The Bio/Necropolitics of State (In)action in EU Refugee Policy: Analyzing Calais

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European governments have been trying to limit or manage refugee flows into their territory since the early 1970s. However, most of the measures employed so far have had little success. On the one hand, attempts to limit access to asylum systems and to curtail the rights of asylum seekers have led to an overall increase in illegal migration. Moreover, measures to restrict illegal entry and stay in Europe have driven migrants to opt for more dangerous routes to enter the region. In addition, a more limiting European immigration control system has often undermined states' commitment to protecting genuine refugees. However, restrictive immigration policies have also generated a number of controversial effects that are less obvious and, therefore, less (if not at all) mediatised. Building on the work of Giorgio Agamben, Michel Foucault and Achille Mbembe, this paper seeks to investigate the biopolitics behind Europe's refugee management system, questioning whether state inaction resulting in stark material and bodily consequences for refugees can be interpreted as the necropolitical effect of such system.

By focusing on the specific case of the so-called 'jungle' of Calais and by framing the management of its residents as a series of state inactions, this paper will argue that the biopolitics of European immigration control may result in necropolitical violence. Moreover, the coexistence of both 'bio' and 'necro' forms of governance in Calais challenges the idea that the two are binary oppositional concepts. In arguing so, the paper will first consider the figure of the refugee relative to the state, drawing from Agamben's *homo sacer*. The two are indeed figures who are at the same time included but excluded from society, and whose life is often limited to mere survival or 'bare life'. Then, the second section will explore the biopolitics of immigration control to illustrate how European states actively seek to control refugees. However, the paper will argue that state inaction can be as violent as state action. The third section will indeed explore how the abandonment of asylum seekers in the jungle of Calais and its necropolitical effects are deeply entangled with the biopolitics of refugees' management. Lastly, the paper will discuss how the camp emerges as a political space where biopower and political agency coexist. In doing so, the author acknowledges that the terms 'asylum seeker' and 'refugee' represent different legal categories and, as such, they should be used accordingly. Nonetheless, as these two categories are affected by the bio(necro)politics of state control in a similar way, they will be used interchangeably for the sake of this paper.

The Refugee and the *Homo Sacer*

Contemporary debates around immigration that characterise refugees as 'outsiders inside', are based on the myth of the nation-state as a sovereign territory. The integrity of the state or the body politic is indeed described as threatened by migrants that seek to penetrate its borders (Bigo 2002, 68-9). By comparing the asylum seeker with the figure of a bandit, such discourses are able to locate the refugee in an indistinct zone in which he/she is not simply excluded from the law, but rather abandoned by it, and thus rendered vulnerable in a space in which distinctions between inside and outside, life and death become blurred. The refugee, therefore, finds himself/herself stuck in a limbo: he/she is at the mercy of the juridical context in which he/she seeks asylum while also being exposed to various forms of violence and cultural, religious or economic threats.

But most importantly, even if he/she must abide by the law of the host state, the asylum seeker is excluded from the socio-political life of the country. In other words, 'whereas the refugee wants to "participate without identification" he

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is nevertheless forced to "identify without participation"' (Diken 2004, 84). The refugee is therefore included while being excluded and excluded while being included; this indistinct zone – in which life resembles that of the *homo sacer* – is the *locus* of sovereignty, which is why '[t]he fundamental categorical pair of Western politics is not that of friend/enemy but that of bare life/political existence, *zoē/bios*, exclusion/inclusion' (Agamben as cited in Diken 2004, 84).

According to the Italian philosopher Giorgio Agamben, the condition of the refugee coincides with that of the *homo sacer* – a figure in Ancient Roman law whom anyone could kill without committing a murder in the legal sense. Agamben indeed claims that the ambiguity of the *homo sacer* can also be found in the status of the refugee (2004). Although he/she is a fully living being, he/she has fewer rights than any citizen of the host state. In her ethnography of the Greek discourse around hospitality and asylum seekers, Katerina Rozakou clarifies how conceptualising refugees as 'guests' precisely puts them in a space between biological existence and socio-political life that is neither merely Agamben's 'bare life' nor full political agency (2012, 563).

Hence, by breaking the continuity between man and the citizen, the refugee/*homo sacer* unveils the fundamental condition of sovereignty, as well as the contradictory character of many human rights covenants built upon the principle of universal equality. In fact, according to Agamben – and in this he draws from the work of Hannah Arendt – the reference to 'birth' in the first article of the 1949 Universal Declaration of Human Rights coincides with the notion of 'citizenship' (2004). If we follow this interpretation, we can therefore point out how human rights do not necessarily apply to those who are alive but possess no citizenship. This is because such understanding of 'life' is tied to abstract and flimsy notions of the nation-state, law, society and citizenship. From this perspective, human rights turn out not to be genuinely universal, but in fact a feature of the citizen.

However, comparisons with the *homo sacer* are not based on the claim that the refugee is outside of society. In fact, he/she is assimilated within it, as much as the bandit is always incorporated within the law. Hence, the pairs inside-outside and inclusion-exclusion should not be reduced to a binary dichotomy when analysing refugees' management. Agamben indeed refers to this phenomenon as the 'inclusive exclusion' of bare life with the social form of life (Agamben 2004, 12). To this extent, the similarities between the *homo sacer* and the refugee are striking. In fact, the *homo sacer* could not, under any circumstances, live in the city with the other citizens. He was relegated – as much as the refugee today – to the margins of society, located far from the sight of the average citizen.

Today's refugees can be therefore labelled as 'margizens'; that is, individuals whose life is qualitatively distinct from that of the citizen (Schuilenburg 2008). Indeed, as outcast 'others', they are not granted access to the collective goods and services of our society – resources, employment opportunities, markets, skills. In other words, 'their life is not worth living; it is stripped of its specific form of quality' (Schuilenburg 2008, 363). Moreover, through the suspension of basic human rights and his/her confinement to the margins (both geographically and socially), the margizen-refugee is not only depoliticised but feminised. In fact, the hierarchical power relations between the state and asylum seekers turn the immobility of the refugee in a long-term feminised limbo (Hyndman and Giles 2011, 362). While his/her 'right to life' is maintained, many of his/her fundamental human rights – to work, to move, to be educated – are suspended. What the asylum seeker has to go through is thus a series of biopolitical and necropolitical practices that result in both physical and psychological violence.

The Biopolitics of Refugees Management

In the scarce media coverage of state violence against refugees, we are often told stories about the evident lack of appropriate apparatuses for hosting them. But what these narratives ignore is that states' violence begins at an even earlier stage. In fact, the state holds what Foucault defines as 'biopower', that is, the power over human conduct (Lemke et al. 2011). For Foucault, biopolitics therefore alludes to a historical shift towards the use of state power to protect, regulate and manage the life of the 'legitimate' population. As such, the notion of biopolitics can be applied to the emergence of liberal nation-states often using a vast spectrum of democratic, legal and managerial apparatuses in order to administer life within – and sometimes beyond – their borders. In the context of EU immigration control, this managerialism is rather self-evident.

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More specifically, control measures are regulated by the Dublin Convention (1997) and the Dublin II Regulation (2003), two intra-European agreements that require migrants seeking asylum to make their claim in the first country of arrival that has an asylum system recognised by the international community. Dublin II has also given birth to a new hotspot system – for which places like Lesbos in Greece and Lampedusa and Pozzallo in Italy have become testing grounds – characterised by an increase in identification procedures and strategies for the prompt separation of those who are regarded as eligible for asylum from those who are defined as not (see for instance Ansems de Vries, Garelli and Tazzoli 2016).

There has been a significant number of cases in which refugees landing in EU countries, such as Italy, were strongly encouraged and sometimes coerced into being fingerprinted, photographed and registered by the border police or port authorities, a biopolitical act of surveillance known as 'photo-signalling' (*fotosegnalamento*). This biometric process can be seen as one of the diverse techniques for, in Foucauldian terms, subjugating bodies in order to control populations. Moreover, following the biometric process, asylum seekers must be formally registered through a verbalisation process, involving the submission of a statement and detailed information about the specific nature of the asylum claim.

The acts of fingerprinting, identification and being provided with documents that offer a legal avenue for protection may all be considered to be biopolitical technologies of government (Davies, Isakjee and Dhesi 2017, 1267). However, the legal mechanism as expressed in the Dublin Convention, by purporting to assign responsibility for asylum seekers to specific EU member states, favours the abandonment of refugees to informal existence. Indeed, while the above process indicates the *de jure* framework within which asylum claims are to be made by the EU law, the *de facto* process and experience of refugees is often different. There have been a significant number of cases in which fingerprints were removed from national databases and refugees pushed to move onwards in their journey (what has been described as 'coerced onwards migration') in order to limit the number of asylum requests that needs to be processed (Davies, Isakjee and Dhesi 2017, 1273).

Moreover, the procedure of legal inclusion in the host country – that is, of being nominally documented – results in a *de facto* exclusion from the very material resources and political rights that would allow asylum seekers to survive healthily within the EU. This condition thus problematizes Agamben's legalistic framing of refugees as 'bare life', as a simultaneous *de jure* legal entitlement and documentation paradoxically exists alongside an everyday reality of abandonment (2004). While this section has highlighted the active ways in which EU member states have attempted to control immigration through biopower, the following section will discuss how deliberate state inaction can lead to necropolitical outcomes. As the case study of the 'jungle' of Calais demonstrates, the conditions to which many refugees are abandoned to, have violent, physical consequences that are too often overlooked.

Turning a Blind Eye: the Necropolitics of State Inaction and the 'Jungle' of Calais

One of the pitfalls of the biopolitical theoretical framework is that it may obscure the complexity of actual state practices. In fact, in the case of the EU refugees' management strategy, biopolitical practices operate alongside the 'necropolitics' of state inaction. Achille Mbembe's notion of 'necropolitics' was indeed a reaction to what the author perceived as the inadequacy of Foucault's notion of biopolitics to explain the more extreme cases of state regulation – i.e. when not only life was being governed, but also death itself was being sanctioned. In coming up with the idea of necropolitics, Mbembe thus builds upon Foucault's well-known reverse of the Medieval couplet 'making die/letting live' into the modern 'making live/letting die' (Mbembe 2003).

However, while the author applied necropolitics to the ruthless forms of oppression found in colonial spaces, the concept can relate to other spaces beyond the colony, as well as outside of the realm of absolute death (Davies, Isakjee and Dhesi 2017, 1268). In fact, the main idea behind *Necropolitics* is that the permanent wounding of individuals – rather than their direct and active killing – can be used as a means of state control. Slow suffering, therefore, becomes a political technology in which certain groups are intentionally 'kept alive but in a *state of injury*' (Mbembe 2003, 21). This condition can be described as a necropolitical system of domination. Hence, the limit of adopting a biopolitical framework lies in the fact that there is no politics of life that does not also have a politics of death.

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In other words, 'to make live' – which is how biopower is generally understood – is also 'to let die', either practically as a result of state inaction towards certain social groups, or intellectually as a consequence of not considering the effects of such negligence (Fassin 2009, 54). In this respect, European states have enough resources to ensure functioning welfare systems within their borders. But as much as power can be activated by such states through the distribution of provision, exclusionary power can be exerted through its withdrawal. Hence, when welfare systems are regulated so as to exclude specific categories of the population (such as asylum seekers), individuals may fall victim to detrimental conditions that would otherwise be avoidable. 'Letting die' in this way can therefore be understood as a state's 'inactive action' (Davies, Isakjee and Dhesi 2017, 1269). To this extent, the violence wrought on refugees is precisely a form of 'letting die'. Indeed, the living conditions of many refugees often represent a situation in which individuals are not actively made to die, but rather they are suffering a violent abandonment through political neglect.

A notorious – yet under-documented – example of such condition is the so-called 'jungle' of Calais (France), an informal settlement home to around 10,000 asylum seekers between 2015 and 2016 (Davies, Isakjee and Dhesi 2017). The 'jungle' was an informal encampment of improvised shelters; a provisional city under continuous construction, with shops, a church and schools; and a space subject to institutional violence, culminating in the demolition of the camp in 2016 (Ansems de Vries, Garelli and Tazzoli 2016). As stressed by Zygmunt Bauman, occupying marginal and indistinct areas historically has been the privilege of pariah groups such as *les malheureux* of the eighteenth century, *les miserables* of the nineteenth century and now the refugees (2003, 129–30).

Although scholarly literature on the subject is rather scant, research conducted in 2015 found that the Calais camp lacked many basic needs. In particular, the absence of proper sanitation for thousands of residents – with only one toilet to share amongst 70 people when the UNHCR Emergency Handbook suggests at least one for every 20 people – emerged as a clear evidence of social injustice and deliberate state inaction, which can be read as an overall form of structural violence (Davies, Isakjee and Dhesi 2017, 1276; UNHCR 2007). In fact, the withdrawal of health care or the lack of regulation and resources to ensure safe living conditions in the camp constitute in themselves a form of exclusion.

Therefore, the active state practices and biopolitical experiences of EU migration highlighted in the previous section must be analysed alongside the deliberately inactive and violently forms of state abandonment that allow such squalid conditions to continue. The lack of sufficient food in Calais – with only 1,500 meals distributed for 3,000 residents in 2015 – is another instance of necropolitics, recalling Mbeme's description of subjects being kept in a state of permanent injury and pain (Davies, Isakjee and Dhesi 2017, 1276; Mbembe 2003). Residents of the camp were indeed subject to spatial constriction, bodily harm and deplorable public health conditions.

Moreover, as in the case of Calais, refugee camps are often located in peripheral areas outside cities with the aim of dispersing asylum seekers and rendering them invisible. This strategy of confinement at the margins therefore intends not to integrate refugees while keeping them in restricted areas, sometimes even after they acquire the legal status of refugee. It should not come to surprise, therefore, that the only location that French authorities have allowed for setting up a camp in Calais was an old informal dumping site close to a large chemical and metallurgy factory (Davies, Isakjee and Dhesi 2017). Investigating the politics of the refugee camp as both a physical and political space is therefore crucial if we are to understand the (necro)politics of 'letting die' scenarios.

The Camp as a Political Space: Fighting Back Against the State?

According to Foucault, 'space is fundamental in any form of communal life; space is fundamental in any exercise of power' (1984, 252). The connection between power, knowledge and space is therefore revealing: structures of meaning that are involved in the production and exercise of power are themselves involved and produced in specific places. Hence, space is not an apolitical void where social interactions occur. Rather, it plays a key role in producing – and reproducing – power relations. In his analysis of Nazi Germany, Agamben describes the camp as an environment of immobilisation and deprivation of rights: a 'capture of life in law' (Agamben 2005, 26). In the camp, notions of individual rights and citizenship can be 'diminished, superseded and rejected in the process of claiming an extension of power by the sovereign' (Sigona 2014, 4-5).

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In a similar way, the refugee camp is a technology of power (in the Foucauldian sense) as it is a space where asylum seekers are monitored, controlled and subjected to the biopower of the host state. The camp thus helps governments portray refugees as vulnerable people in need of help, as 'bare humans' rather than citizens or political agents. As a consequence, the camp becomes the physical representation of the 'state of exception' in which subjects are denied their social and political existence, ultimately becoming exposed to death by the state (Agamben 1995). The 'jungle' of Calais is indeed an indistinct zone where the *homo sacer* engages in a struggle for survival. The camp – or the 'necropolis' – becomes a space of negation and the socially dead (McIntyre and Nast 2011, 1467).

However, we should be wary of the limitations of examining refugee camps as 'exceptional' spaces. In fact, it is true that the camp should be a transitory – so to say – space in which the refugee is supposed to spend a limited amount of time and where life is regulated by the state. Yet, realities such as the jungle of Calais show that the refugee camp can be transformed into a 'stable' space in which the supposedly transient condition of the refugee becomes a permanent situation (Diken 2004, 93). As a consequence, the camp may represent a protected and protective space for those who live in a prolonged condition of uncertain legal status and economic marginality. Intra-community support and local welfare therefore provide an alternative to the negligence of the state, often providing the basis for residents' livelihood.

Hence, despite the necropolitical power of the state, new forms of agency have developed. The notion of 'campzenship', for instance, seeks to capture both the situated experience of camp residents and the paradigmatic position of camp-like institutions as contemporary spaces of politics by highlighting alternative forms of agency (Isin and Rygiel 2007; Sigona 2014). However, while some residents actively tried to challenge the biopower of the state, it has to be acknowledged that the ability to resist the necropolitics of the camp has been limited. Indeed, the possibility of death was an ever-present reality in the jungle of Calais, with individuals 'being "rejected into death" as part of an active process of violent abandonment' (Davies, Isakjee and Dhesi 2017, 1279). The residents of Calais therefore represent disposable subjects, kept alive whilst injured through extreme marginalisation and structural violence, thus becoming an exemplary instance of the necropolitical power of the state.

Conclusion

Overall, what this paper has argued is that an analysis of the EU's refugee management strategy sheds light to a problematic but rather under-explored issue: that is, violence can be found in state action and in the disciplinary forms of inclusion that border enforcement causes, but also in state inaction and its practices of exclusion. Hence, asylum seekers – reminiscent of the figure of the *homo sacer* – are simultaneously visible and invisible to the state; they are visible for exploitation, especially for their labour and the political capital obtained through their presence, but at the same time their legal uncertainty denies them access to welfare, as well as a political voice within the city, thus making them often invisible. This paper has therefore turned to the work of Agamben and his notion of 'bare life' to explore how sovereign power reduces certain groups such as asylum seekers to mere biology while denying them political worth.

Moreover, the abandonment of thousands of people in a remote and environmentally unsafe area like the jungle of Calais has produced stark suffering and the potential for death. The camp thus seems to resonate with Mbembe's idea of a 'death world' – a new type of social existence in which individuals 'are subjected to conditions of life conferring upon them the status of living dead' (2003, 40). In fact, through the confinement and abandonment of refugees, EU states' biopolitical activities have given birth to calculated necropolitical inactions, ultimately raising questions on why states choose not to intervene when they could, or select one subset of the population for life enhancement while abandoning others.

However, the paper has also discussed how state inaction in the camp of Calais should not completely overshadow the attempts at political resistance made by such disempowered groups who might use the camp to their own advantage. Yet, the dialectic unity between biopolitics and necropolitics – between state action and inaction – still emerges as the fundamental feature of EU refugees' management. The active involvement of the state in the bureaucratic biometric border processes has indeed been contrasted to the evident absence of the state in the jungle of Calais. Therefore, being attentive to what states choose not to do, as well as their active counterparts, may provide

new openings to examine instances of oppression and structural violence.

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