for any injury that might befall his guest. The extreme to which hospitality was taken, as mentioned, is shown by the stories of Lot and the old man of Gibeah who were prepared to sacrifice the honour (and the life) of their daughters in order to protect their guests, who were to them complete strangers (Gen. 19:4-8; Judg. 19:23-24): "Friends, please don't do such a terrible thing! I have two daughters who have never been married. I'll bring them out, and you can do what you want with them. But don't harm these men. They are guests in my home." We therefore find that the element of protection is central to the meaning of the narra-

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38 Thomas E. Reynolds, "Welcoming Without Reserve? A Case in Christian Hospitality," *Theology Today* 63 (2006): 199.

39 Reynolds, "Welcoming Without Reserve?," 198.

40 Koenig, "Hospitality," 300.

41 Lee Roy, "Old Testament Foundations," 4.

tive. Lot's sense of duty is so strong that he offers to turn over his own daughters in place of the guests. This illustrates in an extreme way that "the guest is sacred", as also de Vaux claims.[42]

Outline of Hospitality in Rabbinical Literature

"Among the ethical teachings of the Rabbis, the duties of hospitality occupy a very prominent position."[43] Rabbinical literature widened the scope of the virtue of hospitality. It was considered a great *mitzvah*, especially when it was extended to the poor (Shab. 127a–b) and when the hospitality was due to a scholar. It was said that one who shows hospitality to a student of the Law is regarded as if he had offered the daily sacrifice (Ber. 10b.63b; Ḳid. 76b; Gen. R. 58:12).

Abraham and Job were regarded by the Rabbis as the models of Jewish hospitality. Numerous legends cluster about these names in the haggadic literature, illustrative of their generosity and hospitality. The doors of their houses were open at each of the four corners, so that strangers coming from any side might find ready access (Gen. R. 48,7; Yalḳ., Job, 917; comp. Soṭah 10a). Of Job it is related that he had forty tables spread at all times for strangers and twelve tables for widows.

"Let thy house be open wide; let the poor be the members of thy household," is the precept expounded by one of the earliest Jewish teachers (Ab. 1:5). Rab Huna observed the custom of opening the door of his house when he was about to take his meal, and saying, "Any one who is hungry may come in and eat." (Ta'an. 20b)[44]

Hospitality is even more important than prayer. The Midrash (Lam. R. 4:13) relates that even at the height of Nebuchadnezzar's siege of Jerusalem, mothers would deprive their children of the last crust in order to grant hospitality to a mourner.

Two extremes were avoided through a clear definition of the duties of host and of guest: the host was forbidden to make his guest uncomfortable either by appearing miserable, or by watching his guest too

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42 Vogels, "Hospitality in Biblical Perspective," 168; De Vaux, *Ancient Israel*, 10.

43 "Hospitality," *Jewish Encyclopedia 2002–2011*, accessed August 5, 2018, http://www.jewishencyclopedia.com/articles/7905-hospitality.

44 Ibid.

attentively (Maim., Yad, Berakhot 7:6), or by neglecting to serve his guest himself (Kid. 32b). The guest was instructed to show gratitude (Ber. 58a), to recite a special blessing for his host (Ber. 46a; Maim., Yad, Berakhot 2:7). Several centuries earlier, Ben Sira (second century BC) had already defined the table manners which were to be practiced by the guest (Eccles. 31:21-26), and had condemned the parasite who took advantage of hospitality (29:23-28; 40:28-30).[45]

In the Middle Ages, hospitality became even a necessity among the Jews. The poor mendicants or students were distributed among the households of the town, and a system of "Pletten" (ווטעלפ; "meal tickets"), bills for which the poor traveller received meals and lodging at a household, was introduced. This system still lives in many Jewish communities. Most of the Jewish communities have their *haknasat oreḥim*, institutions where travellers may obtain lodging during their stay in town.[46]

"Hospitality has been a staple of Jewish life and tradition since the first Jewish home – the tent of Avraham and Sarah," rabbi Wein Berel claims. It is mentioned as being one of the values that if fulfilled grants one reward in this world and the merit of the good deed remains a factor in the World-to-Come as well. "Throughout the ages the open door to strangers has been a facet of Jewish life. I remember the home of my grandparents in Chicago where the door was never locked so that in the event that a visitor would arrive when they were not home or were asleep and needed a place to rest, he could come right into the house," the rabbi also describes his youthful memories.[47]

Conclusion: Hospitality as an Opportunity for Intercultural Dialogue

The Old Testament practice of hospitality is, as we will see, relevant to our contemporary multi-cultural and multi-religion context. However, several "weaknesses" of the Old Testament practice should be noted first.

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45 "Hospitality," *Jewish Virtual Library*.
46 "Hospitality," *Jewish Encyclopaedia 2002–2011*.
47 Rabbi Wein, "Hospitality," *The Voice of Jewish History 2009–2018*, accessed September 1, 2018, https://www.rabbiwein.com/blog/hospitality-237.html.

For example, the choice of guests was limited to travellers. Old Testament hospitality was extended only to travellers and only for short periods of time.[48] Further, normally, it was the men who decided which travellers should receive hospitality. Women were often either subservient (even in the case of Abraham) or, even worse, they were abused (stories of Lot and the old man of Gibeah). Vogels observes that: "Abraham gives orders to his servants and to Sarah, whom he treats like a servant, and they have to prepare the meal; she is not even present to the visitors, she is in the kitchen even though the promise certainly concerns her."[49]

On the other hand, we have seen that both the Bible (Old and New Testament) and Jewish Rabbinical literature give strong emphasis to Abraham and (his) hospitality. In the assessment of the issue of hospitality the dominant Old Testament character is Abraham and his hospitality.

What can one deduce from this? Three and a half billion people, i.e. more than a half of the entire human family, traces its history or faith back to Abraham. All three Abrahamic religions, not just Jews and Christians, positively value Abraham as their father, ancestor, but every religion does this in a different manner: Christians understand him as a spiritual father, and father by faith, Judaism and Islam understand him as a physical ancestor. Although there are considerable differences in the perceptions of Abraham, at the same time all monotheisms respect Abraham. The character of Abraham thus offers the opportunity for dialogue, more precisely, a trialogue, a common junction where the space for conversation, respect and peaceful coexistence opens. This "common junction" is the value of hospitality, to which, however, a modern religious vortex presents new challenges.

In this paper, we showed that in a very heterogeneous biblical tradition, in biblical (*Old* and *New Testament*) and non-biblical (rabbinical) sources, there is a common core value, the value of welcoming and respecting the alien (refugees). With respect to the Quran, which refers to and summarizes several elements of the biblical tradition, including

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48 Hobbs, "Hospitality in the First Testament," 28.

49 Vogels, "Hospitality in Biblical Perspective," 164.

the value of hospitality (prim. Q 11,69-82), this value in its core shows a possibility and a method of intercultural and inter-religious dialogue in today's world.

Bibliography

1. Arterbury, Andrew E. "Abraham's hospitality among Jewish and early Christian writers: A tradition history of Gen. 18:1-16 and its relevance for the study of the New Testament." *Perspectives in Religious Studies* 30 (2003): 359–376.
2. Arterbury, Andrew E. *Entertaining angels: Early Christian hospitality in its Mediterranean setting.* Sheffield: Sheffield Phoenix Press, 2005.
3. Clines, David John Alfred, ed. *The concise dictionary of classical Hebrew*. Sheffield: Sheffield Phoenix Press, 2009.
4. de Vaux, Roland. *Ancient Israel: Its Life and Instructions*. Grand Rapids, Michigan: Wm. B. Eerdmans Publishing, 1997.
5. Epsztein, Léon. *Social Justice in the Ancient Near East and the People of the Bible*. Paris: SCM Press, 1986.
6. Hobbs, T. Raymond. "Hospitality in the First Testament and the teleological fallacy." *Journal for the Study of the Old Testament* 95 (2001): 3–30.
7. Jenkins, David O. *Hospitality: Risking welcome*. Nashville: Abingdon Press, 2007.
8. Jewish Encyclopedia 2002–2011. "Hospitality." Accessed August 5, 2018. http://www.jewishencyclopedia.com/articles/7905-hospitality.
9. Jewish Virtual Library, AICE 1998–2018. "Hospitality." Accessed August 16, 2018. https://www.jewishvirtuallibrary.org/hospitality-in-judaism.
10. Koenig, John. "Hospitality." In *The Anchor Bible Dictionary, vol. III*, edited by David Noel Freedman, 299–301. New York: Doubleday, 1992.
11. Kooy, Vernon. H. "Hospitality." In *The interpreter's dictionary of the Bible,* vol. II, edited by Georhe Arthur Buttrick, 654. New York: Abingdon Press, 1962.
12. Lee Roy, Martin. "Old Testament foundations for Christian hospitality." *Verbum et Ecclesia* 35 (2014): 1–9.
13. Lohfink, Norbert. "Poverty in the Laws of the Ancient Near East and of the Bible." *Theological Studies* 52 (1991): 34–50.
14. Malina, Bruce John. "The received view and what it cannot do: III John and hospitality." *Semeia* 35 (1986): 171–194.
15. Ogletree, Thomas W. *Hospitality to the stranger: Dimensions of moral understanding*. Philadelphia: Fortress Press, 1985.
16. Oppenheim, Leo A. *Ancient Mesopotamia: Portrait of a Dead Civilization*. Chicago: University of Chicago, 1977.

17. Paul, Shalom M. *Studies in the Book of the Covenant in the Light of Cuneiform and Biblical Law*. Leiden: Brill, 1970(2005).
18. Pauw, Amy Plantinga. "Hell and hospitality." *Word & World* 31 (2011): 13–16.
19. Pohl, Christine D. *Making room: Recovering hospitality as a Christian tradition*. Grand Rapids: Eerdmans, 1999.
20. Reynolds, Thomas E. "Welcoming without reserve? A case in Christian hospitality." *Theology Today* 63 (2006): 191–202.
21. van Houten, Christiana. *The Alien in Israelite Law; A Study of the Changing Legal Status of Strangers in Ancient Israel*. Sheffield: Sheffield Academic Press, 1991.
22. Vogels, Walter. "Hospitality in biblical perspective." *Liturgical Ministry* 11 (2002): 161–173.
23. Wein, Berel. "Hospitality." The Voice of Jewish History 2009–2018. Accessed September 1, 2018. https://www.rabbiwein.com/blog/hospitality-237.html.
24. Westbrook, Raymond. *Biblical and Cuneiform Law*. Paris: Gabalda, 1988.

ASYLUM AS HOSPITALITY: RELISTENING TO DERRIDA

Maja Bjelica

Welcoming Derrida

The central reference of this article is the French philosopher Jacques Derrida[1] who often directly referred to the topics of asylum, refugeeism, acceptance of difference and acceptance of the other in his texts on hospitality.[2] By repeated analysis and careful relistening of his thoughts, one can recognize their immense topicality and modernity nowadays

[1] Jacques Derrida is known primarily as one of the most prominent representatives of deconstructionism who was dealing with a wide range of topics that were generally both contemporary and topical. When he passed away in 2004, Derrida left a rich collection of monographs, articles and lectures which are still being read and quoted today in many fields of science, especially humanities and social sciences.

[2] The author's texts on hospitality have left an impact, which is clearly seen from a number of texts that emanate from or rely on his thoughts (e.g. Mireille Rosello, *Postcolonial Hospitality: The Immigrant as Guest* (Stanford: Stanford University Press, 2001); Richard Kearney and Kascha Semonovitch, eds., *Phenomenologies of the Stranger: Between Hostility and Hospitality* (New York: Fordham University Press, 2011); Thomas Claviez, ed., *The Conditions of Hospitality: Ethics, Politics, and Aesthetics on the Threshold of the Possible* (New York: Fordham University Press, 2013); Simon Critchley, *The Ethics of Deconstruction: Derrida and Levinas* (Edinburgh: Edinburgh University Press, 2014)). The work that hospitality researchers most often refer to is *Of Hospitality* (2000), however, Derrida refers to the topic of hospitality also in other works, for example, *Hostipitality* (2000; 2002), *The Politics of Friendship* (2005), *Adieu to Emmanuel Levinas* (1999), *On Cosmopolitanism and Forgiveness* (2001), *Monolingualism of the Other*: *Or the Prosthesis of Origin* (1998) and others (cf. Simon Morgan Wortham, *The Derrida Dictionary* (London and New York: Continuum, 2010), 71–73). His ideas on hospitality can be traced back to the 1978 edition of the monograph titled *Writing and Difference*, in particular analysing and interpreting the thoughts of Emmanuel Levinas, but not exclusively (see Jacques Derrida, "Hostipitality," in *Acts of Religion*, Jacques Derrida (New York and London: Routledge, 2002), 356). The range of Levinas' influence on Derrida is evident from the fact that, following Levinas' death, more and more explicit attention was devoted to contemplating on hospitality, starting from 1995 when he focused his work on studying hospitality in Levinas' work; in January 1996 he gave at least two lectures on hospitality, that were published in the book *Of Hospitality*; and in 1997 hospitality was the focal point of at least five seminars that were published later in a journal and an edited volume.

when the number of asylum seekers is increasing from day to day, especially in European countries.

Discussing hospitality, Derrida[3] is aware that the questions remain open, his aim is predominantly to situate and integrate these issues in order to raise awareness and explain the importance of their mystery: its fundamental irreverence lies in the relation between the ethics of hospitality (i.e. ethics as hospitality) and the law or the politics of hospitality (e.g. French asylum policy). Regarding the question of whether, on the basis of ethics of hospitality, we can form a law or a policy beyond the familiar existence within a state, a society or a nation, Derrida claims that it presents a serious, difficult, but on the other hand canonical question. He also assumes there is no direct continuity between one and the other side of hospitality and that deduction from one to the other is impossible. However, "*the* impossible" is not denoted as a defeat but rather as an opportunity and a demand for a different orientation of the law and politics. In such discontinuity, Derrida establishes "the possibility of another speech, of a decision and a responsibility (...), where decisions must be made and responsibility, as we say, taken, without the assurance of an ontological foundation."[4]

Returning to the conditions of responsibility and decision-making, it would thus be placed somewhere between ethics and law, politics, where also the questions regarding the right to asylum and the duty to offer asylum arise. These questions need to be repeatedly readdressed, searching for new possibilities of responding to them.

Hospitality between Ethics and Politics

Derrida's philosophical thought makes a key contribution to understanding the need for new expositions of understanding asylum based on hospitality, in particular on the basis of the fact that the author's discussion is equipped with discursive means that move the research of hospitality from the field of migration and politics to the field of ethics.

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[3] Jacques Derrida, *Adieu to Emmanuel Levinas*, trans. Pascale-Anne Brault and Michael Naas (Stanford, California: Stanford University Press, 1999), 19 ff.

[4] Ibid., 21.

Derrida clearly presents how hospitality is placed between ethics and politics in his work *Adieu to Emmanuel Levinas*, where he distinguishes two perceptions of hospitality considering two philosophers, namely, Immanuel Kant and Emmanuel Levinas. The significance of this distinction and understanding of this difference in his time, and even for the present, was highlighted with the following words:

> Our task here is simply – between Kant and Levinas – to sharpen the difference that matters today more than ever with regard to this right of refuge and all the most urgent matters of our time, everywhere that (...) millions of "undocumented immigrants," of "homeless," call out for another international law, another border politics, another humanitarian politics, indeed a humanitarian commitment that effectively operates beyond the interests of Nation-States.[5]

Immanuel Kant gives hospitality a key role in the field of international cosmopolitan law as it is supposed to be everyone's right to visit. Although his ideas have significantly influenced the development of cosmopolitan philosophical insights, it was only the work of Jacques Derrida that defined Kant's hospitality as conditional and thus non-actual, since the author, in comparison with Emmanuel Levinas' notion of hospitality, denotes it as essentially deficient. Levinas is the author who considers ethics as the first of philosophies and directly connects ethics with hospitality as a fundamental attitude to the fellow human being. Every person should accept the other, accept the call of his or her face, answer to it affirmatively. Responsibility for the other is supposedly constitutive for everyone. It is responsibility what makes everyone human: welcoming the other. In many of his texts, Derrida summarizes Levinas' thoughts, but at the same time he critically analyses and compares it with Kant's perception of hospitality. Thus, by comparing and deconstructing the two concepts, Derrida explains the aporetic characteristics of hospitality, which essentially determines the latter: what is conditioned with laws and restrictions cannot be the "real" hospitality, the one that could justify the ethics of human activity. The latter could only be founded on the absolute, unconditional hospitality represented by the ever-present "yes" to everyone in every meeting. However, this

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[5] Ibid., 101.

kind of hospitality is practically impossible, since the danger of unconditional acceptance of the enemy is always implicit.

Let us note parenthetically that a quasi-synonym for "unconditional," the Kantian expression of "categorical imperative" is not unproblematic; we will keep it with some reservations, under erasure, if you like, or under *epoche*. For to be what it "must" be, hospitality must not pay a debt or be governed by a duty: it is gracious and "must" not open itself to the guest (invited or visitor), either "conforming to duty" or even, to use Kantian distinction again, "out of duty." This unconditional law of hospitality, if such a thing is thinkable, would then be a law without imperative, without order and without duty. A law without law, in short. For if I practice hospitality "out of duty" (and not only "in conforming with duty"), this hospitality of paying up is no longer an absolute hospitality, it is no longer graciously offered beyond debt and economy, offered to the other, a hospitality invented for the singularity of the new arrival, of the unexpected visitor.[6]

Regarding the unexpected visitor, Derrida mentions the Law of Hospitality which was topical in sovereign medieval towns, asking people to open the door to anyone, including a foreigner, to every newcomer, without checking where they come from and who they are. It is at this point that the author recognizes "cosmopolitan (*cosmopolitique*) tradition common to a certain Greek stoicism and a Pauline Christianity,"[7] which is, according to the author, inexplicitly summarised by Immanuel Kant in the text titled "Perpetual Peace"[8] and especially in the "Third Definitive Article of a Perpetual Peace," for which Derrida says it deals with or addresses all hospitality issues: historical, ethical, juridical, political and economic.[9] The third article is addressed by the following statement: "Cosmopolitan Right shall be limited to Conditions of Universal Hospitality."[10] This sentence already contains the question of the

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6 Jacques Derrida, *Of Hospitality: Anne Dufourmantelle Invites Jacques Derrida to Respond*, trans. Rachel Bowlby (Stanford: Stanford University Press, 2000), 81, 83.

7 Jacques Derrida, *On Cosmopolitanism and Forgiveness*, trans. Mark Dooley and Michael Hughes (London and New York: Routledge, 2001), 18–19.

8 Immanuel Kant, "Perpetual Peace: A Philosophical Sketch," in *Political Writings*, 2nd ed. (Cambridge: Cambridge University Press, 1991), 93–115.

9 Jacques Derrida, "Hostipitality," trans. Barry Stocker and Forbes Morlock, *Angelaki: Journal of the theoretical humanities* 5, no. 3 (2000): 3–18.

10 Kant, "Perpetual Peace," 117.

relationship between unconditional hospitality and the conditions of hospitality,[11] as it speaks of "conditions of universal hospitality."[12] Derrida observes that Kant in "the law of cosmopolitanism" does not refer "to the conditions of universal hospitality only,"[13] which at first glance establishes cosmopolitanism as common and boundless. Derrida warns though that, after all, it was only limited to the right to visit and, at the same time, to the public domain of the state.[14]

Derrida[15] deals with a longer section of Kant's text, commenting on the possibilities of its realization and determining its topicality for the period of the end of the 20th century: Kant says that a foreigner may exceptionally be rejected by the host, but only if this rejection does not pose a death threat to the foreigner. Derrida remarks that France does not comply with that, since the country rejects even the foreigners whose return to their homeland would mean their inevitable death, either for political or health reasons (many people diagnosed with AIDS were coming to France for treatment). Furthermore, as a condition of hospitality, Kant refers to the right to visit, not to stay – Derrida concludes that a contract would be required between countries if they were to speak about the right to abode. "Everything – and this is what cosmopolitanism means – is subject to an inter-state conditionality.

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[11] It is interesting how Derrida observes that Kant at the very beginning of his explanation of the aforementioned article replaces the word hospitality (*Hospitalität* in German) with the word *Wirtbarkeit*. (Kant, "Perpetual Peace," 69) The word *Wirt*, the root of the word *Wirtbarkeit*, in German means both a master, an owner and at the same time a host, and Derrida ("Hostipitality," 4) emphasizes that this word dominates the entire lexicon of economy, in German *Wirtschaft–Wirtlich* (hospitable), *Wirthaus* (guesthouse) – also economy, that is, *oikonomie*, the law of a household in which the master is the one (in the house, in the company, in the country) who determines the conditions of hospitality, of welcome. In this sense, the law of hospitality could be formalized as a law of a household that is sustainable as long as the master remains the master, thus enabling and conditioning the right to hospitality that a foreigner enjoys and is thus treated in a friendly manner.

[12] Hospitality is also one of the two terms that Kant himself emphasizes in this sentence, the other being "Cosmopolitan Right," which suggests that this part of eternal peace is not in the field of morality or politics but in the field of rights, more precisely the rights of citizens as state subjects, even if part of some cosmopolitan country; it is therefore the field of international law.

[13] Derrida, *On Cosmopolitanism*, 20.

[14] Ibid., 20–22.

[15] Derrida, "Hostipitality."

Hence, there is no hospitality for people who are not citizens."[16] Hannah Arendt highlights this problem in connection with the decline of European national states, leaving behind a huge number of people with no citizenship and thus without any rights.[17] In this Derrida recognizes a special challenge of our time – the establishment of "a hospitality which would be more than cosmopolitical, which would go beyond strictly cosmopolitical conditions, those which imply state authority and state legislation."[18]

While seeking for the possibilities for this kind of hospitality, Derrida[19] presents acceptance as a synonym to welcome, quoting Levinas: "To approach the Other in conversation is to welcome his expression (...) It is therefore to *receive* from the Other beyond the capacity of the I, which means exactly: to have the idea of infinity."[20] Hence the idea that intelligence can be interpreted as a hospitable welcome breaks the tradition of perceiving reason as exclusively active – acceptance, receiving, is, according to the philosophical tradition, usually perceived as passive. Here the possibility of interrupting with the stability of dichotomies between passive and active is present. Reason itself is acceptance, the reason being primarily sensitivity: "Reason itself is a welcome inasmuch as it welcomes the idea of infinity – and the welcome is rational."[21]

Derrida recognises the idea of infinity precisely in Levinas' rhetorical figure of the door, which we are supposed to open completely for the Other and could symbolize an opening to the exterior, the identification of reason in learning, in the desire to learn and the search for new possibilities, however, the door is by no means a symbol of absolute passivity or omission of reason. Learning therefore enters through the door, just as the Other; the discourse, the ethical relationship – comes from the outside, it presents absolute knowledge, however, constitutive

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16 Ibid., 16 n. 11.

17 Cf. Hannah Arendt, "The Decline of the Nation-State and the End of the Rights of Man," in *The Origins of Totalitarianism* (San Diego, New York and London: Harcourt Brace & Company, 1973), 267–302.

18 Derrida, "Hostipitality," 16 n. 11.

19 Derrida, *Adieu*.

20 Emmanuel Levinas, *Totality and Infinity: An Essay on Exteriority*, trans. A. Lingis (Den Hagg, Boston and London: Martinus Nijhoff Publishers, 1979), 51.

21 Derrida, *Adieu*, 26.

but without compromising the sovereignty of reason, since the latter is always the attitude of acceptance. Infinity of learning and acceptance, and ungraspability of the whole should not be an obstacle in giving hospitality.

Derrida's Call to Cosmopolitans

Derrida explicitly presents different ways of a reasonable and accepting search as well as learning about the possibilities of receiving the external, the Other in the essay titled *Cosmopolites de tous les pays, encore un effort!* Derrida wrote this address in 1996 as a message to the participants of the first congress of cities of refuge.[22] Naturally, the text is very specific, since it was intended for a particular audience and a particular event, but on the basis of his title it is possible to say that the author planned it more widely and dedicated it to "all cosmopolitans." The essay relates primarily to the then and still very current issue regarding the right to asylum and the possibility of universal hospitality. In the introduction, the author questions the notion of cosmopolitanism and whether cosmopolitanism can be the real basis of forming the "cities of refuge" which were initiated by the International Parliament of Writers with the purpose to offer refuge and asylum to writers who were expelled from their homeland. It seems that the author expresses some kind of scepticism towards this possibility, as in the long period of various forms of cosmopolitanism and cosmopolitan thinking, there has still not been any such realization. The initiative advocates the establishment of the Charter and the International Agency for Cities of Refuge, which, according to Derrida, should pave the ground for cosmopolitan thinking to become more open to all the different and new rather than to linger on the existing cosmopolitan chapters of international law, thus "make an audacious call for a genuine innovation in the history of the right to asylum or the duty to hospitality."[23]

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[22] Derrida wrote it after the initiative from the International Parliament of Writers Council of the Council of Europe in Strasbourg, where a congress was organized that the author could not attend, nevertheless, he managed to contribute his opinion on cities of refuge in the aforementioned essay.

[23] Derrida, *On Cosmopolitanism*, 4.

The described call for opening the cities of refuge resembles "new cosmo*politics*," says Derrida.[24] The cities of refuge are supposed to be autonomous, independent both from the state they are in and from one another, but they are interconnected in accordance with the forms of solidarity, the invention of which, on the basis of theoretical and critical reflection, is inseparable from practical initiatives, presenting the future task of the parliament of writers and the cities of refuge.

> Whether it be the foreigner in general, the immigrant, the exiled, the deported, the stateless or the displaced person (the task being as much to distinguish prudently between these categories as is possible), we would ask these new cities of refuge to reorient the politics of the state. We would ask them to transform and reform the modalities of membership by which the city (*cité*) belongs to the state, as in a developing Europe or in international juridical structures still dominated by the inviolable rule of state sovereignty – an intangible rule, or one at least supposed such, which is becoming increasingly precarious and problematic nonetheless.[25]

It can be understood that the author presents new forms of cosmopolitanism as a possible means for obtaining the autonomy of the city, which is supposed to be crucial for providing asylum to those in need of shelter. In many cases, it questions the traditional conventions, in this case most explicitly "inviolability" of the state as a sovereign entity, underlining at the same time the complexity of their exceeding and many difficult issues that arise when implementing the project of the cities of refuge. The latter cannot and must not, by any means, be based on the principle of state sovereignty, if they are to be intended for asylum. The author explicitly explains the meaning of the cities of refuge, their purpose and orientation, and, above all, places the concept of hospitality as their essence that needs to be given meaning, considering the modern circumstances. Regarding the call for the cities of refuge, the members of the parliament

> have been eager to propose simultaneously, beyond the old word, an original concept of hospitality, of the duty (*devoir*) of hospitality, and of the right (*droit*) to hospitality. What then would such a concept be? How might it be

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[24] Ibid.
[25] Ibid.

adapted to the pressing urgencies which summon and overwhelm us? How might it respond to unprecedented tragedies and injunctions which serve to constrain and hinder it?[26]

Further in his text, Derrida gives name to the described project or the "new charter of hospitality," "new ethics" and "new cosmo*politics*"[27] and would like to schematically depict the characteristics of the charter as well as the context of its establishment. He stresses inconceivable violence, which was present around the world at the time of writing the address, terrorism, institutional crimes that force the inhabitants of these areas to flee and search for the shelter. Referring to the words of Hannah Arendt in her text "The Decline of the Nation-State and the End of the Rights of Man," where the author addresses the history of minorities and recognizes two major blows to the minorities in the period between the two world wars, namely, the absence of the right to asylum in certain written laws and at the same time a mass arrival of refugees to European countries. Derrida wonders:

> How can the right to asylum be redefined and developed without repatriation and without naturalisation? Could the City, equipped with new rights and greater sovereignty, open up new horizons of possibility previously undreamt of by international state law? (...) This is not to suggest that we ought to restore an essentially classical concept of the city by giving it new attributes and powers; neither would it be simply a matter of endowing the old subject we call "the city" with new predicates. No, we are dreaming of another concept, of another set of rights for the city, of another politics of the city. (...) If the name and the identity of something like the city still has a meaning, could it, when dealing with the related questions of hospitality and refuge, elevate itself above nation-states or at least free itself from them (*s'affranchir*), in order to become, to coin a phrase in a new and novel way, a free city (*une ville franche*)?[28]

Derrida puts all of his hopes into this "other politics of the city," that is, new, free political incentives, especially on the basis of his disbelief that "the world politics" or international law could do something to ensure hospitality and asylum at the time of criminal prosecution. In a

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26 Ibid., 5.
27 Ibid.
28 Ibid., 7–9.

way, he points out that even "hospitable states" are usually not open, or have "never been 'ethical' *stricto sensu* – in the sense of the moral law or the law of the land (*séjour*) – (*ethos*), or, indeed, the law of hospitality".[29] They are open for their own benefit, citing the example of France in the 1960s, when immigrants were "hospitably" welcomed due to the decline in fertility in France at that time and / or the economic need for (low-cost) workforce. Such hospitality is governed by "the demographico-economic interest – that is, the interest of the nation-state that regulates asylum."[30]

It is interesting enough that Derrida boldly refers to the issue of European borders, which are being abolished within the European countries, but are at the same time strengthened on its exterior, which makes Europe less and less hospitable. Derrida emphasises the rhetoric of "immigration control" is frequently noted, with key characteristic being to distinguish between political escape and economic migration, which is abstract and inconsistent, even hypocritical and perverted, as it allows for the avoidance of granting asylum in almost every case. "The discourse on the refugee, asylum or hospitality, thus risks becoming nothing but pure rhetorical alibis."[31]

The author also speaks of the so-called "violations of hospitality," which labels as criminals all those who would, in any way, help or offer hospitality to people "whose papers are not in order" and for which there is a danger of being labelled as an "act of terrorism." He also mentions the problem of sending refugees back to their homelands where their own state prosecutes them and the status of the police, which increasingly sets the laws instead of only implementing them, and because it enforces violence, which is "faceless" and "formless" as recapped according to Walter Benjamin, it is without responsibility.[32]

Derrida concludes his address to the Congress with a summary of his vision and the purpose of the cities of refuge, which is the search for the progress in law between the Law of unconditional hospitality, which provides hospitality to everyone regardless who they are, and be-

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29 Ibid., 10.
30 Ibid., 12.
31 Ibid., 13.
32 Ibid., 13–16.

tween the general laws or the legal right to hospitality. He believes that this kind of progress can be found precisely through experience and trials in such cities of refuge. "I also imagine the experience of cities of refuge as giving rise to a place (*lieu*) for reflection – for reflection on the questions of asylum and hospitality – and for a new order of law and a democracy to come to be put to the test (*expérimentation*)."[33] In the last lines of the address, he also offers the possibility that "some other" idea of cosmopolitanism either has not yet arrived or has not yet been recognized.

Jacques Derrida, who passed away one and a half decades ago, and had written the analysed essay twenty years before his death, summarized the issues that are nowadays everything but non-topical – and while writing the address, he surely did not imagine that the "limitation of immigration" would get even more aggravated. By laying down his hopes for the option of hospitality and expanding the possibility of offering asylum for "a different policy of cities of refuge" Derrida strongly doubts that state and international institutions could do something in this area. He chooses to explore the new "cosmo*politics*," which would try to offer space for hospitality to become universal, thus enabling the introduction of asylum policies, the reflection on such policies and experimental testing.

Derrida is thus looking for an advancement in asylum policy in the space between the law of universal hospitality and general laws, and his method in finding the "right path" is predominantly the experience and the experiment that are to be linked with recognizing hospitality in playfulness, fluidity, uncertainty and fondness for different experiences gained through welcoming, accepting, receiving and reflection.

"*Hostipitality*": Risk and Pervertibility of Hospitality

Derrida's insight into the semantics and etymology of the words acception and acceptation is significant, as he says they belong to the discourse of hospitality.[34] Both words are supposed to derive from the

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[33] Ibid., 23.
[34] Derrida, "Hostipitality."

Latin word *acceptio*, which encompasses the meaning of both acceptance and perception, since it represents the act of receiving and welcoming. *Accepto* means "being accustomed to receiving" which is almost synonymous with *recipio* which implies recurring acceptance or returning acceptance. The word for receiving, *accepto*, derives from the word to take, that is *accipio*. Through this process, Derrida shows that in addition to the need to repeat, that is, the law of iterability, in the heart of every law of hospitality there is a double postulate of giving and taking, giving and perceiving, in repetitions, renewals, continuations:

> Yes, yes, you are welcome. Hospitality gives and takes more than once in its own home. It gives, it offers, it holds out, but what it gives, offers, holds out, is the greeting which comprehends and makes or lets come into one's home, folding the foreign other into the internal law of the host,[35]

who dictates his or her language of understanding, perception of hospitality. The perception of words is also the concept, *Begriff*, grasping, which indicates how taking is performed, it assumes the meaning of the word when delivering its meaning.

In the text titled "Hostipitality" Derrida draws attention to the common Latin source of words for hospitality (e.g. the English word *hospitality* and the German *Hospitalität*) and the difficulties arising from this source. Namely, the Latin word for the guest, *hostis*, carries its own contradiction and the possibility of the parasite characteristics of its contradiction, hostility. Another article on hospitality by Jacques Derrida can be found under the title "Hostipitality", namely in the collection of works by the same author titled *Acts of Religion*,[36] where hospitality is associated with forgiveness and friendship, humour and transcendence.[37]

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[35] Ibid., 7.

[36] Jacques Derrida, *Acts of Religion*, ed. and introd. Gil Anidjar (New York and London: Routledge, 2002).

[37] The aforementioned text deals with four selected lectures from the Hospitality Conferences held by Derrida in Paris and the United States of America, from January to May 1997. The dates of each lecture (the last one was held on May 7th 1997) preceded the seminar in Istanbul (May 9th and 10th, 1997) bearing the same title, "Hostipitality", and it is possible that the texts are interconnected – in some ways, certain aspects of hospitality that have been taught by Derrida for several months are summarized in the Istanbul lecture, but the latter is not extensive enough to summarize all the contents of the lectures. The editor of the collected texts within Derrida's *Acts of Religion,* Gil Anidjar, emphasizes that the presented texts are very pedagogically

One can agree with the editor of the volume, Gil Anidjar, who in his introduction claims that Derrida and his neologism *hostipitality*, that is, a combination of two opposing words in English language (*hostility* and *hospitality*), raises a radically new way of questioning the subject of hospitality.[38] Such subject is not only a guest, but also a foreigner, a hostage, a visitor, a saviour.

Derrida[39] touches upon the significance of the invitation, which should be precisely what determines conditional hospitality, as it involves the expectation of the guest and the reception of the latter in his or her home. At the same time, the author points out that the invitation should be distinguished from the visit, since the latter does not assume the former: the visitor is not necessarily an invited guest. The visitor can come anytime, at any moment – so in a religious and ethical sense a visit is referred to as the arrival of the other whom no one expects. Thus, it is possible to distinguish between conditional and unconditional hospitality from the distinction between an invitation and a visit.

> [I]f I accept the coming of the other, the arriving [*arrivance*] of the other who could come at any moment without asking my opinion and who could come with the best or worst of intentions: a visitation could be an invasion by the worst. Unconditional hospitality must remain open without horizon of expectation, without anticipation, to any surprise visitation.[40]

The author concludes that the master's waiting at the door for someone to arrive is basically an expectation without a horizon of expectations, given that anyone can come. And it is precisely that anyone who is accepted as a liberator. He draws attention to the possible change of positions of the master as a guest in his home, as the host fulfils his or her hospitality only when he or she is invited into his or her own house by his or her guest, that is when the host receives hospitality from his or

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coloured, as they offer direct insight into Derrida's classroom while revealing the process of the constructing texts that takes place in the background before the publication process. Some of the content that Derrida reveals in these lectures can be found in a more structured form in his monographs and other publications. As the editor reminds, these lectures can also be placed on the field of comparative religious science. (See Derrida, *Acts of Religion*, 356–357)

38 Ibid., 356.

39 Derrida, "Hostipitality," 17 n. 17.

40 Ibid.

her own guest. In this way, the person who invited is invited; and the one who invites may become (or must become?) the hostage of the invited one. A more detailed overview of logic, economics and the politics of the hostages would be needed, Derrida also notes, but even the etymological insight into the origin of the word is sufficient to connect it with hospitality, since the word for the hostages (*otage*) comes from the word *hoste, oste*; in addition, it reveals the importance of a guarantee, insurance (from the word *obses*, a military hostage), which leads the author to the conclusion that the hostage is an insurance for the other, located in a certain space. Levinas' understanding of the hostages, which is supposed to represent the beginning of ethical responsibility, is also introduced here, precisely in the sense of hostage situation.

In the context of etymological study of hospitality, Derrida[41] relies on the scientific work of Émile Benveniste entitled *Le vocabulaire des institutions indo-européennes*,[42] in which the author focuses on social phenomena and the related lexicon. One of the institutes explored by the linguist is also hospitality which stems from the basic word from Latin, *hospes*, which is defined as a combination of two words, *hostis* and *potis*, meaning "guest master." Derrida's adoption of Benveniste's semantic interpretation of hospitality denotes the whole author's thought on hospitality, even when it directs it to comparison with other thinkers, such as Levinas.

Derrida[43] follows Benveniste's explanation of the semantic chain of the two terms that make up the word *hospes*, beginning with the term *potis*, which in the Sanskrit offers the root for two words, namely "*master*" and "*husband*" where the meaning changes according to a different ending. Derrida is not surprised by this and says that the master – the host is the one who offers hospitality as the master of the house and the wife, which is essential for the *oikonomic* logic that governs the Indo-European history of hospitality. Regarding the Greek word *posis*, which means "husband," "spouse," Derrida points out that also "fiancé," "lover," that Benveniste distinguishes from the word *depostes*, which is sup-

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41 Ibid., 13 ff.

42 Émile Benveniste, *Le vocabulaire des institutions indo-européennes* (Paris: Les Éditions de Minuit, 1969).

43 Derrida, "Hostipitality."

posed to mean power or domination. Derrida regrets that Benveniste does not offer a semantic insight into the Slavic lexicon of hospitality, which is supposed to enter the French word formation, that is, the word "*hospodar*" which means "prince," and can also be a "master." In addition, Derrida points out some sort of paradox of hospitality, which can also be seen through the offered semantic interpretation, especially with regard to the fact that hospitality is derived from the master, the host, who has the right to create generally applicable laws of hospitality.

> It does not seem to me that I am able to open up or offer hospitality, however generous, (...) without reaffirming: this is mine, I am at home, you are welcome in my home, without any implication of "make yourself at home" but on condition that you observe the rules of hospitality by respecting the being-at-home of my home, the being-itself of what I am. There is almost an axiom of self-limitation or self-contradiction in the law of hospitality. As a reaffirmation of mastery and being oneself in one's own home, from the outset hospitality limits itself at its very beginning, it remains forever on the threshold of itself, it governs the threshold – and hence it forbids in some way even what it seems to allow to cross the threshold to pass across it. It becomes the threshold. This is why we do not know what it is, and why we cannot know. Once we know it, we no longer know it, what it properly is, what the threshold of its identity is.[44]

Derrida also focuses on the question of the foreigner for which he says that the question of the foreigner is not actually a question about him, about the foreigner, but it is the foreigner's question.[45] Thus, the foreigner can be the one who first asks a question, and at the same time he or she can be the one to whom the first question is addressed. At the same time, the question that comes from the foreigner who utters it as the first question upon arrival, can be addressed to the receiving party who is thus put under question.

Regarding the treatment of the question of the foreigner, Derrida also relies on Benveniste's analysis of Greek hospitality,[46] which was supposedly characterized by the fact that it was not only offered to a foreigner (*xenos*) but also to his family and the descendants. This kind

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[44] Ibid., 14.
[45] Derrida, *Of Hospitality*, 3ff.
[46] Benveniste, *Le vocabulaire*, 94.

of agreement, thus extending its validity to the descendants enables the foreigner to remain as such – a foreigner, not a citizen with full rights belonging to the new environment. In addition, such an agreement also presupposed the fact that the foreigner has a name that is not anonymous, and thus also responsible for his or her actions. Interestingly, according to Benveniste, a foreigner, *xenos*, has entered into the contract, *xenia*, making the foreigner part of it at the time of arrival on a foreign territory, a foreign society. Without this contract, the foreigner does not exist and cannot be perceived beyond or outside this pact. Derrida highlights another paradox of such reciprocal hospitality, which, in addition to rights, also grants duties, since name, on one hand, allows such a contract of hospitality; on the other, it restricts and prohibits it since hospitality cannot be offered to just about anyone by this logic regardless the name, and cannot be offered to the "absolute other." Derrida concludes that the law of hospitality is always paradoxical, and its pervertibility, violation is inevitable:

> absolute hospitality requires that I open up my home and that I give not only to the foreigner (provided with family name, with the social status of being foreigner, etc.) but to the absolute, unknown, anonymous other, and that I *give place* to them, that I let them come, that I let them arrive, and take place in the place I offer them, without asking of them either reciprocity (entering into a pact) or even their names. The law of absolute hospitality commands a break with hospitality by right, with law or justice as rights.[47]

Therefore, Derrida understands the question of the foreigner as the question of questions: is hence hospitality constitutive of (re)questioning the foreigner on his arrival? Is it more caring to ask or not to ask? Does perhaps hospitality begin with an unquestionable welcome even before introduction, or is hospitality bestowed primarily to the name, the subject? Thus, the issue of hospitality can also be understood as the question of questions. However, the nature of those questions whose content is usually well defined, is questionable, which makes it impossible for a newcomer to introduce himself or herself, but they can only grant an answer to those who ask.

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[47] Derrida, *Of Hospitality*, 25.

Also interesting is Derrida's comment using the metaphor of door,[48] which at the same time enables and inhibits hospitality: if there are doors, somebody has the key and therefore acts as a master and determines the conditions of hospitality; if there is no door, hospitality cannot be offered at all. However, he warns that when hospitality "gets stuck" at the doorstep, on its own threshold, within its phenomena and essentially in itself, this does not mean that hospitality does not exist:

> I am not claiming that hospitality is this double bind or this aporetic contradiction and that therefore wherever hospitality is, there is no hospitality. No, I am saying that this apparently aporetic paralysis on the threshold "is" (I put "is" in quotation marks or, if you prefer, under erasure) what must be overcome (it is the impossibility which must be overcome where it is possible to become impossible. It is necessary to do the impossible. If there is hospitality, the impossible must be done), this "is" being in order that, beyond hospitality, hospitality may come to pass. Hospitality can only take place beyond hospitality, in deciding to let it come, overcoming the hospitality that paralyzes itself on the threshold which it is.[49]

In this sense, Derrida claims that we do not know what hospitality is, since it waits on the doorstep for the possibility beyond itself. Thus, it is argued that hospitality is transient primarily from the point of view of the future, that it is not present now, it is always upcoming. It is in the "not yet." At the same time, the author emphasizes the importance of distinguishing between the other and the foreigner, as well as the need to understand the implications and consequences of the described "impossibility as a condition for opportunity," that is, the common origin from the word *hostis*, which at the same time means both the host and the enemy, and also shows the common (etymological) source of hospitality and hatred.

In connection with the foreigner being "captured" in the contract, Derrida[50] asserts the "foreigner" is perceived in the prescribed field of ethics or ethos, objective morality, especially in the context of Hegel's philosophy of law in the context of the trinity of family, civil society and the state. He also warns that today's society is changing, especially

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48 Derrida, "Hostipitality," 14.
49 Ibid.
50 Derrida, *Of Hospitality*.

with the possibility of the invasion of the "foreign" in ways that, according to the described understanding of the foreign, are not conventional. The author directly stresses the telephone, the internet, the fax, which bring "foreign information" in the safe areas of the community. How to distinguish between hostile and acceptable? How to re-define thresholds of homes, societies that are related to hospitality? If the state uses censorship, control, ban, even if only in the public areas, any element of hospitality is interrupted, if not destroyed.[51] "The perversion and pervertibility of this law (which is also a law of hospitality) is that one can become virtually xenophobic in order to protect or claim to protect one's own hospitality, the own home that makes possible one's own hospitality."[52]

The desire to be the masters of our own home, turns the acceptance of those who do not bow to our own conditions of hospitality as hostile ones, as they turn us hostages in our own homes. The law of hospitality is namely so paradoxical and corrupt at the same time, as the exchange between unconditional hospitality and power play intertwine in its implementation. There is no hospitality without sovereignty, but any choice or exclusion of a guest is already considered violence against the newcomer. It is possible to say that injustice begins at the threshold of the right of hospitality granted (to foreigners) by the state with laws that are increasingly invading the private sphere, which, on the basis of certain parameters, enable distinguishing between hospitality and parasitism. Thus, the ethics of hospitality can always be recognized as paradoxical, a priori limited and contradictory.

Striving for *The* Impossible

Consolidating the restriction of hospitality, its definitive determination, is essentially a violent contradiction, which is applicable to hospitality precisely by the law of hospitality. As such, this law is the law of space, the law of preserving identity (of the master), the preservation of the truth of the authority, which sets "being-oneself in one's own

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51 Ibid., 51.
52 Ibid., 53.

home" as the condition for gift and hospitality.[53] This is the principle (Derrida calls it aporia) of constitution and self-deconstruction or implosion of the concept of hospitality.

> Hospitality is a self-contradictory concept and experience which can only self-destruct (put otherwise, produce itself as impossible, only be possible on the condition of its impossibility) or protect itself from itself, auto-immunize itself in some way, which is to say, deconstruct itself – precisely – in being put into practice.[54]

Derrida embarks on the unfolding of contradictions in which he always finds himself when trying to talk about hospitality or trying to thematise it phenomenologically, speculatively, theoretically or philosophically, and every time he also offers hospitality. On one hand, he recognizes the existence, presence and tendency of a culture of hospitality, which is about the willingness to accept, being apparent from the welcoming apparatus of every culture – Derrida even claims that no culture would be a culture if it were not a culture of hospitality. He concludes: "Hospitality therefore presupposes waiting, the horizon of awaiting and the preparation of welcoming: *from life to death*."[55] On the other hand, hospitality also requires readiness for unpreparedness, readiness to be overwhelmed, surprised. If hospitality is offered out of habit, following a predisposition, according to character, then there is no merit for hospitality, nor there is any acceptance of the other as other. Even if hospitality is offered out of duty, we cannot talk about hospitality, as acceptance can only be performed without "having to," only in this way it is possible to say "yes" to an absolutely unpredictable unknown.

Hospitality needs to be incomprehensible; it owes itself to be ungraspable, not only for the sake of maintaining its own openness, but also for the fact that each concept in hospitality opens its own opposite, thus establishing the same contradictory attitude of hospitality as it becomes hospitable to the other that ceases to be that. Thus, it is possible to realize how hospitality allows the exit from the classical dialectics of

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53 Derrida, "Hostipitality," 4.
54 Ibid., 5.
55 Derrida, *Acts of Religion*, 361.

negativity. "Hospitality – if there is any – must, would have to, open itself to an other that is not mine, my *hôte*, my other, not even my neighbor or my brother".[56] With this kind of conceptualization, the concepts are established, or better, are highlighted from the ordinary order, therefore, the experience of hospitality can be labelled as a possibility of hospitality, as an experience of the impossible.

> Hospitality – this is a name or an example of deconstruction. (...) Hospitality is the deconstruction of the at-home; deconstruction is hospitality to the other, to the other than oneself, the other than 'its other,' to an other who is beyond any 'its other'.[57]

Just as the other is shown beyond the otherness of something or someone, so is the ethics that is established beyond politics, but still within it.[58]

> We do not know what hospitality is. Not yet.
> Not yet, but will we ever know? Is it a question of knowledge and of time?[59]

Derrida connects such a contradictory declaration with achrony or basic anachronism, especially on the basis of the "not yet" statement, which suggests a different experience, another dimension of space and time. So, it is not that "we do not know what hospitality is," as we will know it tomorrow or eventually, but it concerns some other "not yet" of other two reasons. The first one is that when we talk about the system of rights, international law, a political system (for example as Kant), which determines the conditions of hospitality, we talk about the ideal to which we strive, the regulatory idea that is the principle of cosmopolitics. The history of this declaration shows that we are not yet achieving this ideal, that is, the ideal that would be beyond the universal right of a European citizen, and we understand that it is to be sought in the future.

Another reason for the "not yet" understanding of hospitality is the dimension of the future of the latter: what is yet to come, what has been called to come, called with hospitality. Hospitality maintains the

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56 Ibid., 363.
57 Ibid., 364.
58 See Derrida, "Hostipitality."
59 Ibid., 6.

essential relationship with what is open, with what has been called to come. According to Derrida,[60] we still do not know what hospitality is because we do not yet know who or what will arrive. The experience of hospitality comes from the future, from being present at the arrival, from the "not yet" crossing of the threshold: calling the other, inviting, enabling the arrival, good arrival, acceptance, greetings, mutual greetings as an expression of welcome. "What is called hospitality, which we do not yet know, is what is called."[61] Each call assumes the approach: with the welcome call we invite the newcomer to enter and finish his or her arrival, which means that the welcome call is also the act of naming the newcomer a guest.

It is the aporias that enable the experience of hospitality (and what can be denoted as paradoxical) and also establish the possibility of responsibility of hospitality, as hospitality would not even have the option of arriving and welcoming otherwise. At the beginning of one of the seminars on hospitality, Derrida questions whether it is possible to reach any conclusion in the discussion on hospitality without encountering any of the aporias, without actually thinking of "*the* impossible:"

> It is though hospitality were the impossible, as though the law of hospitality defined this very impossibility, as if it were only possible to transgress it, as though *the* law of the absolute, unconditional, hyperbolical hospitality, as though the categorical imperative of hospitality commanded that we transgress all the laws (in the plural) of hospitality, namely, the conditions, the norms, the rights and the duties that are imposed on hosts and hostesses, on the men and women who give a welcome as well as the men and women who receive it. And vice versa, it is as though the laws (plural) of hospitality, in marking limits, powers, rights, and duties, consisted in challenging and transgressing the law of hospitality, the one that would command that the 'new arrival' be offered an unconditional welcome.[62]

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60 Ibid., 11.
61 Ibid.
62 Derrida, *Of Hospitality*, 75, 77.

The Desire for Unconditional Hospitality

In spite of uncertainties and open questions, however, Derrida clearly expresses his propensity for unconditional hospitality, which is supposed to be non-discriminatory not only for people, but for all beings and things, namely, everything that arises:

> Let us say yes *to who or what turns up*, before any determination, before any anticipation, before any *identification*, whether or not it has to do with a foreigner, an immigrant, an invited guest, or an unexpected visitor, whether or not the new arrival is the citizen of another country, a human, animal, or divine creature, a living or dead thing, male or female.[63]

Nevertheless, as long as hospitality is enabled on the basis of national laws, Derrida warns that it will always be limited. "Hospitality is due to the foreigner, certainly, but remains like the law, conditional, and thus conditioned in its dependence on the unconditionality that is the basis of the law."[64]

"[H]ospitality is infinite or it is not at all; it is granted upon the welcoming of the idea of infinity, and thus of the unconditional," says Derrida.[65] He establishes that hospitality assumes "'radical separation' as experience of the alterity of the other, as a relation to the other."[66] The possibilities of accepting the idea of infinity are named intentionality, perception, presumably demonstrated as attention to speech, a welcome to a new face, hospitality, but certainly not thematization. What is interesting is the opposite view, as Derrida notes that thematization, "*the* impossible" of hospitality, presupposes the latter, moreover, it also presupposes the welcome, the intentionality and the face. For intentionality, he claims, is conditioned precisely by accepting a face which we call hospitality. Regarding the mentioned reciprocity, the author calls for the clarification of hospitality through the phenomenology of intentionality, which nevertheless renounces thematization where necessary. Such a mutation, a paradoxical heterogeneity, was introduced

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63 Ibid., 77.
64 Ibid., 71.
65 Derrida, *Adieu*, 48.
66 Ibid., 46.

into phenomenology by the ethics of hospitality. Without understanding the meaning of "interruption of the self" that is, the interruption of selfhood with selfhood as the other, one cannot understand hospitality, claims Derrida.[67]

> [I]ntentionality opens, from its own threshold, in its most general structure, as hospitality, as welcoming of the face, as an ethic of hospitality, and, thus, as ethics in general. For hospitality is not simply some region of ethics, let alone (...) the name of a problem in law or politics: it is ethicity itself, the whole and the principle of ethics.[68]

The discourse of aporetics of hospitality either leads to the conclusion that hospitality is always conditioned, never unconditional, and thus not necessarily ethical, which justifies the abandonment of any persistence in the ethics of hospitality, or it presents a challenge for further discussion and exploration of the possibility of realizing exactly "*the* impossible," the realization of unconditional hospitality which would lead to ethical coexistence.

> If we do not know what hospitality is, it is because this thing which is not something is not an object of knowledge, nor in the mode of being-present, unless it is that of the law of the should-be or obligation, the law of hospitality, the imperative of which seems moreover contradictory or paradoxical.[69]

In order to secure the future of humankind, the gesture of renouncing the absolute and the domination is necessary, a gesture that turns reason into hospitality. It is necessary to invent a different logic, to listen to other, different speeches, thoughts and actions. It must be ascertained how to communicate without destroying values, oneself or the other.

Is it not precisely the ethics of hospitality that enables learning while accepting the unknowable, the infinite, the incomprehensible? Is it really radical and hyperbolic because of its unconditionality? This seems to be the case until it is labelled as radical in a political sense, where unconditional hospitality implies an explicit threat to an individual and / or society, however, this threat is always only potential. And yes, the

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67 Ibid., 52.
68 Ibid., 50.
69 Derrida, "Hostipitality," 10.

ethics of hospitality can be also named hyperbole, insofar as it strives to go beyond the existing limited definitions of hospitality, since it is possible through the aspiration to the "beyond," away from the known, to accept and recognize transcendence. It is possible to say, that the ethics of hospitality has to be a hyperbole.

Hospitality, if there is such a thing, is not only an experience in the most enigmatic sense of the word, which appeals to an act and an intention beyond the thing, the object, or present being, but is also intentional experience which proceedes beyond knowledge toward the other as absolute stranger, as unknown, where I know that I know nothing of him (...). It is doubtless necessary to know all that can be known of hospitality, and there is much to know; it is certainly necessary to bring this knowledge to the highest and fullest consciousness possible, but it is also necessary to know that hospitality gives itself, and gives itself to thought beyond knowledge.[70]

The Final Commitment to Hospitality

Even Derrida himself, after all, despite persisting in advocating "*the* impossible" perspective of hospitality, strives for the unconditional "yes." One of the most expressive excerpts which especially intimately addresses the reader is the section where Derrida directly connects hospitality and ethics which are, in his words, basically inalienable, inseparable.

"To cultivate an ethic of hospitality" – is such an expression not tautologous? Despite all the tensions or contradictions which distinguish it, and despite all the perversions that can befall it, one cannot speak of cultivating an ethic of hospitality. Hospitality is culture itself and not simply one ethic amongst others. Insofar as it has to do with the *ethos*, that is, the residence, one's home, the familiar place of dwelling, inasmuch as it is a manner of being there, the manner in which we relate to ourselves and to others, to others as our own or as foreigners, *ethics is hospitality*; ethics is so thoroughly coextensive with the experience of hospitality.[71]

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70 Ibid., 8.
71 Derrida, *On Cosmopolitanism*, 16–17.

Ethics therefore is hospitality. From the aforementioned Derrida's reflection, one needs to emphasize the author's integration of ethics, hospitality and culture based on the fact that all three can be cultivated, or that all three of them are certainly cultivated already just by being, by existing. From this it can also be assumed that their existence as cultivation is foremost a certain tendency and activity that keeps them in constant movement, in breathing.

Ethical action, respect for the other as coexistence is always a kind of acceptance, affirmation, a welcome for the other. Thus, the hospitality that is an appropriate foundation for ethics can, according to Derrida even immanently, be perceived as a dynamic intersubjective relationship based on mutual acceptance and responsibility. The fact that this is a relationship between a guest and a host indicates the asymmetry of a hospitable relationship, which does not preclude its reciprocity and does not prove its unidirectionality. In a hospitable relationship the host does not assume all the responsibility for this relationship, responsibility is also assumed by the guest: it is the responsibility of accepting the hospitality offered.

Derrida undermines the ontological foundation of asylum which is known as being conditioned by state policies and thus achievable only in the pursuit of the established processes of identification and adaptation, assimilation. Doing so, he offers an opportunity to understand the importance of the desire to find ways for new foundations, which, arising from hospitality as "*the* impossible," would lead to diverse openings in search of new, ethical asylum policies, intentionally oriented toward welcoming, even unconditionally, of the unknown, the upcoming.

Bibliography

1. Arendt, Hannah. "The Decline of the Nation-State and the End of the Rights of Man." In *The Origins of Totalitarianism*, 267–302. A Harvest Book. San Diego, New York and London: Harcourt Brace & Company, 1973.
2. Benveniste, Émile. *Le vocabulaire des institutions indo-européennes*. Paris: Les Éditions de Minuit, 1969.

3. Claviez, Thomas, ed. *The Conditions of Hospitality: Ethics, Politics, and Aesthetics on the Threshold of the Possible*. Perspectives in Continental Philosophy. New York: Fordham University Press, 2013.
4. Critchley, Simon. *The Ethics of Deconstruction: Derrida and Levinas*. 3rd edition. Edinburgh: Edinburgh University Press, 2014.
5. Derrida, Jacques. *Monolingualism of the Other: Or the Prosthesis of Origin*. Translated by Patrick Mensah. Stanford: Stanford University Press, 1998.
6. Derrida, Jacques. *Adieu to Emmanuel Levinas*. Translated by Pascale-Anne Brault and Michael Naas. Meridian. Stanford, California: Stanford University Press, 1999.
7. Derrida, Jacques. "Hostipitality." Translated by Barry Stocker and Forbes Morlock. *Angelaki: Journal of the theoretical humanities* 5, no. 3 (2000): 3–18.
8. Derrida, Jacques. *Of Hospitality: Anne Dufourmantelle Invites Jacques Derrida to Respond*. Translated by Rachel Bowlby. Stanford: Stanford University Press, 2000.
9. Derrida, Jacques. *On Cosmopolitanism and Forgiveness*. Translated by Mark Dooley and Michael Hughes. Thinking in Action. London and New York: Routledge, 2001.
10. Derrida, Jacques. *Acts of Religion*. Edited and introduction by Gil Anidjar. New York and London: Routledge, 2002.
11. Derrida, Jacques. *The Politics of Friendship*. Translated by George Collins. 2nd edition. Radical Thinkers. London and New York: Verso, 2005.
12. Derrida, Jacques. *L'animale che dunque sono*. Translated by Massimo Zannini. 2nd reprint. Filosofia. Milano: Jaca Book, 2014.
13. Kant, Immanuel. "Perpetual Peace: A Philosophical Sketch." In *Political Writings*, 93–115. Cambridge Texts in the History of Political Thought. 2nd ed. Cambridge: Cambridge University Press, 1991.
14. Kearney, Richard and Kascha Semonovitch, eds. *Phenomenologies of the Stranger: Between Hostility and Hospitality*. Perspectives in Continental Philosophy. New York: Fordham University Press, 2011.
15. Levinas, Emmanuel. *Totality and Infinity: An Essay on Exteriority*. Translated by A. Lingis. Reprint. Den Hagg, Boston and London: Martinus Nijhoff Publishers, 1979.
16. Rosello, Mireille. *Postcolonial Hospitality: The Immigrant as Guest*. Stanford: Stanford University Press, 2001.
17. Wortham, Simon Morgan. *The Derrida Dictionary*. London and New York: Continuum, 2010.

A SHORT ESSAY ON STATELESSNESS AND COSMOPOLITAN CITIZENSHIP

Klaus-Gerd Giesen

According to the Missing Migrants Project of the International Organization for Migration, 3,139 people died in 2017 while trying to cross the Mediterranean Sea[1]. Very likely, this year (2018) the terrible situation will not be much better. Among the victims are many children and teenagers. The adults who survive and who, in addition, wish to seek asylum have different options upon the arrival on the shores of the European continent: depending on their country of origin and their personal situation, they may introduce a request for asylum based on their real identity, or they may want to hide it, because for citizens of many states, the probability of asylum being granted is very low in most EU member states. Thus, they carry falsified identity papers of another country, of which they claim to be a citizen, hoping that this will raise their chance to be permanently tolerated on the territory of a European state. Or they destroy all their identity papers and refuse to disclose their nationality in order to be more or less sure not to be deported back to their country of departure. Indeed, in these cases the authorities of the arrival state do not know to which country to deport them. In other words: they claim to be stateless (while they are actually just "undocumented"). Even if this is not true, it demonstrates that under rare and very special circumstances statelessness may be a valuable resource.

The same applies to some to the superrich people of the world. In order to avoid income and / or inheritance taxation they sometimes choose to reside in a so-called fiscal offshore paradise, while at the same time getting rid of their original citizenship without adopting a new one. Since for instance the United States of America oblige all their nationals – wherever they live in the world – to declare their wealth and income,

[1] "Missing Migrants Project," International Organization for Migration, accessed September 2, 2018, http://missingmigrants.iom.int/.

and to possibly pay taxes in the United States, it motivates some to seek "fiscal asylum" based on what may be labeled "fiscal statelessness".

However, the overwhelming majority of about 12 million stateless people in the world perceive their status not as a privilege or as a chance, but as damnation. According to Article 1 of the 1954 Convention Relating to the Status of Stateless Persons, a stateless person is one "who is not considered as a national by any State under the operation of its law". There are a variety of reasons which can lead to statelessness: in most situations, it is the result of discrimination. Number of states – such as Latvia for example – define citizenship according to ethnic criteria, which is legal, even according to international law, but may lead to the exclusion of large groups, and thus violates international laws against discrimination. In other cases, statelessness is the result of state succession: some people become stateless when their state ceases to exist, or when the territory in which they live falls under the control of another state. This was possible when the Soviet Union collapsed, and also in some cases after the violent disintegration of Yugoslavia and the partition of Ethiopia. It is true that according to the legal definition of a stateless person, only states can have nationals. Therefore, people who are "citizens" of a territory which is diplomatically not recognized by any state or just by one other state (which is for instance the case of the Turkish Republic of Northern Cyprus, or of Puntland) are officially also stateless. These include, for example, inhabitants of occupied territories in which statehood has ceased to exist or has actually never arisen. The Palestinian territories and Western Samoa are prominent examples.

Another example is the conflict of law: a person who does not have either parent entitled to obtain citizenship through *jus sanguinis* may in some cases be stateless at birth if he or she is born in a state that does not recognize *jus soli*. For example, in Canada *jus sanguinis* is only recognized for the first generation of children, not for the second generation. One last possibility is that there are a number of countries in the world that do not grant equal rights to women in the transmission of their nationality. This can lead to statelessness if the father is stateless or otherwise unable to transmit nationality.

The empirical situation is further complicated because the United Nations Higher Commissioner for Refugees (UNHCR) – under its

world-wide mandate for the identification, prevention, and reduction of statelessness as well as for the international protection of stateless persons – does not report refugee populations in its statistics on statelessness in order to avoid double counting. It is argued that it would affect the total number of involved persons. Thus, stateless refugees are counted as refugees, not as stateless people. For a similar reason, Palestinian refugees considered under the mandate of the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) are not shown in the UNHCR statelessness table. Instead, they are referred to in a different statistical category in UNHCR's reporting. All together, we can see that "statelessness is […] a negative term in that it denotes the personal loss of membership and hence, the incapability to be recognized as member of a political community. In other words, it refers to the loss of a political identity[2]. We can possibly add

> persons who are *de facto* stateless [but] often *have a nationality* according to the law, but this nationality is not effective or they cannot prove or verify their nationality. *De facto* statelessness can occur when governments withhold the usual benefits of citizenship, such as protection, and assistance, or when persons relinquish the services, benefits, and protection of their country. Put another way, persons who are de facto stateless might have legal claim to the benefits of nationality but are not, for a variety of reasons, able to enjoy these benefits. They are, effectively, without a nationality.[3]

Famously, Hannah Arendt, herself stateless between 1937 and 1951, argued in 1951 in her opus magnum *The Origins of Totalitarianism* that the stateless person does not have the right to have rights, since with the loss of the nationality there is no legal authority which guarantees even the basic human rights to the stateless person. According to her, "the internment camp […] was the only 'country' the world had to offer the stateless".[4]

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[2] Tania Mancheno, "Between Nomos and Natality. Hannah Arendt on the 'stateless'-condition," *Ausgabe* 1 (2016): 110–130, http://www.hannaharendt.net/index.php/han/article/viewFile/347/476.

[3] David Weissbrodt and Collins Clay, "The Human Rights of Stateless Persons," *Human Rights Quarterly* 28:1 (2006), 245–276.

[4] Hannah Arendt, *The Origins of Totalitarianism* (San Diego: Harvest Book, 1973 [1951]), 1186.

However, this is not correct anymore, as at least international law has considerably developed in this field over the last decades. In 1954, the United Nations adopted the above-mentioned Convention Relating to the Status of Stateless Persons. It set out a number of rights that stateless persons should enjoy. The Convention became the foundation for an international protection regime for stateless persons. It is, however, rather disappointing that today only 86 states – not even half of all existing states – are party to the convention. Thus, the reality of statelessness continues to be very tough for stateless people.

In what follows it will be tried to demonstrate that the diverse situations of stateless people may be conceptualized as not even reaching the *minimum* level of cosmopolitan citizenship rights in the Kantian sense (which is far below the level of rights provided by national citizenship), and that not only a world-wide ban on the denaturalization of citizen by their state should become an ethical and legal norm, but also the systematic attribution of nationality to all stateless persons in the world.

Immanuel Kant has been one of the first major philosophers since the ancient Greek who extensively conceptualized cosmopolitanism. Kant's cosmopolitan law *stricto sensu* is outlined in the third Definitive Article of his *Perpetual Peace* (1795) and §62 of the *Metaphysics of Morals* (1797). While the first Definitive Article of *Perpetual Peace* and §51 of the *Doctrine of Right* deal with the internal, constitutional form of the state, claiming that it should be republican in order to make it as peaceful as possible (the axiom of the so-called "Democratic Peace"), the second Definitive Article of *Perpetual Peace* and §§53-61 of the *Doctrine of Right* aim to lay out the normative foundations of the relations between states, including just war principles and the ultimate *telos* of a worldwide *foedus pacificum*[5]. Significantly, the question of cosmopolitan citizenship is dealt with in the third Definitive Article of *Perpetual Peace* and §62 of the *Doctrine of Right*, both devoted to the cosmopolitan law (i.e., the relations between domestic individuals on the one hand, and foreign peoples [*Völker*] and foreign individuals on the other).

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[5] Klaus-Gerd Giesen, *L'éthique des relations internationals* (Bruxelles: Bruylant, 1992), 166–176.

It should be underlined that the very base of the cosmopolitan law is, thus, the regulation of connections between individuals and peoples, not between states. The reason seems rather obvious: we should, indeed, not forget that the number of states in the international system of the second half of the eighteenth century was rather limited, as most parts of the world were either not yet "discovered" by the Europeans (for instance inner Africa) or else colonized by them. The validity of the second Definitive Article is hence confined mainly to the relations among European states, while the *ius cosmopoliticum* becomes a construction based on individuals and peoples. Thus, if we want to clarify the status of cosmopolitan citizens, the focus must be exclusively on the third Definitive Article of *Perpetual Peace* and on §62 of the *Metaphysics of Morals*. However, it must be underlined that Kant's cosmopolitan citizenship is a *minimum* level of rights for any person in the world. Many recent philosophers, including Jacques Derrida, have tried to develop a more generous status of hospitality for foreigners arriving on state territory. Kant's concept of cosmopolitan citizenship is taken here only in order to check if statelessness can meet its requirements.

Kant chooses a historical argumentation: his starting point is the arrival of one single individual on the territory of a foreign people (*Volk*). According to Kant, a people is, ethically speaking, always *already* sovereign, even if, from the point of view of positive law and power politics, the state has not (yet) been created. He declares: "Nature wisely separates peoples, which the will of any state ... would be to unite by ruse and violence..."[6] An additional argument that the ultimate (ethical) sovereignty is embedded in the people, not in the state, lies in the fact that the issue is tackled in the last Definitive Article of *Perpetual Peace* and the first paragraph of the *Doctrine of Right*, both explicitly presented as the final achievements of the two works. State sovereignty merely derives from the original sovereignty of the people. Such an interpretation of Kant's thought avoids, thus, today's common divide between globalists (Beitz, Pogge, etc.) and communitarians (Walzer, Taylor, etc.) by introducing the concept of people – rather than of state – as the key to cosmopolitan law.

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6 Immanuel Kant, *Zum ewigen Frieden* (Berlin: Akademie Ausgabe, 1795), 368.

The earth being a "*globus terraqueus*" that territorially cannot be extended, no people has *a priori* more rights than any other to live on a specific part of the planet's surface. Since there is a "*Gemeinschaft des Bodens*" (community of the [earth's] land), which is not a community of possession (*communio*), each people must respect the others' sovereignty over the land (Kant 1797, 352 [§62]).

Kant strongly believed that it should be permissible for an individual to initiate a first contact with individuals of a foreign people: it is "the right of a stranger not to be treated as an enemy when he arrives in the land of another [people]."[7] However, once the contact is established, the situation changes: after having offered sociality (*Gesellschaft*) to the people they are visiting, the "incomers" can be sent away and further contact can be declined, except if this would lead to their "fall" (*Untergang*). Here Kant introduces a special clause for political and religious refugees, probably having in mind the fate of the many Huguenots in East Prussia of his time. Visitors enjoy the cosmopolitan right to stay as long as they are threatened in their home country and as long as they behave peacefully. Otherwise, hospitality, the very base of Kant's cosmopolitan law, does not imply the right to be a permanent guest (*Gastrecht*). In addition to asylum, there are two other scenarios: first, the right of an individual not to be treated malevolently upon arrival and to *offer* his sociality (an offer that can be refused); second, the right to commerce, as strictly confined to the establishment of intercommunications for trade purposes (for instance, in ports such as the former Königsberg). This liberal bias was certainly influenced by his best friend, the English trader Joseph Green, but possibly even more by the Scottish moral philosopher Adam Smith, the founder of modern economics and the father of the liberal metaphor of the "invisible hand" who had published *The Wealth of Nations* just 19 years before Kant wrote his *Perpetual Peace*. Kant claims:

In this way distant parts of the world can come into peaceable relations with each other, and these are finally publicly established by law. Thus, the

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7 Immanuel Kant, *Metaphysik der Sitten* (Berlin: Akademie Ausgabe, 1797), 352.

human race can gradually be brought closer and closer to a constitution establishing world citizenship.[8]

For all the cases that exceed these three fundamental but strictly limited rights of cosmopolitan citizenship – asylum, visits, trade – Kant makes it very clear that a "special beneficent agreement" (*besonderer wohltätiger Vertrag*) has to be arranged between the two equal parties,[9] defining the conditions of residency (*ius incolatus*).[10] In the absence of such an accord the residency of a foreigner is a moral wrong. However, we should bear in mind that put in their historical context Kant's rules were actually supposed to be a critique of colonialism[11]: according to him the European colonial powers had no right whatsoever to impose their presence upon the peoples of Africa, America and Asia.

Contrary to common understanding it is obvious that the stateless person is still member of one or several peoples (*Völker*) in the Kantian understanding (but not of any state). This means that he or she participates only indirectly in the community of the land (*Gemeinschaft des Bodens*). He or she does not have any rights attached to citizenship, and, of course, does not enjoy formal legal protection from its people, since the latter is not able to grant any. However, there may be other sort of protection of such a community. While such a human being benefits from the human rights in countries guaranteeing them (including social and economic rights provided through granted residency), this is not the case in all others. Nor does he or she enjoy any diplomatic protection which can actually be quite far-reaching for nationals living or travelling in foreign states.

It is by far not sure that the stateless person is able – as Immanuel Kant requires for the cosmopolitan citizen – to offer at least its sociality to the people they are approaching. Indeed, since the 1914-1916 era, a passport is generally required in order to *possibly* enter a foreign

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8 Kant, *Zum ewigen Frieden*, 358.

9 Ibid.

10 Kant, *Metaphysik der Sitten*, 353 [§62].

11 Klaus-Gerd Giesen, "Asian Hospitality in Kant's Cosmopolitan Law," in *Cultivating Personhood: Kant and Asian Philosophy,* ed. Steven Palmquist (Berlin and New York: de Gruyter, 2010), 753–763.

country, except for asylum request.[12] The documents issued to stateless people by UNHCR do not provide any similar legal situation. In the age of heavily restricted migration, passport control seems nowadays to be a natural prerogative of the state. Therefore, statelessness neither meets the first mentioned Kantian criteria to be a cosmopolitan citizen, nor the third one (trade).

At the same time, the last Kantian minimum standard – political asylum – can be met. Indeed, stateless people may ask any given country for protection (we should not forget that to them *all* states are foreign), if sending them away would lead to their "fall" (*Untergang*). As mentioned above, statelessness may even provide an advantage, as it is not possible to send them back to their home country since they don't have one. The same is true for illegal entry into a country.

Altogether, the status of a stateless person meets only one of the three Kantian criteria for the minimum standard of the cosmopolitan citizen. It is way below and must be raised to *at least* that minimum level of protection. In addition, a world-wide ban on the denaturalization of citizens by their state should become an ethical and legal norm, but also the systematic attribution of nationality to all stateless persons in the world.

Unfortunately, in the recent years the historical movement has been going rather the other way. The Trump administration ruling the United States of America has organized a special Citizenship and Immigration Services Task Force which aims at denaturalizing U.S. citizens. It is the first effort of mass denaturalizing contemplated since the McCarthy era. In a recent contribution to the *Washington Post*, Michael Anton, who is a former national security official, even proposed to get rid of birthright citizenship: "It falls, then, to Trump. An executive order could specify to federal agencies that the children of noncitizens are not citizens."[13] This means that U.S. citizenship could be revoked by a simple executive order. President Donald Trump himself suggested on

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[12] Speranta Dumitru, "Un monde sans passeports serait-il utopique?," in *Migrants, Migrations,* ed. Hélène Thiollet (Paris: Armand Colin, 2016), 59–61.

[13] Michael Anton, "Citizenship shouldn't be a birthright," *The Washington Post*, July 18, 2018.

CNN television network something quite similar.[14] For the time being, it is only possible for someone to lose his or her U.S. citizenship if it can be shown that he or she acquired it fraudulently (as demonstrated in the famous Demjanjuk case). Today, the Trump administration aims at deporting people for offenses or crimes they committed before they became citizens but did not disclose on their application forms. In some other Western countries similar efforts are envisioned.

One of the most famous of the *anonymous* fiction writers, B. Traven (alias Ret Marut and / or Otto Feige), himself stateless for many years, perhaps drew a better picture of statelessness than any academic philosopher. The plot of his novel *Das Totenschiff*[15] (Traven 1926) takes place after World War I and describes the predicament of merchant seamen who lack documentation of any citizenship, which leads to the fact that they cannot find legal residence or employment in any nation. The narrator is Gerard Gales, a sailor who claims to be from New Orleans, and who is stranded in Antwerp, Belgium, without passport or other legal papers. Since he is unable to prove his identity or his eligibility for employment, Gales is repeatedly arrested and deported from one country to the next. Finally, he manages to find work on the *Yorikke*, the dangerous and decrepit ship of the book title (translated into English as *The Death Ship*), where undocumented workers from all over the world are treated as expendable slaves. That definitely is a highly interesting plot when compared to today's migrants crossing the Mediterranean Sea on extremely dangerous boats and under severe weather conditions: dying by the thousands and, if not, often treated as cheap labour force upon arrival.

Bibliography

1. Anton, Michael. "Citizenship shouldn't be a birthright." *The Washington Post*, July 18, 2018.

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[14] "Transcripts 20 August 2015," CNN, accessed September 2, 2018, http://edition.cnn.com/TRANSCRIPTS/1508/20/es.02.html.

[15] B. Traven, *Das Totenschiff. Die Geschichte eines amerikanischen Seemanns* (Berlin: Büchergilde Gutenberg, 1926).

2. Arendt, Hannah. *The Origins of Totalitarianism*. San Diego: Harvest Book, 1951 [1973 edition].
3. CNN. "Transcripts 20 August 2015". Accessed September 2, 2018. http://edition.cnn.com/TRANSCRIPTS/1508/20/es.02.html,
4. Dumitru, Speranta. "Un monde sans passeports serait-il utopique?" In *Migrants, migrations*, edited by Hélène Thiollet, 59–61. Paris: Armand Colin, 2016.
5. Giesen, Klaus-Gerd. *L'éthique des relations internationales*. Bruxelles: Bruylant, 1992.
6. Giesen, Klaus-Gerd. "Asian Hospitality in Kant's Cosmopolitan Law." In *Cultivating Personhood: Kant and Asian Philosophy*, edited by Steven Palmquist, 753–763. Berlin and New York: de Gruyter, 2010.
7. International Organization for Migration. "Missing Migrants Project." Accessed September 2, 2018. http://missingmigrants.iom.int/.
8. Kant, Immanuel. *Zum ewigen Frieden*. Berlin: Akademie Ausgabe, 1795.
9. Kant, Immanuel. *Metaphysik der Sitten*. Berlin: Akademie Ausgabe, 1797.
10. Mancheno, Tania. "Between Nomos and Natality. Hannah Arendt on the "stateless"-condition." *Ausgabe* 1 (2016): 110–130. http://www.hannaharendt.net/index.php/han/article/viewFile/347/476.
11. Traven, B. *Das Totenschiff. Die Geschichte eines amerikanischen Seemanns*. Berlin: Büchergilde Gutenberg, 1926.
12. Weissbrodt, David and Clay Collins. "The Human Rights of Stateless Persons." *Human Rights Quarterly* 28, no. 1(2006): 245–276.

REFUGEES AND THE HUMAN RIGHT TO SEEK ASYLUM: TO DEROGATE OR NOT TO DEROGATE, THAT IS THE QUESTION

Barbara Gornik

To repeal or abrogate in part, to destroy and impair the force and effect of, to lessen the authority of, take away or detract from, deteriorate, diminish, depreciate; it also means to curtail or deprive a person of any part of his rights.

Derogation is a partial abrogation or repeal of a law, contract, treaty, legal right etc.[1]

(on derogation)

Introduction

In 2015 the Republic of Slovenia became one of the countries along the Balkan refugee route. The first minor increase of migration movement was noted in September 2015 when 2,500 migrants crossed the territory. Hungarian closure of green borders in October that year precipitated redirection of the route to Slovenia, which resulted in 326,956 refugees crossing Slovenia between 20 October and 15 December 2015 alone.[2] The situation in the country resembled a state of emergency; the government activated its entire national security system, including

[1] I would like to thank dr. Neža Kogovšek Šalamon for her thorough reading of the text and even more for valuable and insightful comments that helped me greatly to sharpen my arguments and improve the precision of discussion offered in this paper.

Alexander Orakhelashvili, *Peremptory Norms in International Law* (Oxford: Oxford University Press, 2006), 73.

[2] "Seznanitev Vlade Republike Slovenije s poročilom o opravljenih aktivnostih ob drugem valu migracij na ozemlje Republike Slovenije," Ministry of Internal Affairs, december 22, 2015, www.vlada.si/fileadmin/dokumenti/si/sklepi/seje_vlade_gradiva/VRS-migrant2-3_20_68.pdf.

humanitarian and civil protection organizations,[3] and commenced intensive multi-level cooperation with neighbouring countries on a daily basis in order to manage migration movement, exchange information from the field and harmonize measures. Further, 135 kilometres of razor-wire fence were installed by police, army forces, firemen and external service providers by the end of the year.[4] Shortly after, however, the Balkan route started closing. The border between Greece and Macedonia was closed at the beginning of March 2016, while the agreement between the EU and Turkey allowing the return of migrants from Greece to Turkey came into force two weeks later. The number of refugees arriving in the Republic of Slovenia dropped substantially.

Yet, one year later, on 26 January 2017, when the situation had calmed entirely, the National Assembly of the Republic of Slovenia adopted amendments to the Aliens Act, which introduced a concept of "*changed conditions in the field of migration*" in Article 10a; the new Article 10a put forward an assumption that migration can directly threaten the public order and internal security of the state, and hinder the functioning of the central institutions of the state and its vital functions. Correspondingly, new measures have been introduced with Article 10b of the Aliens Act, which stipulate that in case migration flows might have or have already seriously endangered public order or internal security of the Republic of Slovenia, then any application for international protection, irrespective of the provisions of the International Protection Act, should be rejected as inadmissible while foreigners are brought to the state border by the police and directed into the state from which the migrant illegally entered.

The Aliens Act was heavily criticized by national and international human right organizations and was submitted to the Constitutional Court for review of constitutionality of the Article 10b by the Human Rights Ombudsman.[5] Despite the fact that the Constitutional Court

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[3] Maja Ladić and Katarina Vučko, "Slovenia's response to increased arrivals of refugees: we don't want them, but we also don't understand why they don't want to stay," in *Razor-wired: Reflections on Migration Movements through Slovenia in 2015*, eds. Neža Kogovšek Šalamon and Veronika Bajt (Ljubljana: Mirovni inštitut, 2016).

[4] "Seznanitev Vlade Republike Slovenije," Ministry of Internal Affairs, 2018.

[5] "Claim for review of the constitutionality of the Article 10b of the Aliens Act," Human Rights Ombudsman, April 19, 2017, www.varuh-rs.si/fileadmin/user_upload/word/Zahteve_

has not delivered judgment to this date, the Aliens Act remains illuminating about how the right to seek asylum works in practice; by in fact codifying the state of exception (without naming it as such) in which the Republic of Slovenia is – according to the political actors at least – allowed to derogate from legally binding provisions of the 1951 UN Convention on the Status of Refugees (the Refugee Convention), the Aliens Act demarcates the defining principles of this right in practice.

The paper examines "changed conditions in the field of migration" as a situation, which offers an insight into the constitutive elements of the right to seek asylum beyond its declarative universality; that is, it turns to conditions that in the political reality of nation-states define whether or not a theoretically universal right would be implemented in practice. Following Schmitt[6], the paper maintains that "the exception proves everything. It [the exception] confirms not only the rule but also its existence, which derives only from the exception."[7] Agamben explains that the state of exception constitutes a point of imbalance between public law and political fact, which reflects the paradoxical position where juridical measures cannot be understood in legal terms and "the state of exception appears as the legal form of what cannot have legal form."[8] Such an approach to explaining the right to seek asylum can be considered ontological since it outlines its categorical and political preconditions. Nonetheless, the paper delivers basic conclusions by empirical examination, description and contextualization of the right to seek asylum within the Slovenian social, legal and political setting, specifically in relation to the recent amendments of the Aliens Act.

The paper starts with a brief description of the amendments to the Aliens Act and their impact on the legal and political standing of refugees, and examines possibilities of lawful derogation as practised in the domain of international human rights law. Further on, it takes a

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6 Despite his work is distinguished by great analytical quality, it has to be noted that Carl Schmitt is recognized as one of the most controversial political thinkers of the 20th century for his close collaboration with and contribution to theoretical background of the Nazi regime.

7 Carl Schmitt, *Political Theology: Four Chapters on the Concept of Sovereignty* (Chicago and London: University of Chicago Press, 2005), 15.

8 Giorgio Agamben, *State of Exception*, trans. Kevin Attell (Chicago and London: University of Chicago Press, 2005), 1.

critical approach to the legal interpretation of the "changed situation in the field of migration" and attempts to assess whether this situation could be understood to be equal to derogation in event of a "public emergency threatening the life of the nation", which, in contemporary international law, is recognized as a condition for a valid derogation from human rights obligations in the event of war or a public emergency to the extent strictly required by the exigencies of the situation. An assessment of the situation in Slovenia made thereafter indicates serious difficulties in considering refugees to be an imminent or actual threat to the life of a nation. Finally, the paper addresses *non-refoulement* as an exemption from the sovereign exception of the Aliens Act, which does not offer a suitable solution to the question of refugees and their right to seek asylum.

Amendments to the Aliens Act: Perspective of the Sovereign Exception

Despite differences at the national and regional levels, the overarching goal of the modern refugee regime is to provide protection to individuals who are forced to flee their homes because their countries are unwilling or unable to protect them. Slovenia has committed to respecting the right to seek asylum by joining the Refugee Convention in 1992 (by succession)[9] and again on becoming a member of the European Union in 2004.[10] In addition, in the EU pre-accession programme Slovenia expanded the scope of protection provided under the Refugee Convention by introducing humanitarian or subsidiary protection first in the Asylum Act in 2001 and then, after accession to

[9] On 6 July 1992 National Assembly of the Republic of Slovenia adopted the Act notifying succession to the United Nations Conventions and Conventions Adopted by the International Atomic Energy Agency and thereby accepted that the Republic of Slovenia is the legal successor of the international treaties signed and ratified by former Socialist Federal Republic of Yugoslavia.

[10] As a member of EU, the Republic of Slovenia accepted the Charter of Fundamental Rights of the European Union, the Treaty on European Union, the Treaty on the Functioning of the European Union, and Treaty establishing the European Community, all of which directly or indirectly refer to an obligation to respect the right to seek asylum.

the EU, also in the International Protection Act in 2008;[11] these acts included individuals who do not qualify as refugees but face a risk of suffering serious harm if returned to their country of origin.[12] Slovenian legislation also guarantees protection under the Temporary Protection of Displaced Persons Act, which is applied in the event of the arrival of large numbers of displaced persons from third countries, when the national asylum system is not able to process their applications for international protection without adverse effects on the outcome of the asylum procedures.

As a response to the refugee situation in 2015, the Slovenian government adopted amendments to the Aliens Act on 26 January 2017, which diminished the above-mentioned achievements and developments of Slovenian asylum law. The amending Act introduced a concept of "changed conditions in the field of migration" in Article 10a of the Aliens Act. The new article instructs the Ministry of Internal Affairs to regularly monitor the conditions in the field of migration, and assess whether a serious threat exists, indicating that public order or the internal security of Slovenia might be endangered. Supposing such conditions occur, the National Assembly of the Republic of Slovenia is called to decide upon the application of a measure from Article 10b of this Act, which stipulates that:

> If the National Assembly adopts a decision from paragraph 2 of the previous Article, the police do not allow entry to a foreigner who does not meet the conditions for entry, while they [the police] bring an alien [...] to the state border and direct him or her into the state where he or she illegally entered from.
>
> (2) Without prejudice to the provisions of the law which regulates international protection, the police acts *on the basis of the previous paragraphs also when an alien [...] expresses his or her intention to apply for international*

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[11] International Protection Act, adopted in 2008, succeeded the former Asylum Act, which was adopted in 1999 but introduced the subsidiary protection in 2001, at that time called asylum under humanitarian reasons.

[12] See International Protection Act; also, Council Directive 2004/83/EC of 29 April 2004 on minimum standards for the qualification and status of third-country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted.

protection. The police act this way when an alien wishes to illegally enter or has already illegally entered the territory of the Republic of Slovenia outside the border crossing with another safe European Union member state and is present at the territory [of the Republic of Slovenia] where the measure from this article is enforced. (emphasis added)

It should be stressed that the activation of Article 10b is left to the National Assembly to decide upon in the event of changed conditions in the field of migration, and therefore one must acknowledge it is legally valid but currently not in use. Nevertheless, it is exactly this article that is crucial for understanding the ontology of asylum; namely, the activation of Articles 10a and 10b by the National Assembly gives rise to denial of the right to seek asylum to foreigners who have entered Slovenian territory, and at the same time also stipulates their expulsion to the country from which they entered.

In this manner the Aliens Act creates a situation of rightlessness:[13] first, because it creates a legal channel through which the *de facto* violation of the right to seek asylum is *de jure* denied *as violation*; and, second, because it does not establish any judicial mechanism allowing individuals, confronted with this violation, to legally claim restoration of this right. This essentially means that the Aliens Act disables the legal recognition of victimhood while entirely dismissing the accountability of the state in relation to refugees as legitimate right-holders. The impact of such politics is expressed not only in specific violations of rights but, even more importantly, in creating a legal vacuum which does not allow the individual to claim their rights and renders void even the rights that he or she formally has.[14] In fact, this is, in the words of Arendt, "the fundamental deprivation of human rights [...] manifested first and

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[13] For discussion on rightlessness, cf. Hannah Arendt, *Origins of Totalitarianism* (Cleveland and New York: Meridian Books, 1976); Ayten Gündoğdu, *Rightlessness in an Age of Rights: Hannah Arendt and the Contemporary Struggles of Migrants* (Oxford: Oxford University Press, 2015).

[14] Analogously to Arendt's stateless people, refugees may also be seen as formally being granted certain rights such as the rights to life, freedom of opinion or movement, but they are in a fundamental condition of rightlessness to the extent that the prolongation of their lives is due to charity (and not to right), freedom of movement gives them no right to residence, and their freedom of opinion is void as nothing they think matters anyhow. See Arendt, *Origins of Totalitarianism*, 296.

above all in the deprivation of a place in the world which makes opinions significant and actions effective".[15]

Along these lines, the Aliens Act articulates the margins of the universality of the right to seek asylum and thereby elucidates also the perplexities of human rights in general – that is, of the rights that are, on the one hand, grounded in inherent human dignity, but are, on the other hand, in practice constrained by the logic that is contradictory to the reasoning found in the idea of human rights. What we have here is the right to seek asylum as a universal right confronted with the concept of "changed conditions in the field of migration", which works as a sovereign exception and legally allows derogation from the duties of international human rights law. The exception is crucial for understanding the ontology of asylum as it goes beyond what appears on the manifest level and exposes what asylum is contingent upon.[16]

The exception put forward in form of "changed conditions in the field of migration" points to the conditions of the existence of the right to seek asylum and discloses elements that are certainly not hidden, but are not presented explicitly to our perception as its fundamental features either. However, there is more to it: the exception in fact annihilates the inalienability of this human right, indicates the preconditions of its "universality" and pins down the essential rules of its functioning – that is, the rules that derive from the very exception. Thus, the Aliens Act strips the right to seek asylum of its neutral, apolitical and universal character and opens up a gap – a divide between the universality of the right to seek asylum and the *realpolitik* conditions of its implementation, between what people say about human rights and what they do when rights are put in practice.

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15 Ibid.

16 See Schmitt, *Political Theology*; Agamben, *State of Exception*; Ayten Gündoğdu, "Potentialities of Human Rights: Agamben and the Narrative of Fated Necessity," *Contemporary Political Theory* 11, no. 1 (2012): 2–22.

Derogation from the 1951 Refugee Convention

By suspending the obligations that would apply in ordinary circumstances, the Aliens Act announced the possibility to lawfully derogate from the Refugee Convention. One should bear in mind that there is no general inconsistency between the provisions of the Aliens Act and international law, in view of the fact that the latter acknowledges derogation as the legally mandated authority of states to allow suspension of certain individual rights in exceptional circumstances of emergency or war, which is necessary, temporary, and lawful given the state necessity of self-preservation.[17] For instance, both the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and the UN International Covenant on Civil and Political Rights (ICCPR) allow derogations from state obligations in the event of a "public emergency threatening the life of the nation", to the extent strictly required by the exigencies of the situation, in a temporary, limited and supervised manner. This means that international human rights law accepts the idea of derogations but then limits it with set of principles that constrain their scope and operation — necessity, proportionality, non-discrimination, and consistency with other obligations under international law.[18]

As stressed by Edwards,[19] it should be highlighted that the 1969 Vienna Convention on the Law of Treaties permits the suspension of conventional obligations "in conformity with the provisions of the treaty" rather than on the application of other sources of international law or general principles of "what is not forbidden is allowed" as a common principle of international law. The 1951 Refugee Convention does not include a general derogation clause comparable to other international human rights treaties; however, it contains provisions allowing derogation, as, for example, in Article 9, which provides that:

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[17] Alice Edwards, "Temporary protection, derogation and the 1951 Refugee Convention," *Melbourne Journal of International Law* 13 (2012): 19.

[18] Dominick McGoldrick, "The interface between public emergency powers and international law," *International Journal of Constitutional Law* 2, no. 2 (2004): 389.

[19] Ibid., 21.

Nothing in this Convention shall prevent a Contracting State, in time of war or other grave and exceptional circumstances, from taking provisionally measures which it considers to be essential to the national security *in the case of a particular person*, pending a determination by the Contracting State that that person is in fact a refugee and that the continuance of such measures is necessary in his case in the interests of national security. (emphasis added)

The derogation provision indicates that exceptional measures are applied individually, in the case of a *particular* person who poses a threat, and are not used against groups of individuals collectively. The argument for the individual application of the limitation of rights in the interest of national security or public order is also implied in Article 32 of the Refugee Convention, which stipulates that:

1. The Contracting States shall not expel a refugee lawfully in their territory saves on grounds of national security or public order.
2. The expulsion of such a refugee shall be only in pursuance of a decision reached *in accordance with due process of law*. Except where compelling reasons of national security otherwise require, the refugee shall be allowed to submit evidence to clear himself, and to appeal to and be represented for the purpose before competent authority or a person or persons specially designated by the competent authority.
3. The Contracting States shall allow such a refugee a reasonable period within which to seek legal admission into another country. The Contracting States reserve the right to apply during that period such internal measures as they may deem necessary.[20] (emphasis added)

and:

1. No Contracting State shall expel or return ("refouler") a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion.
2. The benefit of the present provision may not, however, be claimed by a refugee whom there are reasonable grounds for regarding as a danger to the security of the country in which he is, or who, having *been convicted by a final*

[20] The Aliens Act bypasses the rules of the Dublin procedure for it does not follow the requirement that the state responsible for processing a migrant's asylum application must formally affirm acceptance of the migrant, while returns cannot be implemented collectively or without the consent of the receiving state.

judgment of a particularly serious crime, constitutes a danger to the community of that country. (Article 33, emphasis added)

One could say that on first sight the Aliens Act is compliant with the second paragraph of Article 33 of the Refugee Convention, given that the latter does not provide protection to asylum seekers who constitute a danger to the security of the country. However, this is not true. The problem with Article 10b of the Aliens Act is that it *a priori* denies the right to seek asylum to all refugees and instructs their refoulement without examining the danger individuals might represent to the security of the country as well as without examining the potential dangers to refugees' lives or freedom or the likelihood that they would be exposed to inhuman treatment in the country to which they would be deported.

Moreover, the Aliens Act significantly departs from the Convention's safeguards put forward by ensuring equality before the law, right to fair trial and right to effective legal remedy. According to these principles, a refugee who is considered to be a threat to national security or public order must be informed about the factual basis for this allegation, and have an opportunity to respond to the government's factual assertions in a fair judicial procedure. Due process of law, mentioned in the Refugee Convention, is clear in that a fair hearing requires that the affected person is informed of the case against him or her, and is allowed to respond to it. The Aliens Act omits these requirements as it does not foresee legal procedures before the removal of refugees.

The Aliens Act similarly entirely neglects an individual approach, which is generally applied when dealing with disturbances of public order and national security threats. In other words, if violations of public order are indeed caused by some refugees, this generally would not make it a lawful reason to deport all refugees collectively. In this sense, the Aliens Act importantly breaks away from the Refugee Convention, for it does not assess the factual basis for considering an individual to be a threat to public order but regards refugees as a whole group as a threat to national security. Furthermore, the Aliens Act does not derogate from particular rights in the Refugee Convention, as is usually the case with other international human rights treaties, but rather derogates from the Refugee Convention as a whole. Hence, it also derogates from the right to seek asylum, which operates at a different level to other

human rights for it can be principally understood in terms of Arendt's notion of the right to have rights. An important implication of the Aliens Act, as previously specified, is the fact that it equates the arrival of refugees *as such* with a threat to public order and internal security.

The State of Emergency and the "Changed Situation in the Field of Migration"

As indicated in the previous section, derogation is a legally recognized technique of supervised, lawful and necessary suspension of particular international law norms and obligations, which is applied by states in exceptional circumstances. Although the Aliens Act derogates from the Refugee Convection in a way that is not consistent with the Convention, it is worth looking at derogation clauses within other legally binding legal documents to establish whether or not the Aliens Act can be regarded as being in line with international law. For instance, both Article 15 of the ECHR and Article 4 of the ICCPR specify that:

> In time of war or other public emergency threatening the life of the nation any High Contracting Party may take measures derogating from its obligations under this Convention to the extent strictly required by the exigencies of the situation, provided that such measures are not inconsistent with its other obligations under international law.[21]

The next possible step of the analysis is therefore to examine if a changed situation in the field of migration (mass arrival of refugees) could indeed be regarded as equivalent to a state of emergency as understood in international law and, consequently, could rightfully be considered by the government as a lawful argument paving the way to activating derogation from the Refugee Convection. Needless to say, the concept of the changed situation in the field of migration has no corresponding category in legal practice; however, it is possible to view it analogously to a "public emergency threatening the life of the nation", given that both refer to public order and internal security on the one hand and

[21] The wording of the derogation clause of Article 15 of the ECHR and of Article 4 of the ICCPR are almost identical.

serve as a depiction of exceptional circumstances that allow suspension of international law provisions on the other hand.

The closest we come to an explanation of the meaning of the "changed situation in the field of migration" is indirectly, through the wording of Article 10a of the Aliens Act, which declares:

(2) If the Ministry of the Interior assesses on the basis of information from authorities and institutions [...] that circumstances might have or have already occurred, when *public order* and *internal security* are endangered due to the changed situation in the field of migration, which could hinder the *functioning of the central institutions of the state* and the *working of its vital functions*, it proposes to the Government of the Republic of Slovenia to propose to the National Assembly of the Republic of Slovenia to decide upon the application of a measure from the Article 10b of this Act, for the duration of no more than six months. (emphasis added)

In international law, one definition of the public emergency threatening the life of the nation has been offered by the European Court of Human Rights (ECtHR), which defined an exceptional situation as a "crisis or emergency which affects the whole population and constitutes a threat to the organised life of the community of which the State is composed".[22] A similar characterization of a public emergency has been put forward by members of the American Association for the International Commission of Jurists in the Siracusa Principles on the Limitation and Derogation of Provisions in the International Covenant on Civil and Political Rights,[23] which concludes that a "threat to the life of the nation" is one that:

(a) affects the whole of the population and either the whole or part of the territory of the state; and

(b) threatens the physical integrity of the population, the political independence or the territorial integrity of the state or the existence or basic func-

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[22] "The case of Lawless v Ireland," ECtHR, July 01, 1961, https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-57518%22]}.

[23] "Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights," American Association for the International Commission of Jurists, April 1985, www.icj.org/wp-content/uploads/1984/07/Siracusa-principles-ICCPR-legal-submission-1985-eng.pdf.

tioning of institutions indispensable to ensure and protect the rights recognized in the Covenant.

It is important to note that according to the Siracusa Principles, internal conflict and unrest that do not constitute a grave and imminent threat to the life of the nation and economic difficulties *per se* cannot justify derogations under Article 4 of the ICCPR[24]. However, if economic circumstances may not justify a derogation, their consequences may do so, says McGoldrick, in case they create a situation of serious internal unrest.[25]

For better understanding what constitutes a threat to the life of a nation we can turn to ECtHR case law. For instance, ECtHR has recognized imminent danger to the life of a nation in the continuing unlawful activities in Northern Ireland of the IRA and various associated groups, operating from the territory of the Republic of Ireland.[26] The imminent threat was likewise recognized by the Court on the evidence, which confirmed the existence of a danger of serious terrorist attacks planned against the United Kingdom.[27] Similar conclusions were drawn in relation to Kurdish separatist violence that gave rise to a "public emergency" in Turkey[28] and the attempted military coup in Turkey in 2016.[29]

Generally speaking, in ECtHR case law public emergency normally refers to the actual or imminent inability of the ordinary law to check the growing danger which threatens the state; inability of the ordinary

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24 "Siracusa principles," 11.

25 Ibid.

26 "The case of Lawless v Ireland ECtHR; Ireland v The United Kingdom," ECtHR, January 18, 1978, https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-57506%22]}; "The case of Brannigan and McBride v the United Kingdom," ECtHR, May 25, 1993, https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-57819%22]}; "The case of Marshall v the United Kingdom," ECtHR, July 10, 2001, http://hudoc.echr.coe.int/app/conversion/docx/pdf?library=ECHR&id=001-5967&filename=MARSHALL%20v.%20THE%20UNITED%20KINGDOM.pdf&logEvent=False.

27 "The case of A. and others v United Kingdom," ECtHR, February 19, 2009, https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-91403%22]}.

28 "The case of Aksoy v Turkey," ECtHR, December 18, 1996, https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-58003%22]}.

29 "The case of Mehmet Hasan Altan v Turkey," ECtHR, March 20, 2018, https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-181862%22]}; "The case of Şahin Alpay v Turkey," ECtHR, March 20, 2018, https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-181866%22]}.

criminal courts to restore peace and order; the existence of military, secret and terrorist groups and the fear they create among the population; killings among the civilian population, destruction of property; violence and civil disorder and organized violence for political ends. Similarly, the UN Human Rights Committee (HRC) has referred to a number of situations that could, in principle, constitute a "state of emergency", including international and non-international armed conflict, a natural catastrophe, a mass demonstration including instances of violence, or a major industrial accident.[30]

Turning back to the Aliens Act, to fit the concept of the "changed situation in the field of migration" into the definition of public emergency, the government would need evidence to show that refugees in Slovenia represent a threat that is likely to cause armed conflict or to overthrow the state by illegal means, terrorism or other serious violations of public order. What could count in favour of the Slovenian government and its attempt to equate a "changed situation in the field of migration" with a public emergency, is the fact that ECtHR considers that the national authorities are in principle in a better position than an international judge to decide both on the presence of such an emergency and on the nature and scope of derogations necessary to avert it.[31] Also, the ECtHR has confirmed that a state may derogate from international law obligations under Article 15 of ECHR if the threat is *actual* or *imminent*, given that there is evidence to show the existence of a threat and that the danger is credible even though the emergency situation does not yet actually exist.[32]

Furthermore, the ECtHR considered that national authorities cannot be criticized for fearing an imminent threat if sufficient evidence of that is available to them at the time, as the requirement of imminence cannot be interpreted so narrowly as to require a state to wait for disaster to strike before taking measures to deal with it. The purpose of Article 15 of the ECHR is also, in the view of the ECtHR, to take derogating measures to protect the state's population from future risks

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30 McGoldrick, "The interface between public emergency powers", 392–3.

31 "The case of A. and others v United Kingdom," ECtHR; "The case of Aksoy v Turkey", ECtHR; "The case of Brannigan and McBride v the United Kingdom," ECtHR.

32 "Case of A. and Others v United Kingdom," ECtHR.

with reference to the facts that are known at the time of the derogation. However, this does not mean that governments can activate a derogation clause in any given circumstance; on the contrary, governments have to prove, based on evidence, not only that there is an imminent or actual threat, but also that derogation is applied as the last resort and only because there is no other means that could reasonably be expected to safeguard public order and national security.[33]

Refugees as an Actual or Imminent Threat to Life of a Nation

Despite the fact that the ECtHR allows a wide margin of appreciation in deciding whether the life of a nation is threatened by a public emergency and, if so, how far it is necessary to go in attempting to overcome the emergency, it is for the Court to rule on whether a state has gone beyond the "extent strictly required by the exigencies" of the crisis and whether the derogation was valid.[34] In the same vein, the United Nations Human Rights Committee argued that the "measures derogating from the provisions of the Covenant must be of an exceptional and temporary nature"[35] in order to avoid the derogation measures being taken under the pretext of the existence of a "public emergency which threatens the life of the nation" or "threats to its national security".[36] Derogation must thus correspond to the needs of the situation and be used only insofar as the government cannot keep public institutions functioning more or less normally by using means available under ordinary legislation.

It is true that the increased arrival of refugees can pose a security challenge to state authorities. But can we also accept as true that a group of unarmed and defenceless refugees represents an actual or imminent threat to the physical integrity of the population in the state of

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[33] Christoph Schreuert, "Derogation of Human Rights in Situations of Public Emergency: The Experience of the European Convention on Human Rights," *Yale Journal of International Law* 9 (1982), http://digitalcommons.law.yale.edu/yjil/vol9/iss1/6.

[34] Ibid.

[35] "CCPR General Comment No. 29: Article 4: Derogations during a State of Emergency," UN Human Rights Committee (HRC), August 31, 2001, www.refworld.org/docid/453883fd1f.html.

[36] "Siracusa Principles," 3.

their arrival? Or to the political independence and territorial integrity of that state? Or to the existence and basic functioning of that state's institutions? In the Contingency Plan of the Republic of Slovenia to Ensure the Accommodation and Supply in Case of Increased Number of Applicants for International Protection, the government indicated that the necessary measures would involve organizational measures, such as the appointment of an interdepartmental coordination group of the Government of RS, activating the national system of protection against natural and other disasters, allocating additional financial resources, providing additional staff, ensuring the daily presence of professional civil servants (social services, medical services), operational service (acceptance of applications), providing legal guardianship (training for legal representatives), translators, NGOs, local community organizations and volunteers.[37]

These measures clearly imply that the arrival of refugees is different to the situation of a public emergency threatening the life of nation in which the "threatening elements" – for example, terrorists, political opponents, dissidents, insurgents, rioters and similar – are typically dealt with by policies of control, detention and removal, rather than through the assistance of social services, NGOs, local community organizations and volunteers. Despite the fact that refugees put a certain amount of pressure on the working of the police, courts, schools, social services, national economy and so on, the challenges they pose to the government are qualitatively incongruent with the threat to the life of a nation, which, as previously explained, had been recognized in ECtHR case law in matters referring to terrorist activities, attempts to overthrow governments, killings among the civilian population, destruction of property and so on.

The problem with understanding the large arrival of refugees in terms of a threat to the life of a nation also arises from the fact that, as seen from the Aliens Act, the possible impact of the changed migration situation on the state's functioning would be considered by taking into

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[37] "Contingency plan of the Republic of Slovenia to ensure the accommodation and supply in case of increased number of applicants for international protection," Government of Republic of Slovenia, personal communication, 2018.

account (a) the situation in the countries from which foreigners intend to enter or have entered the Republic of Slovenia; (b) the situation in the field of migration in countries in the region; (c) the number of illegally staying foreigners and foreigners with a decision pending on their right to to stay in the Republic of Slovenia; (d) the number of applicants for international protection; (e) the number of persons with recognized international protection in the Republic of Slovenia; (f) the accommodation and integration capacities of the Republic of Slovenia; (g) other factors that could affect public order and internal security.

Evidently, the number of refugees, accommodation and integration capacities are the decisive factors in the assessment of the possible effects of the changed migration situation. Assessment would not be based on the evaluation of the actual or imminent threats to state functioning such as real (danger of) incidents, disturbances of public order, violence, civilian losses, attacks and property destruction. In other words, the government would apparently not activate the derogation clause on the basis of evidence proving *beyond reasonable doubt* that refugees pose an actual or imminent threat to the life of a nation; that there is *truly* an actual or imminent threat of violence against the government and local population; or that there *really* is an actual or imminent risk to the existence of state institutions and national constitutional order; or that the rights of nationals are *certainly* at risk; or that the national territorial integrity is *undeniably* endangered.

No objection can be made against the government's decision and commitment to protect public order and internal security as this means that the government is devoted to ensuring living conditions in which constitutional rights and duties are unimpeded.[38] Ironically, however, the activation of Article 10b of the Aliens Act itself unarguably causes a violation of constitutional rights (and thereby disrupts public order) since refugees who are present on Slovenian territory are, just like nationals, entitled to (some) rights under the constitution – for example, equality before the law (Article 14), prohibition of torture, inhuman or degrading treatment or punishment (Article 18), the right to equal protection of rights (Article 22), the right to legal remedy (Article 25)

[38] See Protection of Public Order Act.

and the right to personal dignity and security (Article 34) – and all these constitutional rights would *undoubtedly* be violated if asylum seekers are deported from the country under Article 10b of the Aliens Act.[39]

On the other hand, it is difficult to acknowledge that refugees could cause similar direct and structural violations of rights of citizens, which is often unfoundedly presumed. In this view, saying that refugees pose a threat to public order and national security means creating a connotative connection between the two without giving a factual answer to the question of *which rights exactly* are jeopardized by the arrival of refugees and *whose rights precisely* are violated.

Exemption from the Exception

Siracusa Principles say that when a conflict exists between a right protected in the Covenant and one that is not, recognition and consideration should be given to the fact that the Covenant seeks to protect the most fundamental rights and freedoms – in this context, particular weight should be afforded to rights that are not subject to limitations whatsoever.[40] The Alien Act indicates that the government was aware of some limitations stemming from international law and therefore included specific circumstances in which Article 10b does not apply:

> This article is not used when the life of the alien is directly endangered; or where there is a serious danger that the alien will be subject to torture, inhuman or degrading treatment or punishment in the state in which he would be directed to; or when his or her health circumstances would clearly make the implementation of the measure from paragraph 1 of this article impossible; or when it is assessed that according to the appearance, behaviour or other circumstances the alien is an unaccompanied minor.

Prohibition of torture and inhuman treatment, if read correctly, implies a vital political position. While states have the right to control the entry of aliens under international law, including residence permits and expulsions or extradition, their sovereign right to remove, expel or

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[39] "Claim for review of the constitutionality of the Article 10b of the Aliens Act," Human Rights Ombudsman.

[40] "Siracusa Principles," 9.

extradite is limited by the principle of *non-refoulement*, which draws from the prohibition of torture and inhuman treatment and bans both direct and indirect refoulement.[41] Therefore, the principle of *non-refoulement* guarantees the right of the applicant to *enter* and *stay* in the state where he is applying for protection and the right to access a fair and effective procedure in which the competent authority decides whether the principle of *non-refoulement* could be violated by the removal, expulsion or extradition of the applicant.

This rule should be read in conjunction with another *non-derogable* human right set out in Article 16 of the ICCPR, specifying that everyone shall have the right to recognition everywhere as a person before the law as well as in connection to the aforementioned constitutional rights of equality before the law (Article 14), prohibition of torture, inhuman or degrading treatment or punishment (Article 18), the right to an equal protection of rights (Article 22), right to legal remedy (Article 25) and right to personal dignity and security (Article 34). Removal of the asylum seeker to another country without examination of his application is regarded a violation of the principle of *non-refoulement.*[42] Does this mean that, stemming from this exception, different rules defining the ontology of asylum can be identified? Rules that build on respect for human rights after all?

This can hardly be the case, particularly in view of the fact that states, when faced with large numbers of displaced persons, who cannot return to their country of origin, normally set up exceptional schemes to offer them immediate temporary protection at refugee reception camps. In the view of Edwards, granting temporary protection instead of refugee status in many cases already amounts to *de facto* derogation from the Refugee Convention since these individuals could be granted refugee status *prima facie*.[43] Camps do not bring a solution in respect of human

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[41] Indirect refoulement is considered when an individual is handed over to a country in which there is no immediate direct danger for him to be subjected to inhuman treatment, but there is a possibility that from that country he will be handed over to a country in which there is a serious risk of being exposed to inhuman treatment.

[42] "Constitutional Court, Constitutional Court Decision U-I-155/11," Constitutional Court of Republic of Slovenia, December 18, 2013, http://odlocitve.us-rs.si/sl/odlocitev/US30287.

[43] Edwards, "Temporary protection," 11–12.

rights, for they are sites constructed "in a situation of emergency as a protective device intended to provide for the physical, food and health safety of all kinds of survivors and fugitives from wars, at a minimum level and at a distance from the existing socio-economic [and political] areas".[44] The camp appears as space "outside" the state but subject to the state's power through abandonment, while state agents define political life by classifying various types of "bare life,"[45] some of which can move up in the hierarchy and gain greater degrees of recognition, while others remain stripped of political subjectivity and face deportation[46]. In this sense, a camp may deliver immediate relief to refugees, but, because it is intended only as a temporary form of protection, it also causes a loss of their political subjectivity.

Conclusion

Agamben is right in saying that every time, when refugees no longer represent individual cases but rather a mass phenomenon, states and international organizations are absolutely incapable not only of solving the problem but also of facing refugees as human beings with an inalienable right to seek asylum.[47] This paper is very much congruent with this view in that it points to the *realpolitik* impossibilities of interpreting the right to seek asylum as a universal right specifically in a world composed of nation-states. The paper adopted an empirical approach to analysing the right to seek asylum, which differs from philosophical approaches in their distinct purpose to understand and explain why, how, when and where certain social phenomena are put in practice, and not what they should be. The nonexistence of the universality of the right to seek asylum is therefore understood in implementational

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[44] Michel Agier, "Between War and City: Towards an Urban Anthropology of Refugee Camps," *Ethnography* 3 (2002): 320.

[45] Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans. Daniel Heller Roazen (Stanford: Stanford University Press, 1998).

[46] Olga Zeveleva, "Biopolitics, borders, and refugee camps: exercising sovereign power over nonmembers of the state," *Nationalities Papers* 45, no. 1 (2017): 58, DOI: 10.1080/00905992.2016.1238885.

[47] Giorgio Agamben, "Beyond Human Rights," in *Radical Thought in Italy*, ed. Paolo Virno and Michael Hardt (Minneapolis: University of Minnesota Press, 1997), 160.

terms, not on the basis of principles. The breach of universality materializes as a situation in which people, seemingly holders of particular rights, cannot enact their rights in practice. This universality is ultimately void, which indicates a real crisis of humanitarian and human rights law that can no longer be denied – a crisis seen from the fact that the state suspends the human rights law on the basis of its right of self--preservation.

The Aliens Act shows that the argument of preserving the existence of the state cancels out humanity and dignity as the foundation of the right to seek asylum and at the same time points to the constitutive principles that predefine the implementation of this right, its subject and the scope of state responsibilities. In this way, it modifies the meaning of the right to seek asylum; it adjusts it to match the interests of the state, particularly in relation to ensuring the conditions for the optimal functioning of state structures without denying its universality on the declarative level. Theorizing a situation of mass displacement has shown that political practice of the right to seek asylum, driven by *raison d'etat*, circumvents the elemental qualities of the human rights concept – for example, universality, inalienability, human dignity and equality. Such an interpretation fails to recognize each human being with inherent human rights.

Moreover, the Aliens Act indicates who decides on what constitutes the public interest or interest of the state and how public safety and public order are to be achieved. The Aliens Act directly touches upon the issue of power by defining who (or not) is recognized as the holder of the right to seek asylum and under what conditions, what exactly is considered a violation of human rights and why (not) and what constitutes the legitimacy of duty or omission of the respect for rights. By putting forward decision-making processes in the light of the arguments that justify the ways of distinguishing between legitimate and illegitimate right-bearers, it also reveals relationships of social domination, which are thereby maintained.

The Aliens Act obviously recognizes the prohibition of torture or cruel, inhuman or degrading treatment or punishment as a non-derogable right under contemporary human rights law, and also that no one should be returned to a place where they would directly or indi-

rectly face a risk of violation of this right.[48] The Aliens Act is, in this view, invested with a slightly more humanitarian tone, which in the opinion of Durieux may be seen as advantageous;[49] as he argues, the framework of a humanitarian approach to emergency, disaster and the rescue of refugees offers a space for the emergence of new concepts that have the power to effectively challenge traditional refugee/migration law concepts such as the selectivity of national borders. The Aliens Act somehow proves that by introducing the exemption from exception.

It remains problematic, however, that such an approach does not acknowledge refugees as political actors who have the ability to enact their rights, but turns them into objects of charity, puts them into a precarious position in which rights depend on the generosity and goodwill of compassionate others.[50] Gündoğdu maintains, following Arendt, that such a position undermines understanding of the political dimension of human rights as a right to have rights, or a right to action and speech, for refugees do not "appear" to the state as a "humans", political beings to whom human rights obligations are owed, but are instead viewed as suffering bodies in a vulnerable position, whose rights will be respected out of pity. The distinction that exists between obligation and charity has an important effect in terms of recognizing one's political membership and granting rights.

Finally, political practice implied in the Aliens Act illustrates that the right to seek asylum remains an essential part of exercising a state's authority and does not transcend it. It also shows that the right to seek asylum and the state do not stand in an equal position; in spite of the fact that the right to seek asylum is presented as an entitlement that goes above and beyond the state, it is actually the state which predicates the right to seek asylum. The right to seek asylum may in some cases be

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48 "The Case of M.S.S. v Belgium and Greece," ECtHR, January 21, 2011, https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-103050%22]} shows that violation of articles 2 and 3 of the ECHR may arise if a government deports a migrant to a country where he or she is exposed to the risks arising from the deficiencies in the asylum procedure of that country.

49 Jean-François Durieux, "The duty to rescue refugees." Conference paper at a symposium at All Souls College, Oxford, April 14–15, 2016, https://soundcloud.com/kaldorcentre/jean-francois-durieux-celebrating-the-scholarship-of-professor-guy-s-goodwin-gill.

50 Gündoğdu, *Rightlessness*; Didier Fassin, "Compassion and Repression: The Moral Economy of Immigration Policies in France," *Cultural Anthropology* 20, no. 3 (2005).

implemented to protect individuals against the state, but in other cases it can also be interpreted in a way that guarantees protection of the state against individuals – even in the event of unarmed, powerless and vulnerable individuals fleeing from violence in their home countries.

Bibliography

1. Agamben, Giorgio. "Beyond Human Rights." In *Radical Thought in Italy*, edited by Paolo Virno and Michael Hardt, 158–164. Minneapolis: University of Minnesota Press, 1997.
2. Agamben, Giorgio. *Homo Sacer: Sovereign Power and Bare Life*. Translated by Daniel Heller Roazen. Stanford: Stanford University Press, 1998.
3. Agamben Giorgio. *State of Exception*. Translated by Kevin Attell. Chicago and London: University of Chicago Press, 2005.
4. American Association for the International Commission of Jurists (AAICJ). "Siracusa Principles on the Limitation and Derogation Provisions in the International Covenant on Civil and Political Rights." April 1985. http://www.icj.org/wp-content/uploads/1984/07/Siracusa-principles-ICCPR-legal-submission-1985-eng.pdf.
5. Arendt, Hannah. *Origins of Totalitarianism*. Cleveland and New York: Meridian Books, 1976.
6. Constitutional Court of Republic of Slovenia. "Constitutional Court Decision U-I-155/11." December 18, 2013. http://odlocitve.us-rs.si/sl/odlocitev/US30287.
7. Durieux, Jean-François. "The duty to rescue refugees." Conference paper at All Souls College symposium, Oxford, April 14–15, 2016. https://soundcloud.com/kaldorcentre/jean-francois-durieux-celebrating-the-scholarship-of-professor-guy-s-goodwin-gill.
8. Edwards, Alice. "Temporary protection, derogation and the 1951 Refugee Convention." *Melbourne Journal of International Law* 13 (2012): 1–41.
9. Fassin, Didier. "Compassion and Repression: The Moral Economy of Immigration Policies in France" *Cultural Anthropology* 20, no. 3 (2005): 362–387.
10. Gündoğdu, Ayten. *Rightlessness in an Age of Rights: Hannah Arendt and the Contemporary Struggles of Migrants*. Oxford: Oxford University Press, 2015.
11. Human Rights Ombudsman. "Claim for review of the constitutionality of the Article 10b of the Aliens Act 2017." April 19, 2017. http://www.varuh-rs.si/fileadmin/user_upload/word/Zahteve_za_oceno_ustavnosti/2017-ZTuj-2.pdf.
12. Ladić, Maja and Katarina Vučko. "Slovenia's response to increased arrivals of refugees: we don't want them, but we also don't understand why they don't want

to stay." In: *Razor-wired: Reflections on Migration Movements through Slovenia in 2015*, ed. Neža Kogovšek Šalamon and Veronika Bajt, 14–29. Ljubljana: Mirovni inštitut, 2016.
13. McGoldrick, Dominick. "The interface between public emergency powers and international law." *International Journal of Constitutional Law* 2, no. 2 (2004): 380–429.
14. Ministry of Internal Affairs. "Seznanitev Vlade Republike Slovenije s poročilom o opravljenih aktivnostih ob drugem valu migracij na ozemlje Republike Slovenije." December 22, 2015. http://www.vlada.si/fileadmin/dokumenti/si/sklepi/seje_vlade_gradiva/VRS-migrant2-3_20_68.pdf.
15. Orakhelashvili, Alexander. *Peremptory Norms in International Law*. Oxford: Oxford University Press, 2006.
16. Schmitt, Carl. *Political Theology. Four Chapters on the Concept of Sovereignty*. Chicago: University of Chicago Press, 2005.
17. Schreuert, Christoph. "Derogation of Human Rights in Situations of Public Emergency: The Experience of the European Convention on Human Rights." *Yale Journal of International Law* 9, no. 1 (1982): 113–131.
18. UN Human Rights Committee (HRC). "CCPR General Comment No. 29: Article 4: Derogations during a State of Emergency." August 31, 2001. http://www.refworld.org/docid/453883fd1f.html.
19. Gündoğdu, Ayten. "Potentialities of Human Rights: Agamben and the Narrative of Fated Necessity." *Contemporary Political Theory* 11 (2012): 2–22.
20. Zeveleva, Olga. "Biopolitics, borders, and refugee camps: exercising sovereign power over nonmembers of the state." *Nationalities Papers* 45, no. 1 (2017): 41–60, DOI: 10.1080/00905992.2016.1238885.

ASYLUM SEEKERS, THE CHURCH AND FINNISH SOCIETY: UNDERSTANDING THE SITUATION THROUGH HANNAH ARENDT'S CONCEPT OF "THE RIGHT TO HAVE RIGHTS"

Ilona Silvola

Introduction

In 2015, more than 32,000 asylum seekers arrived in Finland.[1] Even though this was only a fraction of all the 1.2 million asylum seekers arriving in Europe that year, it was still more than the public authorities were prepared for. The existing reception centres had no capacity to host the number of people coming and over 200 new reception centres were opened.[2]

To understand the role of the Lutheran Church in the lives of asylum seekers, it is important to understand the special role of the Lutheran Church in Finnish society. Kimmo Kääriäinen describes it as follows:

> The Evangelical Lutheran Church of Finland is a public organization; its status has been defined in the country's general legislation. Due to the historical background and its status as a public organization, the Evangelical Lutheran Church of Finland has traditionally been labelled in two different

[1] "Statistics, International protection, Applications 1/2015 – 12/2015," Migri, accessed October 7, 2018, http://statistics.migri.fi/#applications/23330?start=540&end=551.

[2] Jussi S. Jauhiainen, "Asylum in Finland? The 2015 asylum seekers and the asylum processes in Finland," in *Turvapaikka Suomesta? Vuoden 2015 turvapaikanhakijat ja turvapaikkaprosessit Suomessa*, ed. Jussi S. Jauhiainen (Turku: Turun yliopisto, Maantieteen ja geologian laitos, 2017), 157.

ways: some speak of it as a state church, while others call it a folk church (or church for the people).[3]

Even though the number of members is declining, 71 per cent of Finnish people are still members of The Lutheran Church.[4] The separation of the state and the Lutheran Church has happened gradually, and even though the Freedom of Religion Act, which came into effect in 1923, ensured freedom to found and belong to any religious organization, "some remnants of the traditional state-church model remained for decades."[5] The close relationship between the Lutheran Church and the state can still be seen as well in economic and administrative ties as in the maintenance of cultural traditions.[6] As an example, a worship service as part of the opening of Parliament can be mentioned.[7]

In this article, Arendt's theoretical framework is used to understand the field material, and look at the current situation of asylum seekers in Finland more broadly. Using Arendt's thoughts, I shall also develop a way of understanding the present and potential role of the Lutheran Church in this connection. To understand this more deeply, we shall concentrate on Hannah Arendt and her critique of human rights and especially on her phrase "the right to have rights" which she presents for the first time in her article "The Rights of Man: What Are They?"[8]. The same phrase occurs also in part two, Imperialism, of *The Origins of Totalitarianism*. The phrase poses a subject for academic interest and has even been used by human right activists, though often more or less as a synonym to human rights.[9]

The methods of the study are ethnography (participant observation and interviews) and reading of Hannah Arendt. The ethnographic fieldwork was carried out in Michael's Parish, which is a Lutheran parish in Turku, Finland. The participant observation period was conducted dur-

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3 Kimmo Kääriäinen, "Religion and State in Finland," *Nordic Journal of Religion and Society* 24, no. 2 (2011): 159.

4 "Tilastotietoa," The Evangelical Lutheran Church of Finland, accessed October 31, 2018. https://evl.fi/tietoa-kirkosta/tilastotietoa.

5 Kimmo Kääriäinen, "Religion and State in Finland," 159.

6 Ibid., 159, 161.

7 Ibid., 161.

8 Stephanie DeGooyer et. al., *The Right to Have Rights* (London: Verso), 27–28.

9 Ibid., 27.

ing January and February 2017. During that time I spent 47 hours in total in the field. The participant observation concentrated on the work that the parish does with asylum seekers.10 In the spring 2017, four of the parish employees who worked actively with asylum seekers were interviewed.[11]

Government Response

In December 2015, the government published an action plan on asylum policy, where it sketched out the new political principles concerning asylum and the treatment of asylum seekers. The fundamental goal of the action plan is "to stop the uncontrolled flow of asylum seekers into our country, to bring asylum costs under control and to integrate effectively those who have been granted asylum."[12] It is noteworthy that the government describes the asylum seekers' arrival with the words "uncontrolled flow," a picture that links the asylum seekers to natural catastrophes threatening the receiving societies. This way of speaking has been a common European discourse on asylum seekers since 2015.[13] The action plan has eight sections, three of which (the 2nd, 3rd and 5th) contain tightening of the asylum legislation and practices. The tightening concerns the restrictions of legal aid that asylum seekers are entitled to and "harmonization" of the Finnish legislation with EU and Nordic countries' laws, which are *de facto* the tightening of the

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[10] I did the participant observation on the permission of the parish and strived for clarity of my role as a researcher before the asylum seekers. However, due to cultural and language reasons, this proved to be a challenge. Due to these reasons, the role of asylum seekers in this study can be described as consultative rather than fully participative. I do not portray their life stories. Instead, I describe my own experiences in the field.

[11] The interviews were semi-structured and lasted from one to two hours and were recorded. In January 2018, during the time of my writing, I got in contact with two employees again to get specific information of aspects that had appeared after the first interviews. These contacts were carried out via phone calls and e-mail communication.

[12] "Government action plan on asylum policy," Finnish Government, December 8, 2015, https://vnk.fi/documents/10184/1058456/Hallituksen_turvapaikkapoliittinen_toimenpideohjelma_08122015+EN.pdf/3e555cc4-ab01-46af-9cd4-138b2ac5bad0.

[13] Vlasta Jalušič "Why Does Mujo Want to Go to Germany?" in *Epistemology of the Migrant crisis: Perspectives from the "Balkan Route,"* ed. Igor Ž. Žagar, Neža Kogovšek Šalamon and Marina Lukšič Hacin (Newcastle upon Tyne: Cambridge Scholars Publishing, 2018), 239.

legislation. Two of the sections (the 4th and 8th) contain cuts in the social security and services for asylum seekers. One section (the 1st) deals with co-operation with other countries when it comes to the control of the outer borders of EU. On top of that, there is one section (the 6th) that deals with security and communication. In the action plan, asylum seekers are seen as a potential safety threat that needs to be controlled. With the word communication, the government refers to communication to the potential future asylum seekers, who are to be informed of the current "realistic situation" of Finnish asylum politics. Only one section (the 7th) out of eight deals with integration.[14] The changes that the government has done in the legislation according to the action plan are partly against the Finnish immigration strategy since the year 2013. The changes have been widely criticized for not supporting integration and fulfilment of human rights.[15]

In addition to the changes in legislation, the government states in the action plan that the police and Finnish Immigration Service (Migri) should take the changed situation in consideration in various ways. The police should for example get prepared for a fast increase of deportations.[16] The government urges Migri to review the possibility to internal flight alternative before granting an asylum seeker international protection.[17] The tightened practices inside Migri have raised questions in the media of political control the government may have practised over Migri.[18] This is a severe accusation, as Migri is an independent institution and, according to the constitution of Finland, its practices should

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14 "Government action plan on asylum policy," Finnish Government, December 8, 2015, https://vnk.fi/documents/10184/1058456/Hallituksen_turvapaikkapoliittinen_toimenpideohjelma_08122015+EN.pdf/3e555cc4-ab01-46af-9cd4-138b2ac5bad0.

15 Hanna Heino, "Varautuminen tuleviin turvapaikanhakijoihin", in *Turvapaikka Suomesta? Vuoden 2015 turvapaikanhakijat ja turvapaikkaprosessit Suomessa*, ed. Jussi S. Jauhiainen (Turku: Turun yliopisto, Maantieteen ja geologian laitos, 2017), 148–149.

16 Finnish Government, "Government action plan."

17 Ibid.

18 Also Saarikkomäki's et. al. research presents political control as one of the possible explanations for the changed practices of Migri. Elsa Saarikkomäki et. al., *Kansainvälistä suojelua koskevat päätökset Maahanmuuttovirastossa 2015–2017: Pilottitutkimus 18–34-vuotiaita Irakin kansalaisia koskevista myönteisistä ja kielteisistä päätöksistä.* (Turku: Turun Yliopiston Oikeustieteellisen tiedekunnan tutkimusraportteja ja katsauksia, 2018), 35.

be based on the law.[19] One clear sign of the changed position of asylum seekers in Finland is the proportion of negative decisions on international protection of Iraqi citizens who present almost two-thirds of the asylum seekers arriving in Finland in 2015. The proportion of negative decisions increased notably between the years 2015 and 2017.[20] According to Saarikkomäki et. al., the changes in the legislation cannot completely explain this change, but it is a sign of tightening practices inside Migri especially when it comes to the evidence that asylum seekers are required to present within the international protection examination procedures.[21] In this article, it is argued that the above-presented changes have led to the situation where even greater numbers of asylum seekers in Finland are in danger of becoming paperless persons and their right to *non-refoulement* can be endangered.[22] In the above-described situation some asylum seekers have sought sanctuary in the churches.

Observations from the Fieldwork

The Michael's Parish is a big city parish of approximately 20,000 members in the city of Turku which is the sixth biggest city in Finland with its 190,000 residents. Michael's parish works with asylum seekers by offering church sanctuary[23] and by hosting social activities such as café nights, and spiritual activities such as Bible study groups in Farsi and Arabic. The parish started to organize social activities for asylum seekers in the autumn of 2015. Then, two of the parish employees vi-

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19 "The exercise of public powers shall be based on an Act. In all public activity, the law shall be strictly observed." *The Constitution of Finland, 11 June 1999*: chapter 1, section 2.

20 According to Saarikkomäki et. al., the proportion of negative asylum decisions of 18–14-year-old Iraqi citizens was 14 per cent in April–August 2015 and 79 per cent in June–August 2017. This despite the unchanged grounds that asylum seekers had for their applications. Saarikkomäki et. al., *Kansainvälistä suojelua koskevat*, 15, 32.

21 Ibid., 36.

22 David S. Weissbrodt defines *non-refoulement* as follows: "Even if an asylum seeker's asylum application would be rejected, she or he may still be eligible to receive a State's protection via the human right of *non-refoulement.* The right of *non-refoulement* generally provides that all persons enjoy the right not to be deported to a country where they may be subjected to persecution." David S. Weissbrodt, *The Human Rights of Non-citizens* (Oxford: Oxford University Press, 2008), 134.

23 Birgit Neufert, "Church Asylum," *Forced Migration Review* 48, November 2014: 36.

sited the local reception centre, to which large numbers of new asylum seekers were arriving. After the visit, one of the employees decided that he wanted to show friendliness to these asylum seekers, and started to organize café nights for the asylum seekers in the parish's venue together with his wife. These café nights were well visited: over 150 people attended the nights. The weekly café nights have continued ever since. Over the time, when the asylum seekers have also started to show interest in the Christian faith, the parish has also started to organize education about the Christian faith and later also other spiritual activities for and together with the asylum seekers. [24]

The parish has been offering church sanctuary for over ten years. The church sanctuary work began as an answer to a need: an NGO contacted the parish and asked if they could help with one specific case. Since then the asylum seekers who received a negative decision on their asylum application have found their way to the parish, even though the parish does not actively promote the church sanctuary.[25]

Birgit Neufert defines the church sanctuary as follows:

> Church asylum, or sanctuary, is a practice to support, counsel and give shelter to refugees who are threatened with deportation to inhumane living conditions, torture or even death. This practice can be located at the interface of benevolence and politics.

In other words, the church sanctuary is based on the fear that the state does not respect the human right of *non-refoulement.* Church sanctuary does not have legal validity in the Finnish legislation. On the contrary, the church sanctuary is based on the religious authority of the church and the support of the local community.[26] However, the practice of church sanctuary is a demand towards the state to respect the international conventions that the state itself has signed.[27] Talvikki Ahonen writes that the church sanctuary can thus be seen as a practice that is in accordance with the spirit of the law and the practice that

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[24] Interview with a parish pastor, 30.3.2017.

[25] Interview with the vicar, 29.3.2017.

[26] Finnish Ecumenical Council, *Kirkko turvapaikkana* (Helsinki: Suomen ekumeenisen neuvoston julkaisuja LXXXII), 2007: 10–11.

[27] Talvikki Ahonen, "Kirkkoturvainstituution muotoutuminen Suomessa," *Uskonnontutkija – Religionsforskaren* 7, no. 1 (2018): 11. doi: https://doi.org/10.24291/uskonnontutkija.v7i1.71204.

strengthens the law and constitutional state.[28] However, some actions of the parish employees in the church asylum work may be in the grey area of lawfulness.[29] Offering sanctuary can entail offering a physical space to the asylum seekers to live in, but the Michael's Parish no longer has the possibility to do that, and, instead, it supports the asylum seekers by other means.[30] The fundamental goal of the church sanctuary is to prevent the immediate deportation so that it is possible to gather better information of the need for protection.[31]

The legal status of the people searching for church sanctuary varies. Some are irregular migrants as their asylum application has been denied and their reception services have ended. They are in danger of being deported, but the deportation has not yet happened. There are also people who do have some kind of legal right to stay in Finland, but who are in danger of becoming irregular migrants. In this article, we use the word asylum seeker for all people searching for sanctuary although their legal status can vary.

After becoming an irregular migrant, one's situation in the Finnish society gets very precarious. Finnish municipalities do not have uniform practices in providing basic services for the irregular migrants.[32] Some municipalities do provide temporary shelter and basic healthcare, but the irregular migrants are often afraid to turn to them due to their mistrust towards Finnish officials.[33] Other options for irregular migrants to turn to for help are non-governmental organizations, other irregular immigrants, migrants and asylum seekers, private citizens, and even criminals.[34]

The Michael's Parish works according to the recommendations for church sanctuary given by the Finnish Ecumenical Council.[35] This means that the parish goes through the legal documents of the asylum

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28 Ibid., 11.
29 Ibid., 3.
30 Interview with the vicar, 29.3.2017.
31 Finnish Ecumenical Council, *Kirkko turvapaikkana,* 16.
32 Jussi S. Jauhiainen, Katri Gadd and Justus Jokela, *Paperittomat Suomessa 2017* (Turku: Turun yliopisto, Maantieteen ja geologian laitos, 2018), 64.
33 Ibid., 46.
34 Ibid., 44–47.
35 Interview with a parish employee, 6.3.2017.

seekers to see if there are any mistakes or deficiencies that could be the grounds for an appeal.[36] The asylum seekers may also be unaware of which aspects of their situation are of significance in granting international protection. Sometimes, the aspects are also very sensitive, like sexual orientation, and the asylum seekers do not trust the state officials enough to tell them about these aspects. According to one of the parish employees, the significance of the church sanctuary lies especially in the church's ability to create the confidential relationship with the asylum seekers, which enables the asylum seeker to entrust them the aspects that can be ground for the international protection.[37] The parish also provides these people with a competent lawyer, because many of asylum seekers do not have a lawyer at all, or the lawyer has mismanaged the case. While the person's case is open, the parish sees to the everyday needs of the asylum seeker, such as food, clothing and basic health care, if needed.[38]

The parish is also in contact with the police to inform them that the church has offered sanctuary to the asylum seeker. One of the pastors tells in the interview that the police's respect of the church sanctuary has decreased after the year 2015, and now the police seem to be in a hurry to deport people. However, the vicar of the Michael's Parish, who is responsible for the contacts with the police, describes the relations to the local police as good, although it has taken time to build the trust between the two parts. From the beginning, there was a mistrust on the part of the police. The vicar tells a story from ten years ago, when an undercover police officer came to interview him introducing herself as a researcher. The police officer interviewed the vicar about the practice of church sanctuary but revealed her identity at the end of the interview. The police officer said that, according to her understanding, the work of the parish is not illegal.[39]

However, in the Michael's Parish, the practice of church sanctuary does not always lead to the desired outcome. The parish employees tell in the interviews that when the parish has turned over every rock

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36 Finnish Ecumenical Council, *Kirkko turvapaikkana,* 4.
37 Interview with a parish employee, 6.3.2017.
38 Finnish Ecumenical Council, *Kirkko turvapaikkana,* 4.
39 Interview with the parish pastor, 6.2.2017.

to help the asylum seeker, the only thing left to do can sometimes be walking beside the asylum seeker until the deportation. Sometimes the parish may provide some small amount of money to help the asylum seeker flee from the country of destination, or provide contact information of a helping organization in that country.[40]

One of our fundamental observations in the field was the discrepancy between our experience and the asylum seekers' experience of the Finnish officials. As a native Finnish person, I had always had the impression of the state officials being easily approachable, mostly favourable and committed to protecting our rights. However, in the field I encountered a different reality. the officials seemed to be very indifferent to the rights of the asylum seekers. This I shall describe in the following.

During my fieldwork in the Michael's Parish, I got involved in the work of a family reunification group. The work with family reunification processes falls also under the category of the church sanctuary. The group consisted of Middle East refugees, representatives of the parish, and a volunteer. The purpose of the group was to help the refugees with their family reunification processes. The refugees in Finland have a legal right to apply for reunification, but the process was practically impossible because the families had to go to an interview to a Finnish embassy in another country where their chances for getting a visa are null. For me, it was difficult to understand the gravity of the situation at first. "Surely, the Finnish officials can work this out if we just inform them about the problem," I said to myself. However, as I attended the group meetings I encountered a different reality. It appeared that no politician or state official took this problem seriously. Frustration and exhaustion of the refugees were tangible. They had first waited for the decision for their asylum application for a long time and they were extremely worried about their family members in their country of origin.

Finally, at the end of January 2017, we got the news of the exceptional permit that the Ministry of Foreign Affairs granted to a limited number of refugees to have the interviews in the country where the families have a possibility to travel. I can only guess the reasons behind this sudden change of politics, but one possible reason can be the raised

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[40] Interview with the vicar, 29.3.2017, interview with the parish pastor, 6.2.2017.

awareness of the problem, which also the group in the Michael's Parish worked for. At this point, the refugees had been apart from their families for at least a year and a half. We were all extremely relieved. However, the work did not stop there. The number of papers the families needed to have with them was huge and we tried to help them from a distance to fill them all in. In one of our many meetings, I read one of the forms demanded by Migri. It says that the family members need to have a passport picture of the certain size and that they need to have a certain kind of a felt-tip pen when they arrive at the interview. I could not but laugh. What happens if the families cannot find the right kind of pen in a country that is at war? Will the application be rejected? I could not help but think that the reunification process has intentionally been made as difficult as possible. Why is that?

In a slushy and dark evening, when I was standing at the bus stop after the groups' meeting, I tried to come up with a word that would describe the group's work. The word fight comes to my mind. The children's right to parents and the right to life are considered human rights. Why does it seem like some people have the right to these rights while some others do not? I, as a Finn, used to think that Finland as a state is on my side and respects my rights. Now I have come in contact with people, the refugees' families, who this state does not seem to care for. It is painful to understand that human rights are negotiable. Who is it then who fights for the rights of those people? To understand this observation, I turn to Hannah Arendt's critique of human rights.

Theorizing Fieldwork Findings

Hannah Arendt presents her critique[41] of human rights in *the Origins.* The phrase "the right to have rights" is a part of this critique. For Arendt, the right to have rights means "to live in a framework where

[41] In criticizing the concept of human rights, Arendt's attempt is not to merely debunk the thought of human rights but rather to show its limits and invite us to rethink them. Ayten Gündogdu, *Rightlessness in an Age of Rights: Hannah Arendt and the Contemporary Struggles of Migrants* (Oxford: Oxford University Press, 2015), 27; Arendt, *Imperialism*, 181.

one is judged by one's own actions and opinions."[42] Firstly, she articulates the problematic nature of the thought that the source of human rights would be the human itself.[43] On the contrary, according to Arendt, human rights are not a starting point but a result of human activity:

> Equality, in contrast to all that is involved in mere existence, is not given us but is the result of human organization insofar as it is guided by the principle of justice. We are not born equal; we become equal as members of a group on the strength of our decision to guarantee ourselves the equal rights.[44]

Arendt believes that human rights can only be realized through the membership of the political community. If a human being loses his or her political status, he loses his or her place in the world – a place that makes the changes significant and acts effective. Arendt describes this as follows:

> [People deprived of human rights are] deprived, not of the right to freedom, but of the right to action; not of the right to think whatever they please, but of the right to opinion. The calamity of the rightless is not that they are deprived of life, liberty, and the pursuit of happiness, or of equality before the law and freedom of opinion -formulas which were designed to solve problems within given communities- but that they no longer belong to any community whatsoever.[45]

Arendt concludes from this that the only human right belongs to a political community that makes an individual from the individual – it is her right to have rights. Through active membership, an individual can develop one's personal identity and get one's own "space in the world" where the opinions and actions of the individual are taken into account.[46]

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[42] Ibid., 176. The whole phrase reads as follows: "We became aware of the existence of the right to have rights, (and that means to live in a framework where one is judged by one's actions and opinions) and right to belong some kind of organized community, only when millions of people emerged who had lost and could not regain these rights because of a new global political situation."

[43] Ibid., 170.

[44] Ibid., 181.

[45] Arendt, *Imperialism*, 175.

[46] Alison Kesby, *The Right to Have Rights: Citizenship, Humanity, and International Law*, (Oxford: Oxford University press, 2012), 46.

Secondly, Arendt is critical to the nation states' capability to guarantee human rights. She sees the fragility of nation states as guarantors of human rights especially in situations where people have lost all other statuses apart from their mere humanness.[47] Even though it is not only states that today are the agents of human right politics, the states are still the actors which have the power to grant asylum, and one is dependent on the state's willingness to do so.[48] Arendt argues that the sovereignty of states can become an absolute power of exclusion a hindrance to the fulfilment of human rights if the citizens of the country allow this to happen. Then the human rights become synonym for citizen's rights.[49] It is this observation that is relevant for my analysis of the situation of asylum seekers in Finnish society. My observation is that the changes in asylum politics together with the tightened practices in Migri and in the police have resulted in the situation where these institutions do not protect the rights of asylum seekers. This is the reason why the asylum seekers seek help in the church sanctuary.

According to my understanding, the fundamental thesis of Arendt is that human rights in a form as currently codified in the international law fail to protect those people who would most urgently need their protection. She observes the fragility of states when it comes to ensuring human rights to people who have become mere human beings, i.e. are without the framework of a state. It is this observation that is relevant for my analysis of the situation of asylum seekers in Finland, as some of the people who clearly would be in danger in their country of origin are not granted asylum due to the situation in Finland. As a result, they have to seek help from the parish. The most important aspect of Arendt's thinking in the context of my task of understanding the situation of asylum seekers in Finland is her understanding of the nature of human rights. To live without the right to have right can be descri-

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47 "The Rights of Man, supposedly inalienable, proved to be unenforceable—even in countries whose constitution were based upon them— whenever people appeared who were no longer citizens of any sovereign state." Arendt, *Imperialism*, 173.

48 "Treaties of reciprocity and international agreements have woven a web around the earth that makes it possible for the citizen of every country to take his legal status with him no matter where he goes – – – Yet, whoever is no longer caught in it finds himself out of legality altogether." Ibid., 174.

49 Ibid., 171–173.

bed as a loss of agency. [50] According to my field observations, asylum seekers belong to this group because their rights are not respected within the current Finnish evaluation process of international protection. The process often leads to the negative decision of the asylum application and asylum seekers become irregular migrants and end up in the margins of the society where some of them live under the constant threat of being deported. Even if asylum seekers do receive basic health care etc., it does not change their rightless condition, because they have lost the place in the world where their actions have an impact. This loss of agency is, however, something that the Christian Church can resist by offering church sanctuary and, together with the asylum seekers, works for their rights.

Arendt develops the thought of the common world that one can be shut out more deeply in *The Human Condition.* The ethical consequences of the common world and the significance of being shut out of it are explored by Eveline Cioflec.[51] Through a deeper understanding of the phenomenological ground of Arendt's thoughts, one can better understand her critique of human rights. As Cioflec puts it: "The right to have rights defines this political realm, the realm of political action where free individual can act, appear to others and become him or herself."[52] The loss of "the right to have rights" means the loss of the right to influence the world through one's own choices. One loses the agency through the possibility to enter the common world where one can be seen and heard and relate to the others "to understand 'who' he or she is."[53]

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[50] It is important to notice that the state of rightlessness can emerge even though the person would receive to basic health care, shelter etc. as is the case of asylum seekers in Finland, and partly the case of irregular immigrants in Finland. Ayten Gündogdu formulates this thought of Arendt as follows: "One of the problems with taking nature as the foundation of the Rights of Man will come to stand for the basic necessities of life. But the case of statelessness reveals the problems with this position: There might be cases where people may be provided with the basic necessities such as food and shelter but still lack the recognition as right-bearing subjects." Gündogdu, *Rightlessness in an Age of Rights*, 39.

[51] Eveline Cioflec, "On Hannah Arendt: The Worldly In-Between of Human Beings and its Ethical Consequences," *South African Journal of Philosophy* 31, no. 4 (2012), doi: 10.1080/02580136.2012.10751799.

[52] Ibid., 655.

[53] Cioflec, "On Hannah Arendt," 654.

Arendt calls the common world where people can reveal themselves to others *the space of appearance*, which is a part of Arendt's theory of action. The ethical consequences of the theory of action are implicit but can be found. Arendt writes:

> In acting and speaking, men show who they are, reveal actively their unique personal identities and thus make their appearance in the human world, while their physical identities appear without any activity of their own in the unique shape of the body and the shape of the voice.[54]

The human being, according to Arendt, relates always to other people to understand oneself. The fundamental part of the loss of "the right to have rights"is the loss of all one's identities. Arendt's argument is that when one loses everything else but one's bare humanity, other people paradoxically stop treating one as a human being. For the world, there is nothing sacred in the naked human existence. However, I argue that the Christian theology can offer an alternative way of thinking as the bare humanness is indeed sacred in the Christian theology.[55] From this follows the ethical imperative to love one's neighbour. These theological doctrines have enabled the parish employees to see the asylum seekers as human beings and as such, worthy of love and care, an example of which can be seen in the above described café nights. To offer a space outside the reception centre where the asylum seekers can come, spend their time, and get to know Finnish people etc. can provide an, although admittedly small-scale, opportunity to have an identity other than one's provided inside the walls of the reception centre.

I argue that the Lutheran Church can function as an alternative space of appearance, and has been doing so in the case of the Michael's Parish. It is an alternative space of appearance because the asylum se-

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[54] Arendt, *The Human Condition: Introduction by Margaret Canovan* (Chicago and London: The University of Chicago Press, 1998), 179.

[55] The human dignity in Christian theology lays on the foundation of human being *Imago Dei,* an image of God. Deeper analysis of this theological thought falls outside of the scope of this article. However, one can find also other theological arguments, which deepens the understanding why especially loving and showing hospitality towards strangers (e.g. asylum seekers) is a moral obligation in Christian ethics. E.g. John Swinton discuss the theological thoughts behind the church's obligation to show love to asylum seekers in his book *Raging with Compassion. Pastoral Responses to the Problem of Evil* (Grand Rapids and Cambridge: Wm. B. Eerdmans Publishing Company, 2007), 216–242.

ekers do not find this place in the wider community. It is alternative also as the Lutheran Church's power to provide the asylum seekers an entrance to the realm of "the right to have rights" is imperfect. In this alternative space of appearance, there is an opportunity to be seen and heard. However, the Lutheran Church as an institution is not able to guarantee the fulfilment of asylum seekers' human rights. It can only use its power to try to open the admission for the asylum seekers to the society's space of appearance.

The question of identity is, for Arendt, a political question and therefore, the space of appearance refers to a political sphere. The material world, the worldly in-between, can function as a place of appearance where people come together and appear to each other. The space of appearance characterized by freedom and power.[56] Freedom in Arendt's context does not mean the opportunity to freely choose between different options but instead signifies the act of beginning something new, to inflect the world through action.[57] This understanding of freedom provides a deeper understanding of the work that the Michael's Parish does with the refugees. The church sanctuary work enables the asylum seekers to go through their own situation together with the parish. The importance of the parish can be understood through Arendt's conviction according to which the power to act does belong to a togetherness of individuals, not to an individual.[58] Cioflec puts it as follows: "Action can be initiated by an individual, but it needs the public realm; it needs the plurality to be action at all."[59] This action happens in the space of appearance. Freedom means the ability to enter the space of appearance where the acting in concert can happen.[60] According to Cioflec, the phrase "the right to have rights" refers to the political sphere: Arendt "considers institutions as frames for establishing a public realm in which action if possible. Institutions are not boundaries of freedom

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56 Cioflec, "On Hannah Arendt," 656–657.
57 Ibid., 657.
58 Ibid.
59 Ibid., 654.
60 Ibid., 657.

but rather boundaries *for* "acting in concert", that facilitate acting in concert."[61]

Arendt's understanding of the role of institutions as maintainers of space of appearances can help one to see the potential of the Lutheran Church. The Lutheran Church has the ability to function as an alternative space of appearance, due to its nature as an institution that is part of the organized society, which I described in the introduction. The voice of the Lutheran church representatives is, indeed, listened in the Finnish political sphere. As of September 25, 2016, the MTV news reported that the Minister of interior Paula Risikko had invited the bishops of the Lutheran Church to pay a visit to discuss the situation of asylum seekers, among other things. The press release of the Lutheran Church, which was published on November 21, reported that the bishops had expressed their concern to the minister of interior on the growing number of paperless people, due to the growing proportion of negative decisions on international protection. By raising the voice to the asylum seekers, the church can stand up for their rights. Some Lutheran parishes, which work with asylum seekers, such as the Michael's Parish, have also developed somewhat functioning relations to the local officials, e.g. the local police, which gives them room to operate.[62]

Overall, we understand "the right to have rights" not as a pragmatic tool for politics, as something that can be used for political emancipation. In line with Stephanie DeGooyer "the right to have rights" should be understood as Arendt herself understands it, which is as follows: "[As] a powerful historical diagnostic tool, a way of focusing on the acts of dispossession and disenfranchisement that are inevitable corollaries of the rise of human rights."[63] Our use of the phrase can be described as written above, as a way of making sense of the asylum seekers' situation in Finland, in which "the right to have rights" is visible through its absence due to the situation.

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61 Ibid.

62 Interview with the vicar, 29.3.2017.

63 Stephanie DeGooyer, "The Right… ," in Stephanie DeGooyer et. al., *The Right to Have Rights* (London: Verso, 2018), 43.

Arendt verbalizes the feeling of indifference, which I experienced from the part of the state officials toward the refugees and asylum seekers during my fieldwork. The refugees, whose attempts to get their families to Finland were described at the beginning of this article, were in the lucky situation of been granted asylum themselves. However, their family members, who were still in danger, were only mere human beings with no further status that would have mattered for Finland as a state, even though the family reunification is a legal right of refugees if the application is made within three months of granting asylum.[64] Finnish officials were not interested in the fact that these people were simply unable to complete their application by visiting the Finnish embassy. When the refugees tried to raise their voice for their families, their speech went unheard. When acting together with the parish, they could, however, get their voice heard better as the group together consisted of people who had experience of civic activity in Finland as well as the networks needed in the process. The experience that human rights do not successfully protect the rights of these vulnerable people becomes understandable in the light of Arendt's thesis that equality is not something human beings are born with, but a result of a decision to guarantee the equality within a certain group of people. The rights of people who are not members of this group are easily ignored. One of the parish priests highlighted this thesis in our interview. When I asked her why it is the church's duty to help asylum seekers, she answered that the reason is that one cannot trust the state to have their rights fulfilled. Thus, it is left for the non-governmental organizations to help, and one of the organistations is the Lutheran Church, which is obliged to help because of the fundamental duty to love one's neighbour.[65]

Arendt's understanding of the significance of a clear status can help one to understand the significance of the church employees' presence in the encounters with the state officials. One of my informants who worked part time for the Michael's Parish but run her own NGO, says in the interview that when a priest or a deacon with a clerical collar is present in a meeting where an asylum seeker's matters are dealt with,

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64 *The Finnish Aliens Act 301/2004*: Chapter 6, Section 114.

65 Interview with a parish pastor, 6.2.2017.

the officials act more respectfully.[66] This can be understood as if the clerical collar gives the priest or the deacon a clear status. This status includes even the asylum seeker and gives him/her a status. The asylum seeker is no longer just an anonymous human being but someone who the priest or a deacon cares for. With the help of Arendt, the significance of a clear status becomes evident as she argues that these statuses assure that other people treat oneself as a human being. It is also noteworthy that the clerical collar communicates a very special status, as it is a symbol of a church. The Lutheran Church is, as noted above, an established institution in the organized society. As an institution, the Lutheran Church has a power potential, which manifests in the meetings with the state officials.[67] The church can use this power to promote the rights of asylum seekers.

The church can see the lives of asylum seekers as sacred and their rights as something worth fighting for, even though the Finnish state may not always be able to see it. This is due to the resources that Christian theology can offer. We might say that Christian theology can enable one to resist the processes in which asylum seekers lose their right to have rights. Of course, these resources are not always put into operation, but in the case of the Michael's Parish, one can see it happening. The love showing toward one's neighbour, the mission of the Christian Church, or helping those in need are factors that almost all the Parish employees mention in their interviews as something that motivates them.[68] Human rights, however, do not come up as a similar motivating factor. When asked why they started working with asylum seekers, why the church should help or what motivates them, the parish employees always answer from the premises of the Christian mission: because of their love the neighbour. The fact that the neighbour, in this case, is an asylum seeker does not pose the need for any further explanations. This does not imply that the parish employees would see human

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66 Interview with a parish employee, 6.3.2017.

67 Cioflec describes Arendt's understanding of the nature of power as follows "Power, [Arendt] thinks, is only present as long as it is manifest. It refers to tension, which keeps a situation alive, and allows facts of things to show up." Cioflec, "On Hannah Arendt," 658.

68 Interview with a parish pastor, 6.2.2017. Interview with the vicar, 29.3.2017. Interview with a parish pastor, 30.3.2017.

rights as something unimportant in general, but as something else that motivates them. The love is central, whereas the attributes of the person who is loved are of no significance. The church can function as an alternative space of appearance because it has an alternative language to talk about asylum seekers, which enables the church to recognize their lives as sacred. In the situation where equality of humans is no longer guaranteed in the public space of the state, the Christian theology, among other things its message of the love to one's neighbour, can come in as a way of relating to others as equal human beings.

Conclusion

In this article, we have analysed the work that the Michael's Parish carries out for and with asylum seekers. The societal premises were described that cause asylum seeker's need to seek help from the parish. The observations made during the fieldwork in the Michael's parish, gave us a reason to believe that asylum seekers look for help from the parish because their human rights are not respected. The rights that are especially endangered are the right of *non-refoulement,* but also children's right to parents in the case of family reunifications, and all the human rights that one loses when becoming an irregular migrant. To understand this, Hannah Arendt's critique of human rights was used as an analysing tool. Arendt contributed with a deepened understanding of why human rights do not seem to protect asylum seekers. Arendt's thesis that a person does not become a subject of human rights automatically simply by being born, but only when one becomes part of a society, in this case, the Finnish society, which guarantees one's rights. This basic right to belong to this kind of community is termed by Arendt "the right to have rights." Arendt's theory of action was used to deepen the understanding of "the right to have rights." Her theory of action provided an in-depth understanding of the loss of "the right to have rights" as a loss of agency. The loss of agency happens through denial of access to a space of appearance where one could become visible to other human beings. It is specifically this right that asylum seekers are in danger of losing, if not yet lost, due to the changes in asylum politics and practices of public institutions.

In the situation in which the state does not guarantee the equality of humans in the public space, the love of one's neighbour is a way of relating to others as equal human beings. Thus, the church, by its conviction the sanctity of human life and moral imperative of love for one's neighbour, has a potential to function as an alternative space of appearance and defend the rights of asylum seekers. The Lutheran Church has the power potential to function as an alternative space of appearance due to its role in the Finnish society as a historical institution.

Bibliography

1. Ahonen, Talvikki. "Kirkkoturvainstituution muotoutuminen Suomessa," *Uskonnontutkija – Religionsforskaren* 7, no. 1 (2018): 1–23. doi:https://doi.org/10.24291/uskonnontutkija.v7i1.71204.
2. Arendt, Hannah. *Imperialism: Part Two of The Origins of Totalitarianism.* San Diego, New York and London: Harcourt Brace & Company, 1968.
3. Arendt, Hannah. *The Human Condition: Introduction by Margaret Canovan.* Chicago and London: The University of Chicago Press, 1998.
4. Cioflec, Eveline. "On Hannah Arendt: The Worldly In-Between of Human Beings and its Ethical Consequences." *South African Journal of Philosophy* 31, no. 4 (2012): 646–663. doi: 10.1080/02580136.2012.10751799.
5. DeGooyer, Stephanie, Alastair Hunt, Lida Maxwell, and Samuel Moyn, eds. *The Right to Have Rights.* London: Verso, 2018.
6. DeGooyer, Stephanie. "The Right… ." In *The Right to Have Rights*. Edited by Stephanie DeGooyer, Alastair Hunt, Lida Maxwell and Samuel Moyn, 18–38. London: Verso, 2018.
7. Finnish Ecumenical Council. *Kirkko turvapaikkana.* Helsinki: Suomen ekumeenisen neuvoston julkaisuja LXXXII, 2007.
8. Finnish Government. "Government action plan on asylum policy." December 8, 2015. https://vnk.fi/documents/10184/1058456/Hallituksen_turvapaikkapoliittinen_toimenpideohjelma_08122015+EN.pdf/3e555cc4-ab01-46af-9cd4-138b2ac5bad0.
9. Gündoğdu, Ayten. *Rightlessness in an Age of Rights: Hannah Arendt and the Contemporary Struggles of Migrants*. Oxford: Oxford University Press, 2015.
10. Heino, Hanna. "Varautuminen tuleviin turvapaikanhakijoihin." In *Turvapaikka Suomesta? Vuoden 2015 turvapaikanhakijat ja turvapaikkaprosessit Suomessa*. Edited by Jussi S. Jauhiainen. Turku: Turun yliopisto, Maantieteen ja geologian laitos, 2017.

11. Jalušič, Vlasta. "Why Does Mujo Want to Go to Germany?" In *Epistemology of the Migrant crisis: Perspectives from the "Balkan Route."* Edited by Igor Ž. Žagar, Neža Kogovšek Šalamon and Marina Lukšič Hacin, 157–178. Newcastle upon Tyne: Cambridge Scholars Publishing, 2018.
12. Jauhiainen, Jussi S. "Asylum in Finland? The 2015 asylum seekers and the asylum processes in Finland." In *Turvapaikka Suomesta? Vuoden 2015 turvapaikanhakijat ja turvapaikkaprosessit Suomessa*. Editedy by Jussi S. Jauhiainen, 157–172. Turku: Turun yliopisto, Maantieteen ja geologian laitos, 2017.
13. Jauhiainen, Jussi S., Katri Gadd and Justus Jokela. *Paperittomat Suomessa 2017.* Turku: Turun yliopisto, 2018.
14. Kääriäinen, Kimmo. "Religion and State in Finland." *Nordic Journal of Religion and Society* 24, no. 2 (2011): 155–171.
15. Kesby, Alison. *The Right to Have Rights: Citizenship, Humanity, and International Law*. Oxford: Oxford University press, 2012.
16. Migri. "Statistics, International protection, Applications 1/2015 - 12/2015." Accessed October 7, 2018. http://statistics.migri.fi/#applications/23330?start=540&end=551.
17. Neufert, Birgit. "Church Asylum." *Forced Migration Review* 48 (2014): 36–38.
18. Saarikkomäki, Elsa, Nea Oljakka, Johanna Vanto, Elina Pirjatanniemi, Juha Lavapuro and Anne Alvesalo-Kuusi. *Kansainvälistä suojelua koskevat päätökset Maahanmuuttovirastossa 2015–2017: Pilottitutkimus 18–34-vuotiaita Irakin kansalaisia koskevista myönteisistä ja kielteisistä päätöksistä.* Turku: Turun Yliopiston Oikeustieteellisen tiedekunnan tutkimusraportteja ja katsauksia, 2018.
19. Swinton, John. *Raging with Compassion. Pastoral Responses to the Problem of Evil.* Grand Rapids and Cambridge: Wm. B. Eerdmans Publishing Company, 2007.
20. The Evangelical Lutheran Church of Finland. "Tilastotietoa." Accessed October 31, 2018. https://evl.fi/tietoa-kirkosta/tilastotietoa.
21. Turun yliopisto, Maantieteen ja geologian laitos, 2018.
22. Weissbrodt, David S. *The Human Rights of Non-citizens.* Oxford: Oxford University Press, 2008.

ARENDT AND REFUGEES (AT PRESENT): PERSONALIST ANTHROPOLOGICAL FOUNDATIONS OF THE ETHICS OF REFUGEEISM[1]

Bojan Žalec

No one can live only on food.[2]

Introduction

This paper describes and presents the condition of refugees, its questionability and ethical unacceptability through the study of Hannah Arendt's thought and concepts which enable an accurate analysis and description of the condition of refugees. In this way, the usefulness and relevance of Hannah Arendt's thought is presented for the present time and situation. This will be done by its application to one of the most burning and complex issues of contemporary world. Moreover, this is at the same time one of the most representative and significant problems of modernity because in it shows and embodies the main social and political characteristics of our time. The latter is the contradiction between the system of sovereign national states that functions on the basis of naturalist principle on one hand and the modern world and contemporary (global) situation for which this old system is less and less suitable. This may be most clearly evident in the problem of refugees. For this reason, Giorgio Agamben, a philosopher who owns

[1] The Research Programme Ethical-religious Grounds and Perspectives of the Society and the Religious Studies in Context of Education and Violence (P6-0269) and the basic research projects Reanimating Cosmic Justice: Poetics of the Feminine (J6-8265) and Interreligious Dialogue – a Basis for Coexisting Diversity in the Light of Migration and the Refugee Crisis (J6-9393) are financed by the Slovenian Research Agency. I thank the agency for the support.

[2] Mt 4,4; Lk 4,4.

a lot to Hannah Arendt, thinks that the problem of refugees is a paradigmatic issue of the modern political thought.[3] In the second part of the paper, certain distinctive characteristics of the present situation are compared to the ones of Arendt's time. Some of these specifics are the results of the use of modern technology.

In our view, maintaining a biological man is not enough for full humanity and is therefore ethically insufficient. Mere biological life allows for instance the absence of inclusion in the world in the sense of Arendt, a violation of the right to privacy, continuous exposure and vulnerability from the point of view of privacy and annihilation of conditions for it. And this is just the situation of rightless refugees. Therefore, our ethical duty is to make it possible for them to be included in the world on one hand and to protect their right to privacy on the other. How to achieve this is the basic and crucial question for an ethical solution to the refugee problem.[4] The aim of the paper is to explain that this is the fundamental and crucial question as well as to provide guidelines and a framework for resolving it.

Arendt's View

The starting point of Arendt's relevant thought is her own life experience. This is very important especially in her case because she was strongly convinced that thinking from one's own experience is essential.[5] Arendt herself was a refugee, and she was a stateless person for more than 17 years. In 1933 she lost her German citizenship and she was stateless until she got the American citizenship. She also had an experience of an internment refugee camp in France. We will mostly concentrate on three Arendt's works that are of special importance for

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3 Giorgio Agamben, *Means without Ends: Notes on Politics* (Minneapolis: University of Minnesota Press, 2000), 16.

4 Marieke Borren, "Towards an Arendtian politics of in/visibility: On stateless refugees and undocumented aliens," *Ethical Perspectives: Journal of the European Ethics Network* 15, no. 2 (2008): 233.

5 Stefania Eugenia Barichello, "The Legacy of Hannah Arendt on the Analysis of the Contemporary Condition of Refugee," *Universitas Relações Internacionais, Brasilia* 13, no. 1 (2015): 43.

our subject: her essay "We Refugees,"[6] her basic and perhaps most seminal work *The Origins of Totalitarianism*[7], and as last but not least *The Human Condition*[8].

We Refugees and The Origins of Totalitarianism

We Refugees appeared in the 1943. In it, Arendt presents her personal view on the condition of German Jews who fled from the Third Reich.[9] She offers a "definition" of a refugee. Refugees are

> those of us who have been so unfortunate as to arrive in a new country without means and have to be helped by refugee committees. /…/ We lost our home, which means familiarity of daily life. We lost our occupation, which means the confidence that we are of some use in this world. We lost our language, which means the naturalness of reactions, the simplicity of gestures, the unaffected expression of feelings. We left our relatives in the Polish ghettos and our best friends have been killed in concentration camps, and that means the rupture of our private lives.[10]

Arendt observes that "being a Jew does not give any legal status in this world."[11] She anticipates her later theory about "the decline of nation-state and the end of right of men"[12] in *The Origins* and writes:

> If we should start telling the truth that we are nothing but Jews, it would mean that we expose ourselves to the fate of human beings who, unprotected by any specific law or political convention, are nothing but human beings.[13]

Arendt stressed the importance that Jews preserve their own identity. She considered Jewish refugees as an appearance of a new historical consciousness and she understood the condition of refugees from the point of view of that consciousness. She criticised the attitude of many

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6 Hannah Arendt, "We Refugees," in Hannah Arendt, *The Jewish Writings* (New York: Schocken Books, 2007), 264-274.

7 Hannah Arendt, *The Origins of Totalitarianism. New edition with added prefaces* (San Diego, New York and London: A Harvest Book, Harcourt Brace & Company, 1979).

8 Hannah Arendt, *The Human Condition* (Chicago: The University of Chicago Press, 1970).

9 Borren, "Towards an Arendtian politics of in/visibility," 213.

10 Arendt, "We Refugees," 264.

11 Borren, "Towards an Arendtian politics of in/visibility," 213.

12 Ibid.

13 Arendt, "We Refugees," 273.

Jews that have forgotten their old identity and have tried to acquire a new identity as soon as they have changed the country. In the terms of Christopher Lasch,[14] she criticized a costume identity attitude of many Jews. On the other hand, she argued that refugees, if they keep their identity, are a vanguard of their people.[15] She realised that Jewish history is connected with the history of other nations because the condition of being a Jew was precedent for the condition of being a citizen of a certain country.

The Origins provided a theoretical and factual foundation for *The Human Condition* . In *The Origins* she finds out that citizenship is not only a means but rather a very basic condition and a sort of principle of possibility that a man is considered as equal to the others in the common world. *The Human Condition* is a reflection on the concept of *vita activa*. *Vita activa* has three essential and integral parts: labour, work and action. In *The Human Condition* Arendt deals with the concept of citizenship in the light of the reports on the participation in the public sphere in the Greek polis. Her starting point is an isolation of people which destroys their political (cap)ability and consequently their political action. But at the same time we must bear in mind that Arendt in no way diminishes or belittles the meaning of privacy and private sphere. On the contrary. The general feature of her entire opus is a refusal of totalitarianism. In order to achieve a total domination it is, according to Arendt, exactly the annihilation of the private life of people what is needed, including the annihilation of their social ramification and rootedness. But on the other hand it is true that according to her no privacy is sufficient for a full humanity. Arendt clearly grasped that a truly human condition can be realized only in a public world which makes it possible for the humans to be set free from their living worlds. Human action in the Arendtian sense of the term is conceivable only in community with other people. According to Arendt, action is a prerogative of man, which implies other people. It totally depends on their contin-

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[14] Christopher Lasch, *The Minimal Self: Psychic Survival in Troubled Times* (London: Pan Books, 1985), 38; Zygmunt Bauman, "From Pilgrim to Tourist – or a Short History of Identity," in *Questions of Cultural Identity*, ed. Stuart Hall and Paul du Gay (London: SAGE Publications Ltd., 1996), 23.

[15] Arendt, "We Refugees," 274.

uous presence.[16] In her latest book *The Life of the Mind: Thinking*[17] she deals with the concept of *vita contemplativa* and in a sense supplements her findings and the understanding of *vita activa* from the ones in *The Human Condition*. In general, one may say that Arendt"s texts in 1940s and early 1950s contain many intuitions about the meaning of a political community that were elaborated in her latter work.[18]

Rightlessness and Statelessness: The Importance of Belonging to Political Community

The historical context of *The Origins of Totalitarianism*

was formed by the disintegration of multinational and multi-ethnic states, most notably Russia, the Ottoman Empire, and Austrian-Hungary in interwar Europe. She relates how, at the end of WV I, this disintegration produced two novel groups of people: minorities and stateless people.[19]

The consequences of many thousands stateless people were several but let us mention only the most important. The first big damage was the abolition of the right to asylum.[20] The other big shock is the finding that it is not possible neither to get rid of the refugees nor to transform them into the citizens of the country of refugee.[21] The real troubles started as soon as the two recognized means were applied: repatriation and naturalization.[22] Neither of them worked nor was applicable. Repatriational measures did not work because there were no countries to which refugees could be deported.[23] Naturalization was not successful because the right to asylum was annulled and the whole naturalization system of European countries collapsed.[24] Countries started cancelling naturalisation because of the multiplicity of the applications for natu-

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16 Barichello, "The Legacy of Hannah Arendt," 43.
17 Hannah Arendt, *The Life of the Mind: Thinking* (New York: Harcourt, 1978).
18 Borren, "Towards an Arendtian politics of in/visibility," 214.
19 Ibid., 213–14.
20 Arendt, *The Origins*, 280.
21 Ibid., 281.
22 Ibid., 283.
23 Ibid.
24 Ibid., 284–5.

ralization. The cancellation of naturalization and the introduction of new laws destroyed the few rests of self-confidence and motivation that newcomers still had for naturalization because the difference between a naturalized citizen and resident without citizenship was so little that it was not worth the effort. The first was often deprived of important civil rights and threatened by similar fate as the first.[25] A national state which was not capable to solve the situation transferred the entire problem to police. It happened for the first time in the Western Europe that the police got the direct competences for ruling over people.[26] The police was not merely an instrument for the implementation of law but rather it became an independent organ of power. Its power and independence grew in proportion to the rising number of stateless persons. The bigger the number of stateless persons, the bigger was the danger of transformation into police state.[27] The establishment of the camps for those persons in all countries is the final result of this process.[28] The first loss that has befallen the rightless persons was the loss of home. They lost the entire social structure in which they were born and in which they created a safe place in the world. The second loss was the loss of a governmental protection. That meant not only a loss of their legal status in their own country but also in all other countries.[29]

The situation of the rightless persons showed many perplexities in the concept of human rights.[30] Regardless of how we define human rights, what improvements of these rights one offers, the real situation of people who were in 20th century relegated out of law shows that in the case of human rights we are dealing with rights which are such that if one loses them this person is still not entirely rightless. The plight of rightless people is not in their being deprived of human rights but rather in the fact that they no more belong to any community.[31] Their problem is not that they are not equal before the law but rather that

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25 Ibid., 285.
26 Ibid., 287.
27 Ibid., 287–88.
28 Ibid., 288.
29 Ibid., 294.
30 Ibid., 295.
31 Ibid.

there is no law for them; not in being oppressed but rather that there is no one who wants to oppress them.[32] Exclusion, and not so much and exploitation, is nowadays a basis for the most obvious examples of (increasing) social polarisation, inequality, poverty, plight and humiliation.[33] Their right to life is jeopardised only at the end of a long process. Only if they become entirely superfluous, if there is nobody who would demand them, only then is their life endangered. Arendt points out that even the Nazis started the extermination of Jews so that they first took them away their legal status, shut them away in the ghettos, cut them off of the world, checked that these people will not be demanded by any country …, and only then they started to kill them intentionally and massively, kill them in gas chambers … As Arendt finds out, the essence is in the fact that the condition of total rightlessness was created before the right to life was violated. The same is true about the right to freedom which is often considered as the essence of human rights.[34]

The key to understanding the condition and predicament of a stateless refugee are the following factors[35]: the loss of "his place in community," "his political status," and "the legal personality which makes his actions and part of his destiny a consistent whole." Consequently, they are "left with those qualities which usually can become articulate only in the sphere of private life and must remain unqualified, mere existence in all matters of public concern".[36]

In *The Origins* Arendt considers three stages of abolition of freedom in totalitarian domination. The aim of the first is the elimination of the juridical person from an individual, of the second the abolition of individual's moral person by denying that an individual is a victim and corruption of human solidarity. The last stadium is the loss of the individuality of each man.[37] The aim of an arbitrary system is a destruction of civil rights of the entire population which is finally just as outlawed

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32 Ibid., 295–6.
33 Zygmunt Bauman, *Identiteta: Pogovori z Benedettom Vecchijem* (Ljubljana: Cf, 2008), 42.
34 Arendt, *The Origins*, 296.
35 Borren, "Towards an Arendtian politics of in/visibility," 214.
36 Arendt, *The Origins*, 301.
37 Ibid., 453; Barichello, "The Legacy of Hannah Arendt," 44.

as the homeless and stateless persons.[38] The destruction of civil rights of an individual and their juridical person are for Arendt the initial conditions for the total domination over an individual and population.[39] The second step toward the society of "living corpses" is the destruction of human moral character. It was achieved in a way that for the first time in human history martyrdom was made impossible. This was achieved by the destruction of human solidarity.[40] The third step was non-differentiation of the unique identity of human beings, the destruction of human individuality. "After the murder of the moral person and annihilation of the juridical person, the destruction of individuality is almost always successful."[41]

Concentration camps and loneliness

An important part of Arendt's view – relevant for our topic of understanding the situation of contemporary refugees – is her understanding of concentration camp. She defines it as being

> the world of the dying, in which men are taught they are superfluous through a way of life in which punishment is meted out without connection with crime, in which exploitation is practiced without profit, and where work is performed without product, is a place where senselessness is daily produced anew.[42]

Treating a man as a superfluous being means a total lack of respect for their human dignity. Such respect implies the recognition of other people as subjects, as builders or co-builders of a common world.[43] But the aim of concentration camp was opposed to human dignity because that aim was a transformation of human beings into animals.[44] According to Arendt, refugees are a new kind of beings. She defined them in terms of camps: "contemporary history has created a new kind of

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38 Arendt, *The Origins*, 451.
39 Barichello, "The Legacy of Hannah Arendt," 44.
40 Arendt, *The Origins*, 451.
41 Ibid., 455.
42 Ibid., 457.
43 Barichello, "The Legacy of Hannah Arendt," 44.
44 Arendt, *The Origins*, 455; Barichello, "The Legacy of Hannah Arendt," 45.

human beings – the kind that are put in concentration camps by their foes and internment camps by their friends."[45]

The next relevant constituent of Arendt's conceptual scheme is the distinction between isolation and loneliness. These are two different forms of seclusion. If men are "only" isolated they may not be also lonely because when isolated they are detached from the political space and power but, nevertheless, they can still be not entirely deprived of the basic form of human creativity which is to add something anew to the world. On the other hand, loneliness is an experience of being totally superfluous and not belonging to the world at all. It is a characteristic of Nazi concentration camps' prisoners but on the other hand we should bear in mind that Arendt holds it as a much more universal experience:

Taken in itself, without consideration of its recent historical causes and its new role in politics, loneliness is at the same time contrary to the basic requirements of the human condition and one of the fundamental experiences of every human life.[46]

But despite the universality of the experience of loneliness, we may say that in general according to Arendt, totalitarianism originates in isolation of human being. On the other hand, a truly human world, or simply the world in Arendt's sense of the term, is an opposite of isolation of humans. The world is the result of interaction between humans and their common sense.

These are the main insights in the nature and meaning of totalitarianism, isolation and world that Arendt achieved already in *The Origins*. But to deepen these insights and understanding, Arendt set herself to investigate "vita activa" which was the main subject of her book *The Human Condition*.

Vita Activa: The Importance of World and Public Sphere

Arendt uses the term "*vita activa*" to denote

human life in so far as it is actively engaged in doing something, is always rooted in a world of men and of man-made things which it never leaves or al-

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[45] Arendt, "We Refugees," 265.
[46] Arendt, *The Origins*, 475.

together transcends. /…/ All human activities are conditioned by the fact that men live together, but it is only action that cannot even be imagined outside of the society of men. The activity of labour does not need the presence of others, though a being labouring in complete solitude would not be human but an *animal laborans* in the word's most literal significance.[47]

The three basic activities that integrate *vita activa* are labour, work and action. Labour concerns the biological aspects of human life and it is what humans have in common with animals. Through work, a man, known as *homo faber*, creates objects and transforms nature in the world of objects shared by men. Action is a necessary and essential condition of politics. It presents human specifics and a way to freedom. It gives human beings a possibility to govern their own destiny. It is a capability to start something anew. It is the only way for expressing identity.[48] Its further distinguishing characteristics are that it is the only activity that goes directly between men without the intermediary of things or matter, corresponds to the human condition of plurality, to the fact that men, not Man, live on the earth and inhabit the world.[49]

These three basic human activities (labour, work, and action) are connected to the two basic aspects of human life: birth and death. Labour assures the existence and survival both of an individual (a human) and species. Work gives to humanness a certain permanency and durability. Action founds and maintains the political bodies, creates conditions for memory and, thus, for human history.[50] But only action enables humans for beginning and re-beginning:

Action has the closest connection with the human condition of natality; the new beginning something anew, that is of acting. In this sense of initiative, an element of action, and therefore of natality, is inherent in all human activities. Moreover, since action is the political activity par excellence, natality, and not mortality, may be the central category of political, as distinguished from metaphysical, thought.[51]

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47 Arendt, *The Human Condition*, 22.
48 Arendt, *The Human Condition*, 7; Barichello, "The Legacy of Hannah Arendt," 46-47.
49 Arendt, *The Human Condition*, 7.
50 Barichello, "The Legacy of Hannah Arendt," 47.
51 Arendt, *The Human Condition*, 9.

According to Arendt, it is the common world which brings people together. When we are born we enter the common world and we leave it when we die. It is this common world which was here before our birth and which will be here after our death. But such world – which survives the coming and leaving of generations – is according to Arendt possible only if it appears in public and in the measure in which it appears in public. It is the publicity of public sphere which can maintain what people want to protect against temporal destruction and passing away.52 Moreover, for Arendt, "to be deprived of things essential to truly human life" means to be deprived of public life

> to be deprived of the reality that comes from being seen and heard by others, to be deprived of an "objective" relationship with them that comes from being related to and separated from them through the intermediary of a common world of things, to be deprived of the possibility of achieving something more permanent than life itself. The privation of privacy lies in the absence of others; as far they are concerned, private man does not appear, and therefore it is as though he did not exist.[53]

In short, without presence and participation in a public sphere, the actions of an individual are meaningless. Besides, political communities are built by action, by active people.[54] However, this importance of the action and the public should not be understood as neglecting the importance of thinking by Arendt. Quite the contrary. Although in *The Human Condition* she did not deal with the activity of thinking, she taught that although thinking is probably not important for the fate of the world, it is surely very important for the future of men. Moreover, thinking is an activity par excellence. In this regard, Arendt's own words with which she concludes *The Human Condition* , her capital anthropological work, are very significant:

> Thought, finally – which we, following the premodern as well the modern tradition, omitted from our reconsideration of the *vita activa* – is still possible, and no doubt actual, wherever men live under the conditions of political freedom. Unfortunately, and contrary to what is currently assumed about the

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52 Ibid., 55.
53 Arendt, *The Human Condition*, 58.
54 Barichello, "The Legacy of Hannah Arendt," 48.

proverbial ivory-tower independence of thinkers, no other human capacity is so vulnerable, and it is in fact far easier to act under conditions of tyranny than it is to think. As a living experience, thought has always been assumed, perhaps wrongly, to be known only to the few. It may not be presumptuous to believe that these few have not become fewer in our time. This may be irrelevant, or of restricted relevance, for the future of the world; it is not irrelevant for the future of man. For if no other test but the experience of being active, no other measure but the extent of sheer activity were to be applied to the various activities within the *vita activa*, it might well be that thinking as such would surpass them all. Whoever has any experience in this matter will know how right Cato was when he said: *Numquam se plus agree quam nihil cum agent, numquam minus solum esse quam solus esset* – "Never is he more active than when he does nothing, never is he less alone than when he is by himself.[55]

Concluding the first part of this paper which presents Hannah Arendt's views that we find most relevant for the issue of refugees, we can summarise it as follows: Arendt has its own experience of a refugee, expatriate and stateless person, as well as an internment camp prisoner. This experience is a starting point of her reflection on these matters and further on the topic of political and human condition in general. She finds out that for living fully human life meeting only biological needs and solidary humanitarianism is far from being sufficient. For a truly human life, an inclusion in the world and action, which as such has a political character, is needed. The right to both is denied to refugees and expatriates.

Modern Technology Problems

There are certain phenomena in the modern world which Hannah Arendt could not imagine. Some of them were made possible by modern technology. One of the consequences is a much higher degree of naturalism in the functioning of the system of national states. Modern technologies penetrate in human body all the way to its cells. They identify and determine with extremely high accuracy individuals' biological identity, their body, their parents etc.[56] Such things were in

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55 Arendt, *The Human Condition*, 524-525.

56 Borren, "Towards an Arendtian politics of in/visibility," 229.

Arendt's time almost a science fiction. But despite these differences between our modern situation and the conditions in Arendt's time on one hand there, there are also essential similarities and parallels between our and Arendt's time (the 1st half of the 20th century)[57]: 1.) in the last twenty years, we have witnessed more and more restrictive European migrant and asylum policy[58]; 2.) we are also witnessing an increase in competence and responsibility of police and other public officials in regard with trading down of illegal migrants[59]; 3.) the question how to make refugees deportable emerges again.[60]

The contemporary situation, and the way of managing the status of refugees create permanent marginalized groups that are legally rightless, politically and otherwise excluded, and forced in non-appearing, invisibility, hiddenness, even mysteriousness. On the other hand, they are extremely vulnerable and exposed.[61] In case of refugees we witness the overturning of the right moral order: where they should appear, be active, express their opinion, where their actions and opinion should count, where all this appearing and visibility were right and good for refugees, there they are deprived of possibility or right to appear, to be visible, present etc. However, on the other hand, in some other respects they should have a possibility to be "invisible," to live in privacy etc., in those respects they are entirely exposed, vulnerable and visible, completely left to the will of the authorities and of those who are in charge by authorities. Again, all this, and the fate of refugees is entirely independent of the refugees' own will, opinion and action. Besides this moral perversion, there is another one: rightless refugees and foreigners can improve their legal condition by committing a crime, by violating the law because only then they become a subject of the law. The problem of the refugees is not that they are oppressed by the law, but rather that no law deals with them. As already mentioned, Zygmunt Bauman has emphasized the basic problem, the problem of an increasing number of people, which is not that they are oppressed or exploited, but rather

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57 Ibid., 225ff.
58 Ibid., 226-227.
59 Ibid., 227-229.
60 Ibid., 229ff.
61 Ibid., 232.

that they are excluded.[62] They are superfluous, outcasts, the "waste" of the modern globalized society.[63]

The contemporary systems of biological and internal checking that more and more push out the external checking have made the rightless refugees more and more visible and exposed. For this reason, they resort to strategies of self-obscuring otherwise their life is unbearable or they cannot survive at all. Borren, who has analysed the case of the Netherlands, lists three such strategies: 1. the acceptance of a false identity; 2. deletion of one's own identity (destruction of documents); 3. hiding one's illegal status before others,. Therefore, the regime of visibility with the aim to increase the visibility of rightless refugees, has in fact made them even more invisible because it has caused their self-obscuring.[64]

Some refugees resort from public space in exchange of their semi--permanent existence at home. Illegality is an "invisible" status because of the tendency of the illegal foreigners to hide it before the others (out of fear of abuse). Their life is directed and marked by "mystery". Mystery is an essential characteristic of their social identity. Borren calls it obscurity. Obscurity is the main difference between non-documented foreigners and other marginalized social groups.[65]

Modern technologies and media strongly influence the causes for refugeeism and the condition of refugees. An example of this is the genocide over Rohingas in Myanmar. In Myanmar, the Facebook is used and watched by many people who are very uneducated, who do not even have and use e-mail. But on the other hand, what they see on the Facebook they perceive as truth, as facts, as reality. This is abused by many for the creation and spread of hate toward Rohingas who are even without this hated by many in Myanmar.[66] The horrible consequences are

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62 Bauman, *Identitety*, 42.

63 Zygmunt Bauman, *Wasted lives: Modernity and its Outcasts* (Cambridge: Polity, 2004).

64 Borren, "Towards an Arendtian politics of in/visibility," 232.

65 Godfried Engbersen, "The Unanticipated Consequences of Panopticon Europe: Residence Strategies of Illegal Immigrants," in *Controlling a New Migration World*, ed. Virginie Guiraudon (London: Routledge, 2001), 222–246; Godfried Engbersen and Dennis Broeders, "The Fight against Illegal Migration: Identification Policies and Immigrants' Counterstrategies," *American Behavioral Scientist* 50, no.12 (2007): 1592–1609.

66 See a documentary movie *The Cleaners*, directed by Hans Block, Moritz Riesewieck, coproduction, 2018.

very well known. At the same time those who decide about the contents on Facebook, that is which contents will be presented and accessible and which not, are the young Facebook engineers in Silicon Valley. Rohingas or some other inhabitants of Myanmar have actually nobody to whom they can complain in this regard, nobody who they can turn to or who they can address if they think that certain content should not be accessible on the Facebook. In this regard, they are entirely at the mercy of young Facebook engineers who might have never been in Myanmar, who have probably a very superficially knowledge about the situation in this country etc. These engineers are primarily guided by the interest to achieve as high ratings as possible to attract the attention, by profit and economical interest. We are dealing with media rightlessness, with alienation of right to participate in deciding what will be present and accessible in the media space and environment. The refugees are very handicapped in this regard although in the modern time, this is one of the most crucial and important rights exactly because of the increasing power of media to shape people's minds, imaginaries, and action. The big problem of the modern world which concerns refugees is that the firms as the Facebook – decide by themselves in a great measure what will be present and accessible in the media space, on the internet and on social networks, what will be accessible to users in particular countries and what not. This is true even in the cases when countries put the demands to the companies to block certain contents on their "territory." The reason is that after a certain amount of demands from the side of the country, the companies like the Facebook start to eliminate particular contents for particular country by themselves and they do this according to their own judgement. It often takes a lot of time, as we can see in the above mentioned documentary, before the cleaners or moderators find out what is disturbing for a particular country and what is not. At the same time, as already pointed out, the companies like the Facebook areguided by their main goal: as high ratings as possible. Hence, they are not guided by ethics and it is ethically unacceptable that these decisions are left to the companies themselves and these problems are a more and more important part of resolving the problems also in the case of refugees. The solution is not the elimination or destruction of modern media. Even if we claim not to be utopians or Luddites, we do

think that the action of modern media should be as ethical as possible. In this respect, the crucial question is who should decide which contents should be eliminated / made inaccessible in media and at social networks and which not.

Global Solution

Bauman believed that the solution for the condition of superfluous refugees is possible only in the global framework.[67] Only global community with an appropriate institutional structure, which at the moment does not exist, could include refugees in the world (in the Arendt sense of the term). We could say that this Bauman's claim is even more correct in regard of settling the media space and the presence of contents. We can see that national states and companies alone are not capable of managing this in an ethically satisfactory way. There remains therefore an option of some global democratic institution or network of institutions. What concretely could that be transcends the framework of this paper, however, we can say that this solution implies the abandonment of Carl Schmitt's view on politics in terms of friend and enemy.[68] The abandonment of Schmitt's understanding of politics is not opposed to the acceptance of "criticism" of human rights given by Arendt. Bauman who owns a lot to Arendt and in many respects could be called her theoretical inheritor, does not deny the importance of inclusion in community in order to achieve a factual creation of the respect of individuals, dignity and (real) human rights. On the contrary, Bauman's starting point is a necessity for inclusion in a community, which is impossible without institutional structure, to have dignity and human rights. In this he completely agrees with Arendt. Since a community which could include refugees and other superfluous groups of people is not possible at the local, national or in general non-global level, we must create it at the global level. If Bauman's claim that global community is the only

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[67] Zygmunt Bauman, "Los nuevos intocables," *El País*, February 10, 2002, https://elpais.com/diario/2002/02/10/opinion/1013295609_850215.html

[68] Carl Schmitt, *Der Begriff des Politischen. Text von 1932 mit einem Vorwort und drei Corollarien* (Berlin: Duncker & Humblot, 1979). About its refusal in the context of religion see Jan Assmann, *Totalna religija* (Ljubljana: Slovenska matica, 2018), 127–128.

solution for the problem of refugees and other "superfluous" groups is true, the measure in which the creation of such community is utopian, and also the solution of the problem of the refugees is utopian. But in any case, the creation of such global community implies an abandonment of the current system of sovereign national states and (naturalist) triad nationality – territory – country. This system is incompatible with a global community because today there is no appropriate place in the entire world which is not covered by a national state. And Arendt has the merits for pointing out how important it is to take up place,[69] both for man's inclusion in the world and for the privacy, as well as for "invisibility of natural man".

Conclusion

The crucial message of this paper is that the situation of the refugees, in which they are neither included in a new society nor do they have any chance to return to their native country, is ethically unacceptable. We must enable either their return home or their full integration in the new environment, society, state. They are in a situation of vegetation for indeterminate time in a camp or a centre for refugees or in a condition where they are stateless, having no civil rights, without a possibility to be politically active and at the same time they have no privacy. At any time, an invasion in their privacy can happen or a deportation, eviction, investigation etc. can occur. Such situation is morally entirely unacceptable. They must have a chance that this condition of their exclusion from the society and at the same time a lack of privacy is appropriately solved and not solved in a way that they are banned from or returned to the country which is not safe for them. If there is no possibility of a safe return, then we must make it possible for them to completely integrate into the society of the country of refugee. We must approach them in this regard and offer them help, even if we tear the goods from

[69] Nanda Oudejans, "The Right to Have Rights as the Right to Asylum," *Netherlands Journal of Legal Philosophy* 43, no. 1 (2014): 16ff.

our own mouth.[70] This is our moral duty. Every other response is unethical according to our own central (western) ethical criteria: both from the Christian point of view[71] and from the general humanist ethical standpoint. We must enable refugees their integration in our society without humiliating them. We must do that despite a certain risk for us. Refugees are in a condition in which they do not have proper civil rights, when they are excluded from the social environment as subjects whose opinions and actions count in the society, when the relationship towards them depends on their beliefs and actions. Instead, the refugees entirely depend on the decisions of others and their own actions and opinions are irrelevant for these decisions. Despite their exclusion they have no privacy. In such condition they are depersonalized, dehumanized, reduced to the level of a merely biological life, to the fulfilment, in the best case scenario, of only their biological needs.[72]

Bibliography

1. Agamben, Giorgio. *Means without Ends: Notes on Politics*. Minneapolis: University of Minnesota Press, 2000.
2. Arendt, Hannah. *The Human Condition*. Chicago: The University of Chicago Press, 1970.
3. Arendt, Hannah. *The Life of the Mind*: *Thinking.* New York: Harcourt, 1978.
4. Arendt, Hannah. *The Origins of Totalitarianism. New edition with added prefaces*. San Diego, New York and London: A Harvest Book, Harcourt Brace & Company, 1979.
5. Arendt, Hannah. "We Refugees." In Hannah Arendt, *The Jewish Writings*, 264–274. New York: Schocken Books, 2007.
6. Assmann, Jan. *Totalna religija* (the Slovenian trans. of the Ger. orig. *Totale Religion. Ursprünge und Formen puritanischer Verschärfung*. Wien: Picus Verlag, 2016.) Ljubljana: Slovenska matica, 2018.

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[70] Emmanuel Levinas, *Otherwise than Being or Beyond Essence* (Dordrecht, Boston and London: Kluwer Academic Publishers, 1998), 74.

[71] Fleur S. Houston. *You Shall Love the Stranger as Yourself: the Bible, Refugees and Asylum* (New York: Routledge, 2015).

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7. Barichello, Stefania Eugenia. "The Legacy of Hannah Arendt on the Analysis of the Contemporary Condition of Refugee." *Universitas Relações Internacionais, Brasilia* 13, no. 1 (2015): 41–51.
8. Bauman, Zygmunt. "From Pilgrim to Tourist – or a Short History of Identity." In *Questions of Cultural Identity*, edited by Stuart Hall and Paul du Gay, 18-36. London: SAGE Publications Ltd., 1996.
9. Bauman, Zygmunt. "Los nuevos intocables." *El País*, February 10, 2002. https://elpais.com/diario/2002/02/10/opinion/1013295609_850215.html.
10. Bauman, Zygmunt. *Wasted Lives: Modernity and its Outcasts.* Cambridge: Polity, 2004.
11. Bauman, Zygmunt. *Identiteta: Pogovori z Benedettom Vecchijem* (the Slovenian trans. of the Eng. orig. *Identity: Conversations with Benedetto Vecchi*, 2004.) Ljubljana: Založba /*cf., 2008.
12. Borren, Marieke. "Towards an Arendtian politics of in/visibility: On stateless refugees and undocumented aliens." *Ethical Perspectives: Journal of the European Ethics Network* 15, no. 2 (2008): 213–237.
13. Engbersen, Godfried and Dennis Broeders. "The Fight against Illegal Migration: Identification Policies and Immigrants' Counterstrategies." *American Behavioral Scientist* 50, no. 12 (2007): 1592–1609.
14. Engbersen, Godfried. "The Unanticipated Consequences of Panopticon Europe. Residence Strategies of Illegal Immigrants." In *Controlling a New Migration World*, edited by Virginie Guiraudon, 222–246. London: Routledge, 2001.
15. Houston, Fleur S. *You Shall Love the Stranger as Yourself: the Bible, Refugees and Asylum*. New York: Routledge, 2015.
16. Lasch, Christopher. *The Minimal Self: Psychic Survival in Troubled Times*. London: Pan Books, 1985.
17. Levinas, Emmanuel. *Otherwise than Being or Beyond Essence*. Dordrecht, Boston and London: Kluwer Academic Publishers, 1998.
18. Oudejans, Nanda. "The Right to Have Rights as the Right to Asylum." *Netherlands Journal of Legal Philosophy* 43, no. 1 (2014): 7–26.
19. Schmitt, Carl. *Der Begriff des Politischen. Text von 1932 mit einem Vorwort und drei Corollarien*. Berlin: Duncker & Humblot, 1979.
20. *The Cleaners*. Directed by Hans Block, Moritz Riesewieck. Coproduction, 2018.

ABSTRACTS

Kelly Oliver
Carceral Humanitarianism, Impossible Testimony, and the Paradox of Refugee Detention

Contemporary detention centers and refugee camps are part and parcel of carceral humanitarianism that turns refugees into criminals and charity cases simultaneously, and which, in turn, becomes the troubling justification for locking them up or locking them in, increasingly in dangerous, disease-ridden, sorely inadequate conditions. Rather than starting with human rights, or citizen's rights, as the basis of political (or ethical) obligations, we would have to acknowledge our interdependence on this shared planet, our only home. Rather than claim the sovereign right to welcome others into our own homes, we would have to acknowledge that the foundation for that home is the earth itself, which belongs to us not as property, but rather as what we share with every other earthling.

Keywords: Refugee Detention, Carceral Humanitarianism, Humanitarianism, Derrida, Hospitality, Human Rights, Refugee Status, Testimony.

Shé Hawke
The Exile of Greek Metis: Recovering a Maternal Divine Ontology

This paper maps an ontology of maternal asylum, through a recovery of Metisian genealogy. It applies the method of mythico-narrative refiguration, to respond to Luce Irigaray's provocation to unveil, and reclaim a maternal divine exiled by patriarchal discourse and power in the fifth generation of the Orphic pantheon. The crosscurrent from which this inquiry is spawned is Metis' co-evolved sacred relationship to water myth/eologically, linguistically and symbolically. By retrieving divine Metis as the Creatrix from the Orphic Pantheon, or Thomas Taylor's mystical *First Cause* in the first generation of the Orphic/Olympian pantheon, our quest for divine origin, and re-reverencing of our genesis through the font of maternal waters, becomes possible. The re-appearance of Metis in the fifth generation of Olympus as Zeus' exiled spouse, and murdered mother of Athena, complicates the genealogical trace immensely. Story remnants however – be they mystical or mythical – show Metis to be both a figurative progenitor and maternal co-inform-

ant to aqua-centric evolution and all creation. This thematic disrupts dominant masculinised terra-centric narratives and doxology, and recovers maternal divinity for future focus, as holy, instead of monstrous or missing.

Keywords: Women's divinity, Metis, ontology of asylum, Orphic mysteries, Olympian myths, Aquamater, Athena, Zeus.

Nadja Furlan Štante

Gender–Based Violence, Religion and Migration: Women as Symbols of Cultural Identity

The paper brings together critical perceptions and concerns about the practical consequences of the concept of women's bodies as symbols of cultural identity and their impact on gender-based violence (rape) against displaced and migrant women. The main focus of paper is to overcome conflicts arising from the lack of intercultural, interreligious and solidarity policies and practices regarding human migrations and displacement. The consideration of gender and religious aspects in this framework also targets the understanding of power relations and the establishment of peace building strategies from gender-religious perspective. To do solidarity in a gender equality context means to do justice, to restore the dignity and uniqueness of the qualities of knowing, loving and relating to life. Issues regarding equal value, rights, and opportunity are branch makers to be added to a gender justice hermeneutics concerning migrations and social welfare. In this perspective, the role of women in the process of healing traumas of gender-based violence against women migrants (and in post-war zones) in terms of (religious) peace-building is also investigated.

Keywords: women, migration, displacement, war, religion, rape, gender stereotypes, peace-building.

Lenart Škof

Refugee Crisis, Vulnerability and Ethics of Cohabitation

The aim of this paper is an ethical reflection on migration crisis and its humanitarian consequences. In the first part the problems of our age are confronted, the age which Zygmunt Bauman described as an age of the loss of sensitivity.

Enrique's Dussel material(ist) idea of the ethics of liberation is in the forefront of our analyses. the following part is dedicated to the ethics of vulnerability which is introduced by reflecting on Pope Francis' thoughts on migration crisis in the Mediterranean. Based on this initial constellation, this essay argues that in response to the migration and refugee crisis, we need to offer a new ethico-democratic response, infused with our imaginative capacity for both remembrance as well as for our future hope.

Keywords: migration crisis, vulnerability, ethics of cohabitation, community, ethics of liberation.

Samo Skralovnik

'Under the shadow of my roof' (Gen. 19:8). The Law of Hospitality in the Bible

The article presents the value of hospitality in the Bible and some other Jewish (rabbinical) sources. More precisely, first some of the reasons for a special relationship toward refugees, respectively foreigners are cited, i.e. a wider cultural and historical context of ancient Mesopotamia and Israel's nomadic roots. Further on, the focus is on some basic and specific features of the biblical attitude towards foreigners.

Finally, the image of Abraham in Gen 18 will be exposed as archetypal attitude to foreigners. Since all three Abrahamic monotheisms value Abraham positively, as a common ancestor, this character offers an opportunity for dialogue, more precisely a "trialogue", a common "junction" where the space for respect and peaceful coexistence opens. This common junction is the value of hospitality.

Keywords: hospitality, Bible, foreigners, Abraham, nomads, Mesopotamia, interreligious dialogue.

Maja Bjelica

Asylum as Hospitality: Relistening to Derrida

The renown French philosopher Jacques Derrida offers an explicit account on the question of asylum in his appeal to the congress of the International Parliament of Writers, published in English as *On Cosmopolitanism*. This work situates the concept and the act of offering asylum in the broader question of hospitality

which Derrida presents as aporetic, but also canonical. Moreover, in this paper the intensive tensions between offering asylum or refuge and the ethics of hospitality are presented distinctly.

The article "Asylum as Hospitality: Relistening to Derrida" offers an insight into the influence and importance of Derrida's thought on asylum, that is more than relevant today, when the number of asylum seekers is increasing daily. It presents how crucial it is to recognize the embedment of the asylum notion in the realm of the ethics of hospitality, which allows a deeper understanding of its complexity and nonlinearity. Moreover, it touches upon the divisions between guest and refugee, host and hostage, guest and host, refugee and hostage. Finally, it unfolds a view on offering asylum as an act of unconditional hospitality, revealed as a possibility of *the* impossible.

Keywords: asylum, hospitality, ethics of hospitality, Jacques Derrida, cosmopolites.

Klaus-Gerd Giesen
A Short Essay on Statelessness and Cosmopolitan Citizenship

The paper examines statelessness from the point of view of political philosophy. By comparing the status of most stateless people to the Kantian conception of cosmopolitan citizenship it defines minimum moral standards of protection which are to a large extent not met in the current political situation.

Keywords: statelessness, cosmopolitanism, Kant, citizenship.

Barbara Gornik
Refugees and the Human Right to Seek Asylum: To Derogate or not to Derogate, That is the Question

As a state party to the UN Convention on the Status of Refugees, the Republic of Slovenia is bound to respect everyone's right to seek asylum and enjoy freedom from persecution. In response to the recent refugee crisis, government policies have shown that this supposedly universal human right is open to different interpretations; while the *Universal Declaration of Human Rights* recognizes that all people are born with equal freedom and rights stemming from their human nature, the political practice of human rights demonstrates that the right to seek

asylum, enshrined in Article 14, is *de facto* not implemented on the principle of human dignity. The paper analyses the enactment of the right to seek asylum in the light of the amendments to the Slovenian Aliens Act of 2017; its main objective is to critically assess reasons that are listed therein as legitimate circumstances for derogation of the Republic of Slovenia from respecting the right to seek asylum, namely, when in a context of "changed conditions in the field of migration" the state's public order or internal security are threatened. The paper testifies that it is not human dignity but political economy of the state that plays a decisive role in recognition of this human right.

Keywords: asylum, refugees, human right to seek asylum, Slovenia, derogation, life of a nation, public emergency.

Ilona Silvola

Asylum Seekers, the Church and Finnish Society: Understanding the Situation Through Hannah Arendt's Concept of "The Right to Have Rights"

In 2015, 32,000 asylum seekers arrived in Finland. Since then, Finnish government has tightened up the legislation of international protection. In addition, Finnish Migration Service has changed its own practices, which has made even family reunions, among others, more difficult. Especially since 2015, several parishes of the Evangelical Lutheran Church of Finland have started to work with asylum seekers, and some of them have offered church sanctuary. Through ethnography and reading of Hannah Arendt, the article provides a deepened understanding of the situation of asylum seekers in Finland and the work that the Lutheran Church does with asylum seekers. The article shows how Arendt's phrase "the right to have rights" and her "theory of action" can provide a tool for understanding the situation of asylum seekers in Finland. Arendt's discourse can provide a way of understanding the (potential) role of the Evangelical Lutheran Church of Finland in promoting the human rights of asylum seekers in Finnish society. The article shows that sanctuary offered by the church can be understood as a way of providing the asylum seekers with a way to enter an alternative "space of appearance" where their voice can be heard. This is due to the role of the Lutheran Church as an established institution in Finnish society.

Keywords: Hannah Arendt, asylum, the Evangelical Lutheran Church of Finland, "the right to have rights", Finland.

Bojan Žalec

Arendt and Refugees (at present): Personalist Anthropological Foundations of the Ethics of Refugeeism

The main aim of the paper is to present the situation of the contemporary refugees and its ethical unacceptability. This aim is reached by the use of the ideas and concepts of Hannah Arendt. In this way, the author wants to contribute to the laying of anthropological foundations of the ethics of refugeeism appropriate for the current situation. The article has two main parts. In the first part, the main constituents of Arendt's account are presented as we can find them primarily in her works *The Origins of Totalitarianism* and *The Human Condition*. The author makes several interesting conclusions based on the analysis of Arendt's oeuvre. A very important finding is about the importance of the inclusion of man in the world in Arendt's sense of this term. This implies being included in the public and political sphere. Despite the striking similarities between the situations of refugees in Arendt's time and in the present there are also some important differences. The new aspects and characteristics are covered in the second part of the article. Some of them are the results of the implementation of new technologies that Arendt in her time could not imagine.

Keywords: refugees, Hannah Arendt, exclusion, public and political sphere, vita activa.

P O V Z E T K I

Kelly Oliver

Zaporniški humanitarizem, nezmožnost pričanja in paradoks pridrževanja tujcev

Sodobni centri za pridržanje tujcev in begunski centri so sestavni del zaporniškega humanitarizma, ki begunce istočasno spreminja v zločince in objekte dobrodelnosti, in ki hkrati predstavlja osnovo problematični legitimaciji zapiranja in zadrževanja beguncev v vse bolj nevarne, z boleznimi napolnjene in skrajno neustrezne nastanitvene pogoje. Namesto z argumentacijo človekovih ali državljanskih pravic kot osnove naših političnih (ali etičnih) obveznosti, bi morali v odnosu do beguncev začeti s priznanjem soodvisnosti vseh posameznikov na skupnem planetu, našem edinem domu. Namesto terjati suvereno pravico do sprejemanja drugih v svoje domove, bi morali priznati, da je temelj našega doma Zemlja sama, ki nam ne pripada kot lastnina, temveč kot nekaj, kar si delimo s vsemi ostalimi človeškimi bitji.

Ključne besede: pridrževanje tujcev, zaporniški humanitarizem, človekoljubnost, Derrida, gostoljubnost, človekove pravice, begunski status, pričevanje.

Shé Hawke

Izgnanstvo grške Metide: povrnitev materinske božanske ontologije

Prispevek prikazuje ontologijo materinskega zatočišča/azila s pomočjo Metidine genealogije. Tekst sledi metodi mitično-narativne refiguracije in predstavlja odgovor na poziv Luce Irigaray po razkritju in povrnitvi materinskega Božjega, ki je bilo iz tradicije izgnano z vzpostavitvijo patriarhalnega diskurza v peti generaciji Orfičnega panteona. Dogajanje, iz katerega študija izhaja, je Metidina so-ustvaritev svetega odnosa do vode, v mit(e)ološkem, jezikovem in simbolnem smislu. Z vrnitvijo božanske Metide v obliki boginje Stvariteljice iz izvornega Orfičnega panteona, ali kot mističnega *Prvega vzroka* (po Thomasu Taylorju) iz prve generacije orfičnih/olimpskih bogov, postaja naše iskanje božanskega izvora in ponovnega spoznanja o naši genezi skozi zalogo materinskih voda spet mogoče. Vrnitev Metide v peti generaciji Olimpa – kot izgnane soproge Zevsa in kot umorjene Atenine matere – tako močno zapleta genealoško sled. Ostanki zgodbe pa – mistični ali mitični – kažejo na to, da je Metida figurativna prednica in materinska so-stvari-

teljica vodno-osredotočene evolucije in celotnega stvarjenja. Ta tematika prekinja s prevladujočimi maskuliniziranimi naracijami in doksologijami ter nam vrača materinsko božanstvo kot sveto – in ne več kot pošastno ali odsotno.

Ključne besede: ženska božanstva, Metida, ontologija azila, Orfične skrivnosti, Olimpijski miti, Aquamater, Atena, Zeus.

Nadja Furlan Štante

Spolno nasilje, religije in migracije: ženska kot simbol kulturne identitete

Prispevek analizira kritično razumevanje praktičnih posledic predsodkovnega umevanja ženskih teles kot simbolov kulturne identitete in njihovega vpliva na spolno nasilje (posilstvo) nad ženskami migrantkami. Glavni poudarek prispevka je etika premagovanja konfliktov, ki izhajajo iz pomanjkanja medkulturnih, medverskih in solidarnostnih politik in praks vezanih na sodobne migracije in begunsko krizo. Preizpraševanje ospoljenih in religijskih vidikov mi je v tem okviru usmerjeno tudi v globlje razumevanje odnosov moči in vzpostavitev strategij za izgradnjo miru iz perspektive spolov. Vspostavitev resnične solidarnosti v kontekstu enakosti spolov, v prvi vrsti pomeni kultivirati pravičnost v smislu humanosti in dostojanstva sleherne človeške osebe in iz le-te izhajajoče posebnosti vedenja, ljubezni in življenja. Vprašanja v zvezi z enako pripoznanostjo, pravicami in priložnostmi so temeljni kamni, ki jih je treba dodati hermenevtiki enakosti spolov in jih implementirati tako na pravni kot tudi praktišni sistem na področju migracij in socialnega varstva. V tem kontekstu je predstavljena alternativa vloge in udejstvovanje žensk v procesu zdravljenja travm spolnega nasilja nad migrantkami, begunkami (in v povojnih območjih) v smislu poskusa celjenja ran in izgradnje (verskega) miru.

Ključne besede: ženske, migracije, begunke, spolno nasilje, vojna, religija, izgradnja miru.

Lenart Škof

Migrantska kriza, ranljivost in etika sobivanja

Namen članka je z etičnega vidika premisliti sodobno migrantsko krizo in hkrati etično ovrednotiti njene humanitarna posledice. V prvem delu se ukvarja-

mo s tistim, kar je Zygmunt Bauman poimenoval z življenjem v dobi izgube senzitivnosti. V ospredju je material(istič)na etika osvoboditve, kakor jo je zasnoval Enrique Dussel. V nadaljevanju članka se pomaknemo v smeri etike ranljivosti, ki jo uvedemo s premislekom ob besedah Papeža Frančiška o migracijski krizi v Sredozemlju, ki jih je izrekel ob svojem obisku Lampeduse. Na temelju te zastavitve ponujamo v sklepnem delu članka nov etično-demokratični odziv, ki naj temelji na naši imaginativni zmožnosti tako za spominjanje kakor tudi za ustvarjanje prihodnjih upanj.

Ključne besede: migrantska kriza, ranljivost, etika sobivanja, skupnost, etika osvoboditve.

Samo Skralovnik

'V senci moje strehe' (1 Mz 19,8). Vrednota gostoljubja v Svetem pismu

V članku je predstavljena vrednota gostoljubja v Svetem pismu in nekaterih drugih judovskih (rabinskih) virih. Natančneje, najprej so predstavljeni nekateri razlogi za oblikovanje posebnega odnosa do beguncev oz. tujcev, tj. širši kulturno-zgodovinski kontekst antične Mezopotamije ter Izraelovi nomadski izvori. V nadaljevanju so predstavljene temeljne značilnosti in nekatere posebnosti svetopisemskega odnosa do tujcev.

V obravni gostoljublja je izpostavljen lik Abrahama v 1 Mz 18 (Abrahamovo gostoljubje kot arhetip odnosa do tujcev) kot skupno "stičišče" treh monoteizmov. Ker vse tri "Abrahamove vere" pozitivno vrednotijo Abrahama kot svojega prednika, lik očaka tako ponuja možnost za dialog, natančneje tri-alog, skupno stičišče, kjer se odpira prostor za spoštovanje in mirno sobivanje. To skupno stičišče predstavlja vrednota gostoljubja.

Ključne besede: gostoljubje, Sveto pismo, tujci, Abraham, nomadi, Mezopotamija, medkulturni dialog.

Maja Bjelica

Azil kot gostoljubje: ponovno prisluhniti Derridaju

Francoski filozof Jacques Derrida vprašanje azila neposredno naslavlja v svojem pozdravnem nagovoru kongresu Mednarodnega združenja pisateljev, ki je bil

kasneje objavljen kot *Kozmopoliti vseh dežel, še en napor!*. To besedilo umešča pojem in dejanje nudenja azila v širši kontekst vprašanja gostoljubja, ki ga Derrida predstavi kot aporetično, a obenem kanonično. V prispevku so predstavljene tudi napetosti med nudenjem pribežališča oziroma zatočišča in etiko gostoljubja.

Članek »Azil kot gostoljubje: ponovno prisluhniti Derridaju« ponuja vpogled v pomen in vpliv Derridajve misli o zatočišču, ki se danes, ko se število prosilcev za azil dnevno povečuje, zdi še posebej pomembna. Prispevek predstavlja ključno vlogo prepoznavanja vključitve pojma azila v področje etike gostoljubja, ki omogoča globlje razumevanje njegove kompleksnosti in nelinearnosti. Nadalje besedilo prevprašuje razlikovanje med gostom in beguncem, gostiteljem in talcem, gostom in gostiteljem. Prispevek je sklenjen z možnostjo prepoznavanja dejanja nudenja azila kot dejanje brezpogojnega gostoljubja, ki se razkriva kot možnost *tistega* nemogočega.

Ključne besede: azil, gostoljubje, etika gostoljubja, Jacques Derrida, kozmopoliti.

Klaus-Gerd Giesen

Kratek esej o apatridnosti (statelessness) in kozmopolitskem državljanstvu

Prispevek analizira status apatridnosti (*statelessness*) z vidika politične filozofije. Na podlagi primerjave položaja oseb brez državljanstva in Kantove koncepcije kozmopolitskega državljanstva članek opredeli minimalne moralne standarde zaščite, za katere se v veliki meri izkaže, da v aktualni politični situaciji niso doseženi.

Keywords: apatridnost, kozmopolitskost, Kant, državljanstvo.

Barbara Gornik

Begunci in pravica do iskanja pribežališča: omejiti ali ne omejiti, to je zdaj vprašanje

Slovenija se kot podpisnica Konvencije ZN o statusu beguncev zavzema za spoštovanje pravice vsakogar do iskanja in uživanja pribežališča pred preganjanjem. Vladna politika je v odzivu na nedavno begunsko krizo pokazala, da je to domnevno univerzalno človekovo pravico možno interpretirati na različne; medtem ko deklaracija priznava vsem ljudem enako svobodo, in pravice na podlagi njihovo človekove narave, politična praksa človekovih pravic potrjuje, da se pravica iskanja

zatočišča pred preganjanjem de facto ne presoja na temelju človeškega dostojanstva. Prispevek analizira vprašanje te pravice kot splošnega načela mednarodnega prava v luči novele Zakona o tujcih iz leta 2017; osrednji cilj prispevka je kritično presoditi razloge, ki so navedeni kot legitimne okoliščine, ki vlado odvezujejo od spoštovanja dolžnosti izhajajočih iz mednarodnega prava, in sicer ko sta v kontekstu spremenjenih razmere na področju migracij ogrožena javni red in notranja varnost. Prispevek pokaže, da ni človekovo dostojanstvo tisto, temveč politična ekonomija, ki odločilno vpliva na priznavanje pravice do iskanja zatočišča.

Ključne besede: azil, begunci, človekova pravica do iskanja zatočišča, Slovenija, omejitev pravic, izredno stanje, življenje naroda.

Ilona Silvola

Prosilci za azil, cerkev in finska družba: razumevanje situacije skozi koncept Hannah Arendt o"pravici imeti pravice"

Leta 2015 je na Finsko prispelo 32.000 prosilcev za azil. Finska vlada je v odzivu na novonastalo situacijo poostrila zakonodajo o mednarodni zaščiti. Poleg tega je finska Služba za migracije spremenila nekatere izmed svojih ustaljenih praks, s čimer je med drugim otežila postopke združevanja družin. Po letu 2015 so se s prosilci za azil začele ukvarjati tudi posamezne župnije evangeličanske luteranske cerkve, med katerimi so nekatere beguncem ponudile zatočišče. Članek temelji na kombinaciji etnografske metode in obravnavo del Hannah Arendt; izhajajoč iz tega oriše položaj prosilcev za azil na Finskem ter poda refleksijo dela, ki ga luteranska cerkev opravlja s prosilci za azil. Besedilo analizira Aredntovo »pravico imeti pravice« (*right to have rights*) in »teorijo delovanja« (*theory of action*) kot izhodišče razumevanja položaja prosilcev za azil ter pokaže, da ta diskurz omogoča prepoznavanje (potencialne) vloge evangeličanske luteranske cerkve Finske, ki jo ima na področju spoštovanja človekovih pravic prosilcev za azil v finski družbi. Članek pokaže, da se zatočišče, ki ga ponuja cerkev, lahko razume kot vstop prosilcev za azil v alternativni »pojavni prostor«, v katerem se sliši njihov glas, kar pa je hkrati posledica vpliva luteranske cerkve, ki ga ima kot družbeno uveljavljena institucija v finski družbi.

Ključne besede: Hannah Arendt, azil, evangeličanska luteranska cerkev Finske, »pravica imeti pravice«, Finska.

Bojan Žalec

Arendt in begunci (v sedanjosti): personalistični antropološki temelji etike begunstva

Glavni namen članka je predstaviti položaj sodobnih beguncev in njegovo etično nesprejemljivost. Ta namen avtor dosega z uporabo idej in pojmov Hannah Arendt. Na ta način želi prispevati k oblikovanju antropoloških temeljev etike begunstva, ki je primerna za sodobno situacijo. Članek ima dva glavna dela. V prvem delu so predstavljeni glavni elementi pojasnitve Arendtove, kot jih zasledimo predvsem v njenih delih *Izvori totalitarizma* in *Vita activa*. Na podlagi analize opusa Arendtove avtor pride do raznih zanimivih ugotovitev. Ena od njih je spoznanje o pomembnosti vključenosti človeka v svet v pomenu te besede, kot ji ga daje Arendtova. Ta implicira človekovo vključenost v javno in politično sfero. Kljub očitnim in pomembnim podobnostim med položajem beguncev v času Arendtove in njihovo sedanjo situacijo pa so med obema tudi pomembne razlike. Tem novim vidikom in značilnostim je posvečen drugi del članka. Nekateri od njih so rezultat uporabe sodobne tehnologije, ki si je Arendtova še ni mogla predstavljati.

Ključne besede: begunci, Hannah Arendt, izključenost, javna in politična sfera, vita activa.

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Her work has been translated into eight languages. She has been interviewed on ABC news, appeared on CSPAN Books, published in the New York Times and Los Angeles Times, among other appearances and publications in popular media.

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Njena dela so bila prevedena v osem jezikov. Njeni intervjuji so bili objavljeni na ABC news, v C-SPAN Books ter v New York Timesu in Los Angeles Timesu, poleg številnih drugih pojavljanj in objav v popularnih mediji.

SHÉ HAWKE

Shé Hawke is a poet and scholar from the department of Gender and Cultural Studies at the University of Sydney. The figurative and elemental origin, journey and fate of aquatic inter- relationships, sits at the core of her interdisciplinary research, extending into myth/eology, environmental sociology and ecofeminist philosophy and ethics. In 2016, she was Bley Stein Visiting Professorial Fellow at the Arava Institute for Environmental Science, Israel, lecturing on "Transboundary Cross-cultural Sacred Ecologies of Water". She has spoken and written internationally on the broad theme of ontologies of asylum in relation to refugees, migrants, women and minority groups exiled discursively, and geopolitically. In 2016 she addressed the Mahindra Humanities Center, *Ludics* Seminar at Harvard University on "The Play of Water from Mythic Metis to the Contemporary Beach: The Poetics of *Aquamorphia*" (Interactive Publications: Carindale 2014). In 2018 she delivered a keynote address "Falling for Water" at "A Toxic Love Affair: Polluted Leisure in Blue Spaces" *Ex Libris Gallery* (Curated by Evers and Davoll) School of Arts and Cultures, Newcastle University, UK.

Shé Hawke je pesnica in znanstvenica na Oddelku za študije spola in kulturne študije na Univerzi v Sydneyu. Figurativni in elementarni izvor ter potovanje in usoda vodnih med-odnosov predstavljajo osnovo njenega interdisciplinarnega raziskovanja, ki se širi v mit/eologijo, okoljsko sociologijo ter ekofeministično filozofijo in etiko. Leta 2006 je prejela štipendijo (Bley Stein Visiting Professorial Fellow) na Arava Institute for Environmental Science v Izraelu, kjer je nastopila s predavanjem »Transboundary Cross-cultural Sacred Ecologies of Water." Predavala in pisala je o ontologijah azila v odnosu do beguncev, migrantov, žensk ter drugih diskurzivno in geopolitično izključenih manjšin. Leta 2016 je nagovorila občinstvo v Mahindra Humanities Center, v okviru seminarjev *Ludics* na Harvardski univerzi, in sicer s predavanjem "The Play of Water from Mythic Metis to the Contemporary Beach: The Poetics of *Aquamorphia*" (Interactive Publications: Carindale 2014). Letu 2018 je v galeriji *Ex Libris* (School of Arts and Cultures, Newcastle University) nastopila s predavanjem "Falling for Water" at "A Toxic Love Affair: Polluted Leisure in Blue Spaces" (kuratorja Evers in Davoll).

NADJA FURLAN ŠTANTE

Dr. Nadja Furlan – Štante is Senior Research Associate and Associate Professor of Religious Studies at Science and research centre Koper. Her current research interests are women's religious studies, ecofeminism and inter-religious dialogue.

Dr. Nadja Furlan Štante je višja znanstvena sodelavka in izredna profesorica religijskih znanosti na Znanstveno-raziskovalnem središču Koper. Fokus njenega znanstveno-raziskovalnega dela je osredinjen na ženske religijske študije, ekofeminizem in medreligijski dialog.

LENART ŠKOF

Lenart Škof, Ph.D., is a Professor of Philosophy and Head of the Institute for Philosophical Studies at Science and Research Centre Koper (Slovenia). Lenart Škof received the KAAD grant (Universität Tübingen), Fulbright grant (Stanford University) and Humboldt fellowship for experienced researchers (Max Weber Kolleg, Universität Erfurt). His main research interests lie in ethics, the philosophy of American pragmatism, comparative religion with intercultural philosophy, and feminist philosophy. He delivered lectures at various universitities, such as Australian Catholic University, University of Vienna, University of Delhi, Jadavpur University (Kolkata), Linköpings Universitet (Sweden), University of Erfurt and others. He is the president of Slovenian Society for Comparative Religion. His recent books include: *Borders and Debordering: Topologies, Praxes, Hospitableness*, ed. by E. Mendieta, L. Škof and T. Grušovnik (Lexington Books, 2018), *Atmospheres of Breathing*, ed. by L. Škof and P. Berndtson (SUNY Press, 2018), *Ethik des Atems* (Herder/Karl Alber, 2017) and *Poesis of Peace: Narratives, Cultures and Philosophies*, ed. by K-G. Giesen, C. Kersten and L. Škof (Routledge, 2017).

Lenart Škof je predstojnik Inštituta za filozofske študije ZRS Koper. Ukvarja se s sodobno filozofijo, etiko ter religijskimi študijami. Je avtor več monografij, med njimi *Breath of Proximity* (Dordrecht in New York: Springer, 2015), *Antigonine sestre* (Slovenska matica, 2018) ter *Etika diha in atmosfera politike* (Slovenska matica, 2013). Uredil je več zbornikov pri mednarodnih založbah, med drugim *Atmospheres of Breathing* (SUNY Press, 2018) ter *Breathing with Luce Irigaray* (London, 2013). Objavlja v priznanih mednarodnih revijah, kot so *Contemporary Pragmatism, Sophia, Peace Review, Schopenhauer Jahrbuch* idr. Je prejemnik Fulbrightove in Humboldtove raziskovalne štipendije. Lenart Škof je predsednik Društva za primerjalno religiologijo.

SAMO SKRALOVNIK

Samo Skralovnik, Ph.D., Assist. Prof. In 2013 he became an assistant at the Department of Biblical studies and Judaism of TEOF, and since then he has been participating in the research programme Jewish-Christian Sources and Dimensi-

ons of Justice, where he continues his research on Hebrew, Jewish and apocryphal texts and publishes his findings in the most prominent scientific journals at home and abroad.

In 2015 he finished a doctorate degree for his semantic study of selected Hebrew roots entitled The Meaning and Interpretation of Desire in the Tenth Commandment (Ex 20,17): the Semantic Study of hmd and 'wh Word Field. His doctoral thesis will be published in English by a prominent publishing house, Brill from the Netherlands, which represents an important reference point for international presentation and implementation of the programme results.

In May 2017, the Senate of the Faculty of Theology elected him Assistant Professor of Biblical Studies and Judaism. Since 2015 he has been an Editor in Chief Assistant at Unity and Dialogue, a scientific journal of the Institute of Ecumenical and Inter-religious Dialogue.

Doc. dr. Samo Skralovnik je leta 2013 postal asistent na Katedri za Sveto pismo in judovstvo Teološke fakultete v Ljubljani in od takrat sodeluje v raziskovalnem programu Judovsko-krščanski viri in razsežnosti pravičnosti, kjer nadaljuje svoje raziskovanje hebrejskih, judovskih in apokrifnih besedil ter objavlja svoja dela v najpomembnejših znanstvenih revijah doma in v tujini.

Leta 2015 je zaključil doktorski študij s semantično raziskavo izbranih hebrejskih korenin z naslovom *The Meaning and Interpretation of Desire in the Tenth Commandment (Ex 20,17): the Semantic Study of hmd and 'wh Word Field [Pomen in interpretacija poželenja v deseti Božji zapovedi (2 Mz 20,17) : semantični študij besednega polja hmd in 'wh]*. Doktorska disertacija bo objavljena v angleškem jeziku pri ugledni založbi Brill na Nizozemskem, kar predstavlja pomembno izhodišče za mednarodno predstavitev in implementacijo rezultatov programa.

Maja 2017 ga je senat Teološke fakultete izvolil v docenta za Sveto pismo in judovstvo. Od leta 2015 deluje kot pomočnik glavnega in odgovornega urednika znanstvene revije Edinost in dialog, ki jo izdaja Inštitut Stanka Janežiča za ekumensko teologijo in medreligijski dialog.

MAJA BJELICA

Maja Bjelica, PhD, has obtained her doctoral degree at the Faculty of Humanities of the University of Primorska, Slovenia, with the dissertation "A Philosophical-anthropological Study of the Possibilities of the Ethics of Hospitality: Breath, Silence and Listening in Spaces of Intersubjectivity." Her research interests comprise ethics of hospitality, applied ethnomusicology, community music, intercultural philosophy and transdisciplinary methodologies of cultural phenomena research.

Dr. Maja Bjelica je doktorski študij s podorčja antropologije zaključila na Fakulteti za humanistične študije Univerze na Primorskem z disertacijo »Filozofsko-antropološka študija možnosti etike gostoljubja: dih, tišina in poslušanje v prostorih intersubjektivnosti«. Njeno raziskovalno zanimanje vključuje etiko gostoljubja, aplikativno etnomuzikologijo, skupnostno glasbo, medkulturno filozofijo in transdisciplinarne metodologije raziskovanja kulturnih pojavov.

KLAUS-GERD GIESEN

Klaus-Gerd Giesen is Professor of political science at the Université Clermont Auvergne in Clermont-Ferrand, France. He works mainly on political philosophy and ethics, international relations, and the relationship between the human and technology. He gave lecutres at University of Geneva, University of Lausanne (Switzerland), Catholic University of Louvain (Belgium), University of Leipzig, Germany, where he was for some time the Director of the Institute of Political Science. In addition, he taught for several years as a Visiting Professor at the University of Lausanne (Switzerland), University of Lyon (France) and at the Free University in Brussels, Belgium. He has also been a Visiting Researcher at the Philosophy Department of the University of Southern California in Los Angeles (USA) and at the Division of Humanities and Social Sciences of the California Institute Technology in Pasadena (USA). He is the founder and editor of the online journal *Academic Foresights*.

Klaus-Gerd Giesen je profesor političnih ved na Univerzi Clermont Auvergne v Clermont-Ferrandu, (Francija). Njegova dela segajo na področja politične filozofije in etike, mednarodnih odnosov ter odnosa med človekom in tehnologijo. Predaval je na Univerzi v Ženevi, Univerzi v Lozani (Švica), Katoliški univerzi v Louvainu (Belgija), kot tudi na Univerzi v Leipzigu (Nemčija), kjer je bil nekaj časa tudi direktor Inštituta za politične vede. Poleg tega je več let poučeval kot gostujoči profesor na Univerzi v Lozani (Švica), Univerzi v Lyonu (Francija) in na Svobodni univerzi v Bruslju (Belgija). Bil je tudi gostujoči raziskovalec na filozofskem oddelku Univerze v Južni Kaliforniji v Los Angelesu (ZDA) in na Oddelku za humanistične in družboslovne študije na Kalifornijskem tehnološkem inštitutu v Pasadeni (ZDA). Je ustanovitelj in urednik spletne revije *Academic Foresights*.

BARBARA GORNIK

Barbara Gornik is a PhD Research Assistant at the Science and Research Centre of Koper. She graduated in Cultural Studies and Anthropology at the Uni-

versity of Primorska, Faculty of Humanities. In 2016, she defended her doctoral thesis, 'Human Rights and Nationalism'. Her research interests are migration, nationalism and human rights, which she studies using the anthropology of human rights and discourse theory as basic theoretical standpoints to explain the implementation and interpretation of human rights as an effect of knowledge and power relations. She is a co-editor of the book *Unaccompanied Children in European Migration and Asylum Practices: In Whose Best Interests?* (Routledge, 2017) and a member of the Editorial Board of the *International Journal of the Euro-Mediterranean Studies*. Since 2016, she has been a deputy of the General Assembly of the Nordic Summer University (NSU) and regular attendee at the NSU study circle "Patterns of Dysfunction in Contemporary Democracies: Impact on Human Rights and Governance. She has been involved in numerous research projects. Among her most recent outstanding academic achievements is the research and innovation project "Migrant Children and Communities in a Transforming Europe" funded under Horizon 2020 programme, starting in 2019, where she serves as academic co-coordinator and scientific project manager.

Barbara Gornik je asistentka z doktoratom na Znanstveno-raziskovalnem središču Koper. Diplomirala je na področju antropologije in kulturnih študij na Fakulteti za humanistične študije Koper. Na isti instituciji je leta 2016 je pridobila naslov doktorica znanosti z zagovorom disertacije z naslovom Človekove pravice in nacionalizem. V svojem raziskovalnem delu se, izhajajoč iz antropologije in teorij diskurza, ukvarja s temami migracij, nacionalizma in človekovih pravic. Barbara Gornik je sourednica zbornika Unaccompanied Children in European Migration and Asylum Practices: In Whose Best Interests?, (Routledge, Taylor and Francis Group) in članica uredniškega odbora revije International Journal of the Euro-Mediterranean Studies. Od leta 2016 je delegatka Generalne skupščine pri Nordijski poletni univerzi in redna aktivna udeleženka študijskega kroga Patterns of Dysfunction in Contemporary Democracies: Impact on Human Rights and Governance. Med njenimi zadnjimi akademskimi dosežki velja omeniti projekt Migrant Children and Communities in a Transforming Europe (MiCREATE), ki je bil izbran za financiranje v okviru programa Obzorje 2020 in v katerem nastopa kot akademska so-koordinatorica in organizacijski vodja projekta.

ILONA SILVOLA

Ilona Silvola (b. 1992) is a doctoral student in systematic theology in Åbo Akademi University, Finland. She completed her master's degree in theology in 2018, the title of her master´s thesis was Vem ser människan? En etnografisk teologisk fallstudie om Mikaelsförsamlingens arbete med asylsökande och flyktingar (Who

sees the human being? An ethnographic theological case study on the work of Michael's parish with asylum seekers and refugees). She is currently writing her dissertation in systematic theology on the church, asylum seekers and racism.

Ilona Silvola (roj. 1992) je doktorska študentka sistematične teologije na Univerzi Åbo Akademi na Finskem. Leta 2018 je zaključila magistrski študij teologije z magistrsko nalogo z naslovom *Vem ser människan? En etnografisk teologisk fallstudie om Mikaelsförsamlingens arbete med asylsökande och flyktingar [Kdo vidi človeško bitje? Etnografska teološka študija primera Mihaelove župnije in njenega dela s prosilci za azil in begunci]*. Trenutno piše doktorsko disertacijo s področja sistematične teologije o cerkvi, prosilcih za azil in rasizmu.

BOJAN ŽALEC

Research Professor Bojan Žalec (b. 1966 in Ljubljana) is a philosopher interested in issues connected to religion: conceptual grammar of religion, ethical aspects of religion (including topics like forgiveness, reconciliation, religious origins of ethics), ethics of call, interreligious and intercultural dialogue and coexistence, (religious) epistemology, semantical and communicational aspects of religion, phenomenology and hermeneutics of (religious) violence, religion in public life, existential aspects of faith and religion, etc. He pays special attention to the study of Kierkegaard and develops the position of solidary personalism. He is the Hhead of the Institute of Philosophy and Social Ethics at the Faculty of Theology, University of Ljubljana. HAt the moment, he is currently the leader of the Jean Monnet module ""Challenges for EU: Identity, Dialogue and Values.". Professor Žalec has published his scientific texts in several languages. He has published more than 50 original scientific papers in scientific journals, 5 scientific monographs, more than 50 parts of scientific monographs, all as a sole author. He has edited more than 50 scientific monographs (by Lit Verlag and other reputable publishers). He has published his scientific articles in scientific journals with a high factor of impact: *Acta Analytica, Anthropological Notebooks, Synthesis Philosophica, Filozofska istraživanja, Bogoslovni vestnik, Filozofia, European Journal of Science and Theology, Annales: Series Historia et Sociologia, XLinguae* and others. His works are cited in many important scientific articles and books. He is a member of the European Academy of Sciences and Arts (residence in Salzburg) and of the Central European Research Institute Søren Kierkegaard Ljubljana.

Znanstveni svetnik dr. Bojan Žalec (roj. 1966 v Ljubljani) je filozof, ki se zanima za vprašanja, ki so povezana z religijo: pojmovna slovnica, etični vidiki religije (vključno s temami, kot so odpuščanje, sprava, religijski izviri etike), etika klica,

medreligijski ter medkulturni dialog in sožitje, (religijska) teorija spoznanja, semantični in komunikacijski vidiki religije, fenomenologija in hermenevtika (religijskega) nasilja, religija v javnem življenju, eksistencialni vidiki vere in religije itd. Posebno pozornost posveča preučevanju Kierkegaarda in razvija stališče solidarnega personalizma. Je predstojnik Inštituta za filozofijo in družbeno etiko na Teološki fakulteti Univerze v Ljubljani. Trenutno je vodja Jean Monnet modula "Izzivi EU: identiteta, dialog in vrednote". Svoja znanstvena besedila je objavil v raznih jezikih. Kot edini avtor je objavil več kot 50 izvirnih znanstvenih člankov v znanstvenih revijah, 5 znanstvenih monografij, več kot 50 sestavkov v znanstvenih monografijah. Uredil je več kot 50 znanstvenih monografij (pri založbi Lit in drugih uglednih založbah). Objavil je članke v znanstvenih revijah z visokim faktorjem vpliva: *Acta Analytica, Anthropological Notebooks, Synthesis Philosophica, Filozofska istraživanja, Bogoslovni vestnik, Filozofia, European Journal of Science and Theology, Annales: Series Historia et Sociologia, Communications, XLinguae* in drugih. Je član Evropske akademije znanosti in umetnosti (s sedežem v Salzburgu) in Srednjeevropskega raziskovalnega inštituta Sørena Kierkegaarda iz Ljubljane.

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