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A State of Refugees? Agamben and the Future of Europe¹

The passport is the most noble part of the human being. It also does not come into existence in such a simple fashion as a human being does. A human being can come into the world anywhere, in the most careless way and for no good reason, but a passport never can. When it is good, the passport is also recognized for this quality, whereas a human being, no matter how good, can go unrecognized. (Bertolt Brecht, *Refugee Conversations*, 1940)

Drawing extensively on Giorgio Agamben's critique of the historical concepts of citizenship and nation-state as they appeared in the context of European biopolitical modernity, I recently attempted to estimate the impact that the so-called 2015-16 "refugee crisis" in Europe had on those concepts in practice.¹ Following Agamben's arguments from his 1993 brief intervention "Beyond Human Rights", I argued that the massive presence of refugees, understood in terms of stateless people or irregular migrants, on the territories of European states broke up the fantasmatic nexus between sovereignty, nativity, and territory that are tied together in the concept of nation-state. To recall briefly the core of the argument, Agamben argues that the modern and specifically European concept of nation-state consists of "a state that makes nativity or birth [*nascita*] (that is, naked human life) the foundation of its own sovereignty."² Historically, modern nation-states emerged mostly in Europe on the ruins of the medieval monarchies,

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¹ See Boštjan Nedoh, *Mass Migrations as a Messianic Event? Rereading Agamben's State of Exception in Light of the Refugee Crisis in Europe*, *Law, Culture and the Humanities*, online first (2017), doi: 10.1177/1743872117703717. This article is a result of the research programme P6-0014 "Conditions and Problems of Contemporary Philosophy", the research project J6-8264 "Europe as a Philosophical Idea and Political Subject" and the research project J5-1794 "The Break in Tradition: Hannah Arendt and the Conceptual Change", which are funded by the Slovenian Research Agency.

² Giorgio Agamben, *Means without End: Notes on Politics*, trans. Vincenzo Binetti and Cesare Casarino, The University of Minnesota Press, Minneapolis and London 2000, p. 21.

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where the nation as a homogeneous social formation “superseded” the medieval feudal organisation of social life.³ In this context, such a historical break did not remove the medieval notion of sovereignty from the political realm; rather, as Eric Santner has argued,⁴ with the decline of medieval monarchies and the emergence of modern republics, medieval sovereignty transitioned from kings to new bearers: the people. However, precisely because the people became the new bearers of sovereignty, they, following Santner, also became the object of biopolitical techniques as described by Michel Foucault: the collective body of the people is now treated in the same way as the so-called second sublime body of the king was treated in medieval monarchies by the courtly physicians. This transition indeed implied far-reaching consequences: the collective body of the people was in fact immediately doubled into the body of the nation, and the state of the people immediately appeared to be the nation-state, which is to say, as Agamben observed, the state that makes the bare life of the nation (or the birth of its citizens – the etymon of “nation” is the Latin word “native”, which simply meant “birth”⁵) the foundation of its own sovereignty. And this immediate passage from bare life to the nation resulted in the fact that in the context of European modernity, as Agamben famously states, the realm of bare life completely overlaps with the realm of politics so that the latter fully becomes the biopolitical space.⁶

In turn, refugees or, better yet, stateless people or today's asylum seekers are those whose presence on the soil of a particular nation-state breaks up such a fantasmatic nexus between nativity, territory, and state (or, which is the same, between birth, citizenship, and territory): “If the refugee represents such a disquieting element in the order of the nation-state, this is so primarily because, by breaking the identity between the human and the citizen and that between na-

³ Benedict Anderson, *Imagined Communities: Reflections on the Origin and Spread of Nationalism*, Verso, London and New York 2006 (revised edition). It is interesting to note that Anderson, along the same lines, further argues that modern nationalism “superseded” religion in its role of the ideological supplement for the organisation of social life (p. 15).

⁴ See Eric L. Santner, *The Royal Remains: People's Two Bodies and the Endgame of Sovereignty*, The University of Chicago Press, Chicago, IL 2011.

⁵ Agamben, *Means without End*, p. 21.

⁶ Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*, trans. Daniel Heller-Roazen, Stanford University Press, Stanford, CA 1998, pp. 3–4, 11, 111, 119–120, 122, 131, 148, 153, 171, 181.

tivity and nationality, it brings the originary fiction of sovereignty into crisis.”⁷ Considering the fact that the number of refugees worldwide has grown substantially in recent decades and that a “growing section of humankind are no longer representable inside the nation-state,”⁸ it is thus no coincidence that Agamben in his stubbornly anti-sovereign and anti-biopolitical stance proposes nothing less than “to abandon decidedly, without reservation, the fundamental concepts through which we have so far represented the subjects of the political (Man, the Citizen and its rights, but also the sovereign people, the worker, and so forth) and build our political philosophy anew starting from the one and only figure of the refugee.”⁹ In fact, as he argues, “given the by now unstoppable decline of the nation-state and the general corrosion of traditional political-juridical categories, the refugee is perhaps the only thinkable category for the people of our time and the only category in which one may see today – at least until the process of dissolution of the nation-state and its sovereignty has achieved full completion – the forms and limits of a coming political community.”¹⁰

In the present contribution, I will attempt to take another step further in the direction proposed by Agamben and shed light on apparently marginal and also largely unthematized insights that he discusses in the same text (i.e. in “Beyond Human Rights”) regarding practical political examples and solutions that may emerge on the basis of such a categorical criticism of the biopolitical concepts of citizenship and nation-state. More specifically, I will contend that Agamben’s proposal according to which we should see the subjects of the coming political community and particularly the residents of European states as “being-in-exodus of the citizen”¹¹ should be taken as a paradigmatic example according to which Europe as a political subject could and should rethink itself both post-2008 Eurozone crisis and after the 2015-16 so-called “refugee crisis”. Yet, I will try to unfold these arguments by linking Agamben’s discussion with the Freudian-Lacanian psychoanalytic theory of repression, which in any case clearly echoes in Agamben’s above-mentioned intervention. Specifically, my argument will be that the concepts of citizenship and nation-state are indeed biopolitical concepts that historically emerged in the context of the passage

⁷ Agamben, *Means without End*, p. 21.

⁸ *Ibid.*

⁹ *Ibid.*, p. 16.

¹⁰ *Ibid.*

¹¹ *Ibid.*, p. 25.

from classical sovereignty to biopower, as described by Foucault. Yet, these concepts are also dialectical concepts that are, moreover, grounded in the psychic mechanism of repression. As we shall soon see, stateless people or refugees or in general those not inscribed in any formal-symbolic political order, actually embody the repressed element (bare life) in the constitution of citizenship and nation-state and now re-emerge as the return of the repressed in the Freudian sense. In other words, during the refugee crisis, European states encountered their own repressed otherness – undetermined bare life, understood precisely in the sense of lacking any specific symbolic determinations – which, from Agamben’s perspective, always already reminds us of the fundamentally contingent origins upon which a nation-state founds itself. My contention is thus that during the refugee crisis Europe has found itself in a kind of clinical situation, facing its own repressed counterpart. It is here that a decisive break with biopolitical or essentialist conceptions of the nation-state and citizenship should occur, paving the way for a renewal of European politics on a radical and irreducible difference between the concepts of the people and the nation, and between political subject and citizen, respectively. In Agamben’s own words: “The refugee should be considered for what it is, namely, nothing less than a limit-concept that at once brings a radical crisis to the principles of the nation-state and clears the way for a renewal of categories that can no longer be delayed.”¹² That is to say, in order to remain faithful to the emancipatory legacy of Europe,¹³ our task is, perhaps paradoxically, to rethink it on the basis of (Lacanian) subjective destitution and of traversing the fundamental fantasy that frames politics exclusively within the biopolitical nexus nation-state-territory, hence to enact the detachment between politics, citizenship, and territory.

The fiction of sovereignty and the return of the repressed

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Yet before we discuss in greater detail Agamben’s suggestions as regards how to approach not only the Israel-Palestine conflict, but also regarding how to reconsider Europe as a political subject, we should begin by providing a complete picture of what is the original motive underpinning this intervention of Agamben, namely, his critique of the concepts of human rights and, in relation thereto, of citizenship as they function within the system of the nation-state. Departing

¹² *Ibid.*, p. 22–23.

¹³ In recent decades, this approach has been most stubbornly supported by Slavoj Žižek.

from Hannah Arendt's brief 1943 text "We, Refugee", in which she envisaged the Jewish "refugees driven from country to country" to be "the vanguard of their people,"¹⁴ Agamben links the idea of statelessness as a general human condition with the paradox of human rights. In fact, if anywhere, the latter should come to the fore exactly in the case of stateless people, deprived of all symbolic inscriptions, including inscription into the system of the nation-state through the status of citizen. As Arendt had already observed, the historical experience of stateless people, especially in the first half of the twentieth century, reveals, to the contrary, the radical crisis of human rights for those who are supposed to be their most exemplary subjects. For people deprived of citizenship and of all symbolic inscriptions in general, whose only remaining "quality" was that of being alive, their fate was extermination and violence with no rights guaranteed at all. Following Arendt, the conclusion that Agamben draws from this historical experience is that human rights, rather than being complementary to the rights of the citizen so that where the rights of the latter stop there should begin human rights, are instead co-dependent on the rights guaranteed by citizenship.¹⁵ As soon as one loses the rights guaranteed by citizenship, paradoxically, one also loses human rights or becomes vulnerable to the violation of the latter. And, as the ultimate consequence, the deprivation of people of all symbolic inscriptions leads or, in the course of the twentieth century led, to radical dehumanisation and exposed them to the risk of death without murder being committed, as Agamben famously defines the position of *homo sacer*.

On the basis of this complete overlapping between human and citizen (or the immediate vanishing of the former in the latter), which leads to the dehumanisation of non-citizens or stateless people or refugees, Agamben then recognises the same pivotal role that human rights play in the foundation of the modern (biopolitical) nation-state. As he puts it:

Human rights, in fact, represent first of all the originary figure for the inscription of natural naked life in the political-judicial order of the nation-state. Naked life (the human being), which in antiquity belonged to God and in the classical world

¹⁴ Arendt cited in Agamben, *Means without End*, p. 16.

¹⁵ For more on this, see also Balibar's reading of Arendt discussion of the codependence of human rights and the rights of the citizen and on the "right to have rights": Étienne Balibar, *Equaliberty*, trans. James Ingram, Duke University Press, Durham and London 2014, pp. 165–186.

was clearly distinct (as *zoē*) from political life (*bios*), comes to the forefront in the management of the state and becomes, so to speak, its earthly foundation. Nation-state means a state that makes nativity or birth [*nascita*] (that is, naked human life) the foundation of its own sovereignty. [...] The fiction that is implicit here is that *birth* [*nascita*] comes into being immediately as *nation*, so that there may not be any difference between the two moments. Rights, in other words, are attributed to the human being only to the degree to which he or she is the immediately vanishing presupposition (and, in fact, the presupposition that must never come to light as such) of the citizen.¹⁶

Before we move on to the implications that Agamben draws from these premises, it is worthwhile pausing for a moment and further reflecting on such unambiguous and clear echoing of Freud's vocabulary in these formulations of Agamben. This will also enable us to complement or even modify Agamben's view on at least two crucial points. There are two moments that are particularly significant in the above-cited passage: on the one hand, it is pretty clear that, although he strongly relies on Foucault's biopolitical perspective, Agamben here regards both citizen and nation as *fictions* (recall his expression the "fiction of sovereignty"), but, we should add, "true fictions"¹⁷ in the Lacanian sense, insofar as they nevertheless produce real effects of identity in reality (through identifications).¹⁸ On the other hand, if the nation-state is constructed on the basis of the human being without any specific qualities or determinations being immediately "sublated" into the status of citizen, so that it functions as a "vanishing presupposition" of the latter, we should regard the so-conceived bare life precisely as a *repressed* presupposition that, as Agamben maintains, "must never come to light as such." In turn, if such a repressed presupposition comes to light, it immediately reveals the contingency of the bond between human and citizen or between birth and nation. If, for Agamben, refugees, especially if present on the territory of the nation-state in great number, embody such a figure that reveals

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¹⁶ Agamben, *Means without End*, pp. 20–21.

¹⁷ This widespread expression indeed refers to Lacan's thesis that "truth has the structure of fiction."

¹⁸ It is worth recalling here how Balibar considers the "nation" precisely in terms of the Freudian "secondary identification" taking place in the unconscious "other scene" (*andere Schauplatz*), thus enabling all other ordinary or primary identifications (see Étienne Balibar, *We, the People of Europe?*, trans. James Swenson, Princeton University Press, Princeton 2003, pp. 25–29).

this contingency, it seems fully justified to regard this figure in the Freudian terms of the “return of the repressed.”¹⁹ What is again and again repressed in the formation of the nation-state, that is, its “vanishing presupposition,” returns on the scene as an external threat or *unheimlich* alien in the symbolic network of “national identity.” Taking into account Lacan’s basic definition of the subject as that which the “signifier represents for another signifier,” we could argue that bare life corresponds to the subject *qua* primal repressed binary signifier²⁰ that the signifier “citizen” represents for all other signifiers of the (bio-)political-juridical order.

However, as was already well-documented in last decade or so,²¹ following Freud’s crucial articulation of repression,²² the so-conceived primal repressed signifier also *fixes* the drive that now circulates around this gap of “one-signifi-

¹⁹ To be sure, this perspective on refugees as the “return of the repressed” was recently unfolded by Giovanni Bettini in the more narrow context of his psychoanalytically informed criticism of the generally very problematic notion of “climate refugee” (see Giovanni Bettini, “And Yet It Moves! (Climate) Migration as a Symptom in the Anthropocene”, *Mobilities*, 14 (3/2019), pp. 336–350). Some insights in my present contribution, especially those regarding my reading of Agamben’s figure of the refugee via the Freudian-Lacanian theory of repression, originates both in Bettini’s now published article, which I had the opportunity to read in a pre-published version, as well in a series of productive conversations Bettini and I had over the past few years on Lacanian psychoanalysis and the contemporary phenomenon of migration.

²⁰ “There is, then, one might say, a matter of life and death between unary signifier [S₁] and the subject [\$], *qua* binary signifier, cause of his disappearance. The *Vorstellungsrepräsentanz* is the binary signifier. This signifier constitutes the central point of *Urverdrängung*” (Jacques Lacan, *The Seminar of Jacques Lacan, Book XI: Four Fundamental Concepts of Psychoanalysis*, trans. Alan Sheridan, W. W. Norton and CO., London and New York 1998, p. 218). That the relation between unary signifier and the subject as binary/primary repressed signifier is a matter of life and death means that the subject can “live” only by disappearing under the coverage of the signifier, so to speak. In turn, it risks (symbolic) death if it remains uncovered or unrepresented by the signifier (for another signifier).

²¹ For more on this, see, e.g., Adrian Johnston, “From signifiers to *joius-sens*: Lacan’s *sentiments* and *affectuations*,” in: Adrian Johnston and Catherine Malabou, *Self and the Emotional Life: Philosophy, Psychoanalysis, Neuroscience*, Columbia University Press, New York 2013, pp. 119–149; Alenka Zupančič, *What Is Sex?*, MIT Press, Cambridge, MA 2017, p. 16.

²² “We have reason to assume that there is a primal repression, a first phase of repression, which consists in the psychical (ideational) representative of the drive [*die psychische (Vorstellungs-) Repräsentanz des Tribes*] being denied entrance into the conscious. With this a *fixation* is established; the representative in question persists unaltered from then onwards and the drive remains attached to it.” (Sigmund Freud, “Repression,” in *The*

er-less”.²³ By means of this fixation, the symbolic order of signifiers is libidinally invested. This implies that, as Adrian Johnston has rightly noted, signifiers, or, better yet, the unary signifier, as representative of the primal repressed signifier, is far from being a “pure signifier”, as Lacan sometimes misleadingly argues in his attempts to demonstrate what he calls the “autonomy of the symbolic,” but is always already libidinally contaminated. The effect of symbolic differences (or of a signifying pair) in the Lacanian sense (which substantially differs on this point from the difference in the classic linguistic sense) can be produced precisely because the primal repression links S_1 or the unary trait and the object a as its correlative surplus, which also emerges at the place of the primal repressed signifier. It is due to this bond that the “return of the repressed” can be experienced as something traumatic and uncanny, and not as simply frustrating or painful.

The figure of refugee functions as the return of the repressed precisely insofar as it is by association connected with the primal repressed element (bare life or the subject *qua* repressed binary signifier) and emerges as its object-effect. Such a figure may be exposed to the risk of death not only because it lacks an at least minimally stable symbolic representation of the signifier, but also due to two other interrelated reasons: on the one hand, this element is fantasmatically perceived to not be a substitute for, but the exact missing part of the subject’s own being that he or she loses in the alienation in the symbolic Other where he or she achieves symbolic identity; on the other hand, there is the superego’s injunction (imposed on the subject) to enjoy this excessive element. Seen from this perspective, Agamben’s consideration that the figure of the refugee is “a disquieting element in the order of the nation-state,” because “by breaking the identity between the human and the citizen and that between nativity and nationality, it brings the originary fiction of sovereignty into crisis,” seems to fully correspond to such a Freudian-Lacanian conception of the repression of bare life in the figure of the citizen and its correlative re-emergence in the form of the symptomatic excess of the return of the repressed, which is indeed subjected to further repression/exclusion.

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Standard Edition of the Complete Psychological Works of Sigmund Freud, Vol. XIV, ed. and trans. James Strachey, Vintage, London 2001, p. 148.)

²³ Zupančič, *What Is Sex?*, p. 47.

However, if the thesis that we just sketched holds, then we should, retrospectively, also adjust or slightly modify Agamben's basic disposition, which presupposes the equity between the lack of political-juridical status and the lack of any kind of symbolisation at all. If refugees usually function as the "return of the repressed" in the order of the nation-state, this is not simply because they lack inscription in any symbolic order, that is to say, because of their paradoxical status of "bare life". Instead, they appear to embody the excluded position of "bare life" precisely as a consequence of prior symbolisation. Looking back to modern European history, this becomes especially clear in the context of anti-Semitism in general and particularly in the case of the Nazis' extermination of European Jews, which is also the main example that Agamben refers to, when he stresses, for instance, that

[o]ne of the few rules the Nazis constantly obeyed throughout the course of [the] "final solution" was that Jews and Gypsies could be sent to extermination camps only after having been fully denationalized (that is, after they had been stripped of even that second-class citizenship to which they had been relegated after the Nuremberg Laws). When their rights are no longer the rights of the citizen, that is when human beings are truly sacred, in the sense that this term used to have in the Roman law of the archaic period: doomed to death.²⁴

What Agamben neglects in this account is the fact that it was due to the peculiar symbolic position that Jews occupied in the Nazis' symbolic-ideological network that they first became the bearers of a second-class citizenship of which they were subsequently even stripped and thus became denationalised – in order to be deported to extermination camps. In other words, it was due to the particular symbolic constellation that the Jews embodied not simply one social group among many, but one corresponding to the figure of the "neighbour," and were consequently "doomed to death," as Agamben puts it.

In fact, following Alenka Zupančič's recent contribution,²⁵ the figure of "the neighbour," unlike stranger, is not symmetrically opposed to that of citizen, but rather points to the traumatic position of "beyond stranger." This position

²⁴ Agamben, *Means Without End*, p. 22.

²⁵ Alenka Zupančič, "Love Thy Neighbor as Thyself?!", *Problemi International*, 3 (3/2019), pp. 89–108.

indeed corresponds to the topological place of the death drive as “beyond the pleasure principle,” that is, to the very *unheimlich* excess (subjected to repression) in the citizen him- or herself. Thus, we could say that refugees as bare lives pass from strangers to neighbours not due to their lack of all symbolic inscriptions, but rather because this lack of inscription is simultaneously replaced by their fantasmatic embodiment of the traumatic *jouissance*, which should be repressed in the figure of the citizen: “the neighbour” entails “‘traversing’ a certain limit”²⁶ (which is the limit of the “stranger” as the mimetic counterpart of the “citizen”) in as much as *jouissance* entails traversing the limits imposed by the pleasure principle – *jouissance* is by definition ‘beyond’ the pleasure principle, beyond that limit. Hence, Jews were stripped of all political-judicial statuses and consequently deported to the extermination camps because they were fantasmatically perceived as “pieces” of that peculiar *jouissance* beyond the pleasure principle, associated with the unary trait or S_1 . In any case, this, in turn, implies that what is repressed in the formation of the nation-state is not simply bare life, which rather corresponds to the point of primal repression, but instead the insistence of the drive, which is by definition something “excessive” in relation to the pleasure principle of the “citizen,” something “beyond” and at the same time fixed with the primal repressed signifier.

On this point, it seems worth putting this discursive synchronic aspect of anti-Semitism into the historical context more thoroughly by linking it to Balibar’s historical analysis of “neo-racism.”²⁷ To begin with, it is interesting to note how Balibar, although he does not refer to psychoanalysis at this specific point, nevertheless unfolds pretty similar arguments regarding anti-Semitism, which he conceives as an already “cultural” or “differentialist” form of racism. Lacking “objective” or “biological” features, such as skin colour, the “race” in this case is entirely determined symbolically in the way we just discussed above. As such, this “new” kind of racism could be regarded also as a limit-concept between the classic hierarchical biological racism of the 19th century and “neo-racism” or “racism without race,” which is, according to Balibar, nothing other than a form of “*generalized anti-Semitism*.”²⁸ Historically, neo-racism emerged in

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²⁶ *Ibid.*, p. 92.

²⁷ Étienne Balibar, “Is There a ‘Neo-Racism’?”, in Étienne Balibar and Immanuel Wallerstein, *Race, Nation, Class: Ambiguous Identities*, Verso, London and New York 1991, pp. 17–28.

²⁸ *Ibid.*, 24.

Western Europe in the 1970s in the context of the process of decolonisation and replaced the idea of the hierarchical biological superiority of the white race over others with the assumption of irreducible cultural differences between Western European white nations (ex-colonisers) and immigrants coming to former colonial metropolises from decolonised countries. Such an assumption of irreducible cultural differences depicts incoming migrants as “unadaptable” or unwilling to undergo cultural assimilation. Yet, as Balibar does not fail to note, the so-conceived irreducible cultural differences actually meant the difference not between different cultures or races, but between the capitalist and non-capitalist cultures. In other words, the idea of irreducible cultural differences as a grounding principle of neo-racism assumes that the incoming migrants are not willing (are not culturally predisposed) to accept the white capitalist mode of production, which includes not only exploitation, but also competition/comparison in the spheres of both capital and labour. Here, Balibar’s historical analysis actually sheds the light of truth on Lacan’s prophecy regarding the rise of racism and segregation within the process of economic globalisation:²⁹ the (neo)racism that Lacan evokes did not emerge simply because other races and ethnicities came into former colonial metropolises and there was a spontaneous or natural racist reaction to this phenomenon – this is precisely what Balibar calls a racist theory (as opposed to a theory of racism), which assumes the racist aggressiveness as a “natural,” “instinctual” reaction to the cultural differences, which, in turn, have to be respected with the proper geographical distance in order to prevent this kind of supposed “natural” aggressiveness.³⁰ On the contrary, (neo-)racism emerged due to the social competition dominating almost all aspects of social life in the former colonial metropolises. As Zupančič puts it: “This is not an immediate bodily proximity, but rather the proximity of our value, of our surplus-value.”³¹ It was due to this specific capitalist competition between labour forces as commodities that the incoming migrants from former colonies became “neighbours” in the strict sense of this term.

²⁹ “Our futures of common markets will be balanced by an increasingly hard-line extension of the process of segregation.” (Lacan, cited in Zupančič, “Love Thy Neighbor as Thyself?!” , p. 102)

³⁰ As a matter of fact, such a geographical distance had been “respected” precisely by means of segregation, that is, with the construction of ghettos on the peripheries of many Western European cities.

³¹ Zupančič, “Love Thy Neighbor as Thyself?!” , p. 102.

Summing up all these perspectives that we tried to stitch together into one trajectory, we might say that the repression of bare life as such, its immediate, yet not complete “sublation” into citizenship, implies the exclusion of every life that has not been “sublated” into the concept of citizenship and consequently into the body of the nation. However, what is excluded is life in so far as it embodies the traumatic excess of the death drive, the element that is excessive in relation to the imaginary organic unity of homeostatic society,³² the element that, according to Lacan’s definition of enjoyment, “serves no purpose.”³³ If refugees as those who are stateless, deprived of citizenship (as noted by Brecht’s character Kalle – a former worker living in exile – in the play *Refugee Conversations*, written in 1940 during Brecht’s own exile in Finland: without a passport, even good people go unrecognised), are usually violently expelled from the territory of the nation-state, it is thus not simply because they have no status,³⁴ but even more so because they embody the repressed traumatic *jouissance*, the excess that should be repressed in the constitution of citizenship and the capitalist nation-state.

“Being-in-exodus of the citizen”

Now that we have discussed in detail the dialectical relationship between citizenship and nation-state, on the one hand, and the figure of the refugee on the

³² It is interesting to juxtapose here two remarks about “homeostasis,” one by Lacan and another by Foucault: “the pleasure principle is a principle of homeostasis” (Jacques Lacan, *Four Fundamental Concepts of Psychoanalysis*, trans. Alan Sheridan, W. W. Norton and Company, London and New York 1998, p. 31); “And most important of all, [biopolitical] regulatory mechanisms must be established to establish an equilibrium, maintain an average, establish a sort of homeostasis, and compensate for variations within this general population and its aleatory field” (Michel Foucault, “*Society Must Be Defended*”: *Lectures at the Collège de France 1975–1976*, trans. David Macey, Picador, New York 2003, p. 247). If we take both remarks together, then we could say that the purpose of biopolitics, which is guided by the pleasure principle, is to achieve the homeostasis of a population or a general state of pleasure.

³³ Jacques Lacan, *The Seminar of Jacques Lacan, Book XX: Encore*, trans. Bruce Fink, W. W. Norton and Co., London and New York 1999, p. 3.

³⁴ Here, Agamben rightly points out how being stateless or without any status can only be a temporary and not a permanent position within the regime of the nation-state: “That there is no autonomous space in the political order of the nation-state for something like the pure human in itself is evident at the very least from the fact that, even in the best cases, the status of refugee has always been considered a temporary condition that ought to lead either to naturalization or to repatriation. A stable status for the human in itself is inconceivable in the law of the nation-state.” (Agamben, *Means without End*, p. 20)

other, while also linking this relation to the Freudian triad *primal repression – repression – return of the repressed*, we are in a position to examine more closely the consequences that Agamben draws from such a rethinking of political philosophy anew on the basis of the figure of the refugee. Namely, the fact that refugees represent what we should call a structurally “unsublated reminder” of the dialectics of human and citizen, a reminder that cannot be simply reconciled within the status of citizenship, but which returns on the scene as the “neighbour,” is the main reason why Agamben briefly outlines a post-biopolitical “new politics,” which, however, “remains largely to be invented,”³⁵ not on the basis of the universalisation of human rights in order to cover both citizens and stateless people equally, but rather on basis of the radical separation of human rights (of the citizen) from the form-of-life of the refugee. As he puts it: “The concept of refugee must be resolutely separated from the concept of the ‘human rights,’ and the right of asylum (which in any case is by now in the process of being drastically restricted in the legislation of European states) must no longer be considered as the conceptual category in which to inscribe the phenomenon of refugee.”³⁶ The question now is what precisely Agamben is aiming at with such a sharp separation of the figure of the refugee from the biopolitical categories of the political order of the nation-state.

In order to properly comprehend what is at stake in such an imperative of the separation of the figure of the refugee from human rights as a pilaster of the biopolitical nation-state, it is necessary to bring into the discussion the third fundamental element of what Agamben calls the sovereign trinity “nation-state-territory”: the territory. If, as mentioned earlier, the status of refugee can only be, from the point of view of the nation-state, a temporary status that should be resolved either by means of granting the refugee asylum and possibly naturalisation, or by way of violent expulsion from the state’s territory, to say the least, it is thus due to the peculiar ideological link between the nation and the territory. This link resounds with the ancient notion of “autochthony” (which meant “springing from the land/soil”), which perfectly fits the biopolitical treatment of the nation as the population, where the bare life of the nation overlaps with national sovereignty.

³⁵ Agamben, *Homo Sacer*, p. 11.

³⁶ Agamben, *Means without End*, p. 22. In order to avoid any confusion, let us recall again that it was in 1993 that Agamben wrote the text “Beyond Human Rights” that we are discussing here. Although it was written more than twenty years ago in the middle of war in former Yugoslavia, the present situation clearly resounds in it.

However, this does not imply any kind of transhistorisation of the concept of territory, which remains specifically modern, that is, biopolitical.

In last decade, some critical political theorists have demonstrated how the emergence of modern biopower, with nation/population as its principal object, not simply transforms, but rather enables the concept of “territory” to emerge. As, for instance, Stuart Elden has convincingly argued,³⁷ “territory”, although it relates to similar concepts such as land and terrain, is ultimately irreducible to them: rather than being simply the soil or enclosed and state-controlled land, which is the most widespread image of territory, the latter is instead a “political technology”³⁸ of biopower. This expression of Elden’s should be grasped along two complementary and co-dependent aspects: on the one hand, territory (both as phenomena and as concept) historically emerges as a consequence of the invention of modern science, which, with the development of disciplines such as geometry, mathematics, physics etc., enabled more sophisticated measurements and calculation of space, which is no longer considered to be a barely calculable and measurable surface, but rather a three-dimensional geometrical space in the strict sense. On the other hand, mid- and large-scale measurements and calculations of space were indeed subjected to political purpose, which was precisely the purpose of planning better the living space of the population on the soil controlled by the state power. In this way, territory as calculable and measurable space immediately became a living space, that is, a space that is inseparable from the population living on the state’s soil. Agamben is thus right to consider the inextricable trinity nation-state-territory as the foundation of the sovereignty of the modern biopolitical nation-state.

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Against this background, it becomes clear why Agamben wagers all the renewal of political philosophy on the figure of the refugee: if, on the one hand, this figure reveals the contingency of the immediate passage of bare life into the form of the nation, in so doing, it also, on the other hand, breaks the inextricable connection between the nation and the state’s territory, thus radically bringing into question the fantasy of “autochthony” underpinning the biopolitical nexus na-

³⁷ See Stuart Elden, “Governmentality, Calculation Territory”, *Environment and Planning D: Society and Space*, 25 (3/2007), pp. 562–580; and Stuart Elden, “Land, Terrain, Territory”, *Progress in Human Geography*, 34 (6/2010), pp. 799–817.

³⁸ Elden, “Land, Terrain, Territory”, pp. 810–812.

tion-state-territory. In other words, the refugee not only is the figure that exceeds the symbolic network of the juridical-political regime of the nation-state; it is also the figure that is detached or unrooted from the state territory. Consequently, Agamben's central consideration of the refugee as the "being-in-exodus of the citizen,"³⁹ that is, as formed upon a neat separation of the juridical-political status of citizen from the form-of-life of the refugee, also implies nothing other than the "deterritorialisation" of the nation from the territory of the state. The virtual (utopian) 'State of a refugee' is precisely the "aterritorial" state conceived in terms of its deterritorialisation from its own territory as a biopolitical space. On this point, Agamben goes so far as to even propose such an "extraterritorialisation" as not only an alternative to the two-state solution of the Israel-Palestine conflict, but also as a "model of new international relations":

The paradoxical condition of reciprocal extraterritoriality (or, better yet, aterritoriality) that would thus be implied could be generalized as a new model of international relations. Instead of two national states separated by uncertain and threatening boundaries, it might be possible to imagine two political communities insisting on the same region and in a condition of exodus from each other – communities that would articulate each other via a series of reciprocal extraterritorialities in which the guiding concept would no longer be the *ius* (right) of the citizen but rather the *refugium* (refuge) of the singular.⁴⁰

As we can observe, here, Agamben outlines a reversal of the logic of the nation-state and national identity: instead of two national identities forming two separate nation-states, he suggests drawing an alternative based on national (or ethnic) de-identification, so to speak. In other words, instead of conceiving Israel and Palestine as two nation-states, he proposes their reciprocal (negative) identification with the position of the refugee as synonymous with that of the "being-in-exodus of the citizen." However, Agamben does not stop there, but proceeds further and generalises such a "model of new international relations" by extending it specifically to the European states:

In an analogous way [to Israel and Palestine], we could conceive of Europe not as an impossible "Europe of the nations," whose catastrophe one can already

³⁹ Agamben, *Means without End*, p. 25.

⁴⁰ *Ibid.*, p. 24.

foresee in the short run, but rather as an aterritorial or extraterritorial space in which all the (citizen and noncitizen) residents of the European states would be in a position of exodus or refuge; the status of European would then mean the being-in-exodus of the citizen (a condition that obviously could also be one of immobility). European space would thus mark an irreducible difference between birth [*nascita*] and nation in which the old concept of people (which, as is well known, is always a minority) could again find a political meaning, thus decidedly opposing itself to the concept of the nation (which has so far unduly usurped it).⁴¹

Apart from the pretty clear echoes of Deleuze and Guattari's concepts of "deteritorialisation" and "minority" in the last two cited passages, the reference to psychoanalysis which remained implicit in Agamben's account of citizenship and nation-state here comes to the fore in a much more explicit manner. In fact, what Agamben proposes in these passages is rather to conceive the political community in general, and especially the European political community, not on the basis of the sum of the national or ethnic identities of the European nations, nor on the basis of the territorial sum of all the territories of the European states – both sums would only elevate the structure and logic of the nation-state to the higher, interstate level; instead, he suggests imagining the European political community on the basis of what we might call a "subjective destitution" in the psychoanalytic sense of the term. A (negative) identification with the position of the refugee in fact presupposes the rejection of any kind of particular national or ethnic identity and the formation of subjectivity upon secondary unconscious identification with the nation. In short, conceiving political community anew starting from the figure of the refugee presupposes traversing the fundamental (national) fantasy that frames the subject of national identity as the bearer of the sovereignty of the nation-state by positing the inextricable organic connection between birth and nation or between bare life and political subjectivity.

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Moreover, it is absolutely no coincidence that, in exemplifying such a political idea with topological examples, Agamben refers precisely to the Klein bottle and Möbius strip, which were often used by Lacan to formalise the specific topological structure of the unconscious. As Agamben further maintains regarding "extraterritoriality," "[t]his space would coincide neither with any of the homogeneous national territories nor with their *topographical* sum, but would rather

⁴¹ *Ibid.*, pp. 24–25.

act on them by articulating and perforating them *topologically* as in the Klein bottle or in the Möbius strip, where exterior and interior in-determine each other. In this new space, European cities would rediscover their ancient vocation of cities of the world by entering into a relation of reciprocal extraterritoriality.⁴² What Agamben suggests with the so-conceived “extraterritoriality” is a decoupling of the form-of-life and state territory with the latter ceasing to function as a biopolitical space. Another way, perhaps, to articulate Agamben’s idea of “extraterritoriality” is to view it through the lens of the concept of “other space,” yet not in the sense in which Michel Foucault developed this concept,⁴³ that is, not as a “heterotopy” that corresponds to the biopolitical space of exclusion (of which the paradigm is indeed the concentration camp), but rather as what Foucault just briefly hints to be utopian space as a counterpart of heterotopy. The utopian space, in fact, corresponds much more to the Lacanian topology of “curved space” that Agamben evokes when referring to the Möbius strip. In this respect, deterritorialisation does not refer simply to another space of exodus that would avoid the logic of the sovereign biopolitical territorialisation of space, but rather points to the very destitution of the biopolitical governance operating on the nation-state’s territory. In short, the utopian space does not point to another space outside the national territory, but to the deterritorialisation or “curving” of the territory of the nation-state itself.

Žižek’s analysis of one particular sequence in the *The Shawshank Redemption* would seem to be quite instructive in this context. Therein, at one specific point, the main character Andy Dufresne (Tim Robbins), a prisoner in Shawshank Prison, locks himself in the office of the warden, i.e. prison governor, and plays Mozart’s *Duettino sull’aria* (part of his famous opera *The Marriage of Figaro*) quite loud on the prison’s external speakers so that the song could be heard by the other prisoners outside in the courtyard, who then cease their activities and gaze spellbound into the warden’s office. Dufresne’s fellow prisoner Ellis “Red” Redding (Morgan Freeman) remarks in his voice-over narration:

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⁴² *Ibid.*, p. 25.

⁴³ See Michel Foucault, “Of Other Spaces: Utopias and Heterotopias,” in: Neil Leach (ed.), *Rethinking Architecture: A Reader in Cultural Theory*, Routledge, London and New York 1997, pp. 330–336.

I have no idea to this day what those two Italian ladies were singing about. Truth is, I don't wanna know. Some things are best left unsaid. I'd like to think they were singing about something so beautiful it can't be expressed in words, and it makes your heart ache because of it. I tell you those voices soared, higher and farther than anybody in a grey place dares to dream. It was like some beautiful bird flapped into our drab little cage and made these walls dissolve away, and for the briefest of moments, every last man in Shawshank felt free.

As Freeman's narration makes perfectly clear, a loud and beautiful piece of opera is able to produce a genuinely sublime effect of "other space," so that even the walls of the prison (ironically, according to Foucault, prison is the paradigm of the disciplinary society, which subsequently evolved into biopolitics) dissolve and every man therein feels free for a brief moment. However, as Žižek does not fail to note in his commentary on this sequence,⁴⁴ it was possible to produce such an "other space" only on the basis of the short circuit "within music itself," that is, between the prisoners not even knowing what the singers were singing and the "sublime beauty" of the music. It is in this short circuit that the truly sublime "other space" emerged as a moment in which the enclosed physical territory ceased to function as a prison.

As an analogy to this, we might say that the massive presence of refugees on the territory of a nation-state can produce similar effects: as the last so-called "refugee crisis" demonstrated, for a short period of time, at the height of the migration influx into Europe, the biopolitical regimes of the European nation-states seemed to be suspended in the face of such a huge number of refugees on the national territories. Specifically, caravans of refugees walking on the soil of European nation-states produced the effect of an "other space" insofar as the sovereign states' apparatuses seemed powerless in their attempt to control the droves of stateless people, while the movement of the latter also managed to break up the fantasmatic nexus nation-territory, hence revealing the contingency of the original bond on which the nation-state grounds itself. Seen from this perspective, a (utopian) "state of refugees" based on extraterritoriality and the separation of the form-of-life of the refugee from the body of the nation would amount not simply to an anarchic non-state organisation outside the territories

⁴⁴ Slavoj Žižek, *The Fragile Absolute, Or, Why is the Christian Legacy Worth Fighting For?*, Verso, London 2001, pp. 158–159.

of the nation-states, but rather to the very subjective destitution of the nation, and to the unbinding of the nexus nation-state-territory that constitutes the core of European biopolitical modernity.

And, paradoxically enough, if there is a case in recent history of at least the partial realisation of such an idea of a deterritorialised political community, it is, perhaps, the case of the so-called “sanctuary cities” that have spread in the last few years all over the USA. Although the first declarations of sanctuary cities go back to the 1980s and were already then related to the idea of a refuge for illegal and undocumented migrants from Latin America, such declarations have spread mostly in the last decade or so due to the drastic changes in US immigration policy. According to the most basic definition, sanctuary city means a city that, within its jurisdiction, refuses to cooperate with the federal government (the sovereign power) in enforcing immigration law in general and especially refuses to cooperate in the deportation of illegal and undocumented migrants from the state territory. So far, the declaration of a sanctuary city has no legal grounds and is not recognised within any legal system, not only in the USA, but also in Europe. Taking into account this singular feature, the sanctuary city could thus justifiably be regarded as an extraterritorial entity insofar as the force of sovereign power is made inoperative on its soil. That is to say, although the sovereign law is still in force, it is nevertheless made inoperative or profanised. In sanctuary cities – and with this I bring this article to a close – illegal and undocumented migrants actually live not in a state territory of rights, but in zones of *refugium* where the separation of the form-of-life from the territory of the nation-state is realised.