

The refugee as a mobile subject

SUMMARY

one questions animates this paper: Who is a refugee? I want to expose, and study tensions between “the refugee”, a political subject that can only exist in law *and* concrete refugee manifestations. The objective of this analysis is to devise a four-dimensional definition of 'the refugee', which is able to capture such contradictions, harnessing them for analytical purposes.

In order to do so, I will

1. approach the study of 'the refugee' from a multiperspectival position

2. study one of the manifestations of 'the refugee'; -afghans in pakistan

- present a table that captures various interpellations of afghans in pakistan

- demonstrate how each of them shapes spatial and institutional practices of the refugee regime

- demonstrate how each of them may be used by refugees to formulate strategies, to position themselves

3. present a 4-D definition of the refugee, that -it is argued- offers insights vsv the identification of power relations

Who is a refugee?

The study of *refugee* migration, protection and assistance *necessarily* starts from law. A refugee is a person who

owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, or 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 (UNHCR 2005a: 55).

This is a *problematic* definition / not a reliable analytical framework

analytically questionable concepts

imposes a second-order need on the refugee, that of recognition, which escapes his/her need of protection

underlying understanding of social belonging and authority that is premised on the 'individual' and the 'rule of law', disregarding alternative forms of social organisation

Yet, despite being problematic *analytically* and *politically*, it must be included in the analysis –it possesses its own force

NOTES

Who is a refugee? The first thing that somebody intent in investigating refugee protection needs to do is to identify who is a refugee. This is because the refugee is a legal category. Surely we can talk about refugees in a looser sense, there might be claims in relation to people that should be considered a refugee, but strictly speaking, a refugee only exists in the realm of law. Both in its condition of lacking protection from the state to which he/she belongs -i.e. in its being a refugee- and in its condition of being recognised by legal authorities -i.e. in its becoming a refugee- the refugee can only exist in law. The fundamental tension I want to explore refers to the ambiguity of the term refugee: that between the refugee as a subject of law and the refugee as a concrete human being -that is an individual steeped into the contradictions of society.

That tension comes to the fore the very moment one begins to look at the most common definition of the refugee, that contained in the 1951 UN Convention. This is not the only definition, but certainly encapsulates the essential elements of the institutional figure of the refugee. He or she is a person without the protection of his/her state, that has crossed the border of his/her country.

This is a highly problematic definition, for analytical purposes for at least three reasons.

First, it relies on ambiguous concepts such as the nation and race, which are problematic analytically because their significance can only be assessed through historical and contextualised analyses. On one side, their natural character cannot be assumed, but needs to be studied in relation to their historical construction, as much as to re-appropriations and reinterpretations over time and in different places. I primarily refer to the work of Liisa Malkki. On the other side, these definitions implicitly consider nation, ethnicity and the sort as separate from, rather than in their relation to, the state. I point to the works of Kaviraj Mamdani and Sinha.

The second aspect that renders problematic for analytical purposes the Convention definition, and Refugee Law more in general, relates to the imposition of a second-order need on refugees, that of

recognition, which separates the condition of being a refugee from the moment of becoming a refugee through legal status. Although a person *is* a refugee from the moment he/she leaves the place of habitual residence escaping persecution, the Convention definition implies that in order to acquire the status of refugee the individual requires a “certification”, i.e. he/she needs to be recognised as one (cf. UNHCR 2005a: 108-109). Even accepting the need of protection as an appropriate criterion for defining who a refugee is, the need for recognition seems to undermine the spirit of the Convention, because it imposes a second-order need on the part of the refugee –the need for legal recognition-, one which escapes his/her own condition as refugee – This is commonly referred to as the “protection gap”. Even accepting the need of protection as an appropriate criterion for defining refugees, in other words, there seems to be an inherent tension between the condition of being a refugee, which is exclusively defined in terms of legal obligations between the state and the citizen, and the need of recognition required to become a refugee, which in fact seems to be dependent on a vast array of other conditions. (EXAMPLES)

The third aspect rendering problematic the use of the Convention definition, for analytical purposes, is its ontological circularity and its disregard for alternative forms of social organisation and their interplay with law. The system of the nation states conceptualises and posits human life exclusively (see Raz) in relation to the sovereign: unless there is inclusion in such political boundaries, the human being can only have a bare life, which is unprotected and can be “killed with impunity” (Agamben). Despite being a refugee, in its potentiality, from the moment of that sovereign exclusionary act, the human being can only become a refugee through sovereign recognition.

On one side, this is problematic politically: adopting such definition is performative (cf. Law and Urry 2004 and the power of social sciences), it is itself a political act -it reinforces the underlying ontology of the nation state. On the other side, it is problematic analytically, especially if these abstract discussions are set in context, for several reasons. First, because the (exceptional) exclusionary and inclusionary acts constituting refugees (both in their being and in their becoming such) are hardly reducible to the “essence” of sovereign power (as Agamben suggests). Second, very importantly, because the focus on the political act of inclusion/exclusion fails to account for refugees’ experiences and interactions with such institutional order, as well as the concrete benefits they might (albeit selectively and intermittently, cf. Chimni 2000) derive from such inclusion. Third, because of the existence and relevance, in the context under study (and others?), of alternative conceptualisations migration, protection and asylum that stem from competing and colluding understandings of social order and of “governable entities”, for example, those premised on tribal and religious institutions. Both, in fact, rest on ontological orders that are alternative (at least in their form) to state-based ones, and which define (at least in its form) different refugee’s inclusion/exclusion criteria. One could add other types of organisations: humanitarian agencies providing assistance to Afghans embodies and re-presents its own conceptualisation of beneficiaries. Each of them, in fact, operates within different domains and is legitimised by different principles. Some derive their authority from Refugee Law, like UNHCR, and their subjects are defined legally. Others, like WFP, work on the basis of a UN-sanctioned mandate, but their beneficiaries are defined on the basis of technical and scientific assessments. Some operate on the basis of discursive legitimacy, appealing to humanitarianism, humanitarian law, faith-based solidarity, or “emergency needs” to legitimise their actions.

This will all be discussed below. The point is that, I attempt to #avoid privileging any of these conceptualisations over the other, *a priori* # recognise that each of these constructs is analytically problematic, yet # that each seems to possess the force to mobilise ideological and material resources in its support. I do so, by introducing a multiperspectival understanding of the term refugee

Who is a refugee?

Recognising systems of thought

The statement “X is a refugee” can be understood in three different ways, which correspond to three distinct analytical perspectives:

according to subjective beliefs / experiences

accepting somebody's authority to define refugees

recognising the existence of multiple systems of thought and beliefs

Three ways of conceptualising the refugee, as per slide.

Three reasons behind the multiperspectival approach deployed here

Practical recognition: efforts trying to identify refugees for the purposes of field research. refugee/mohajer/tribal brethren. Which definition is 'right'? Who decides? How to account for all possible definitions without accepting any of them?

Power of social sciences: this is -more importantly- a political problem. Accepting any of these definitions helps constitute refugees in their actualities -it reinforces the system of thought to which it appeals ('rule of law', religious or tribal precepts).

Context specific issues, as detailed below -namely: all of these definitions shaped spatial and institutional practices constituting refugees in their actualities.

Who is an Afghan refugee in Pakistan?

Overlapping interpellations of Afghans in Pakistan

AUTHORITY	SPATIAL DOMAIN	OBJECTS OF CONCERN
UNHCR's Mandate	Interstate system	Mandate Refugees
Sovereignty	National territory	Afghans on humanitarian grounds
Pushtunwali	Tribal land/Pushtuns	Fellow tribesmen
Religion	Umma	Mohajer/Mujaheddin
Bipolar confrontation	Afghanistan theatre	"pawns"

Accounting for all possible definitions of who is a refugee in Pakistan

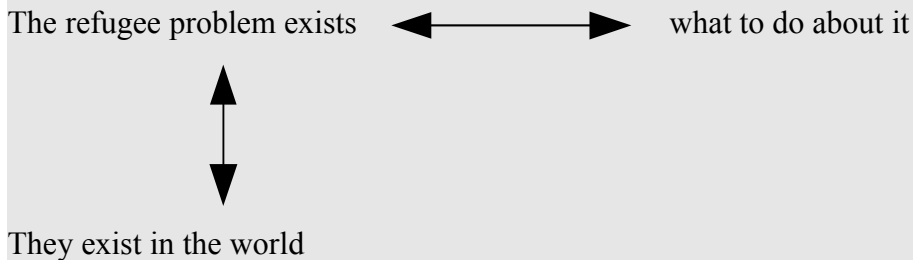
potentially the table could be much longer: "sovereignty", for example, it doesn't mean that the GoP acted in a coherent and uniform manner. Different ministries, different interests and groups. Same with UNHCR, etc. Furthermore, one could add each NGO or humanitarian organisation (see above). The table attempts to represent "ideal types" of systems of thought. In fact, they are defined interpellations -as in Althusser- because: First, the above nexuses represent an *"imaginary relationship of Individuals to their Conditions of Existence"* (1971: 152-154) in the sense that they are an *"illusion/allusion"*: they make reference to reality, but do not correspond to it. Second, these nexuses interpellate subjects: an *"interpellation or hailing"* performs the function of *"recruit[ing] subjects among the individuals"* or *"transform[ing] individuals into subjects"* (1971: 163). Ideologies interpellate individuals as subjects belonging to their ontological domain. In fact, the *"existence of ideology and the hailing or interpellation of individuals as subjects, are one and the same thing"* (1971: 163). Third, Althusser is concerned with the re-production of conditions of production, and in fact, he deploys the notion of interpellation to understand that process (1971: 123). I also find him useful -as a teacher of Foucault- to think about these interpellations as regimes of governance, although clearly I elaborate upon and expand, as below

They are ideological constructs -resting on material bases- that inscribe different orderings of space, and that define their object of concern in different ways

Each of these interpellations is *not* to be considered as separate from each other: they all refer to the same group of people, leaving the same 'place of origin' at the same time

Let's see how they interact

Who is a refugee? Authorities and systems of thought



this slide attempts to depict how interpellations have material implications. I also begin to move from the abstract to the concrete, vsv the question “who is a refugee?”

considering, for example, ‘the refugee’ as a subject of law, it has always been conceived as a *problem*: the problem of providing protection, the problem of social order in situations of mass displacement, the problem of providing assistance to displaced populations, the problem of finding durable solutions for refugee populations, etc. Such problematisation of “*refugee dynamics and occurrences*”, trans-forms a “*mere name into a practical field of activity*” (Soguk 1999: 50). Tthe statement ‘the refugee problem exist’ can be associated, for example, to the 1951 UN Convention of Refugees and the 1967 Protocol: it provides a universal definition of who is to be considered a refugee, it defines a social order where the refugee does not fit, and consequently makes the institutional category of the refugee a problem. It is a problem because it is created by an “exception”, the anomaly of a citizen whose state does not want to protect as it is *supposed* to do; it is a problem because something needs to be done about them, it is a problem because it alters the (assumed) socio- economic order of the place they arrive to, etc.

if the refugee problem exists, then the problem is what to do about it, and again this can be assessed at different levels of abstraction

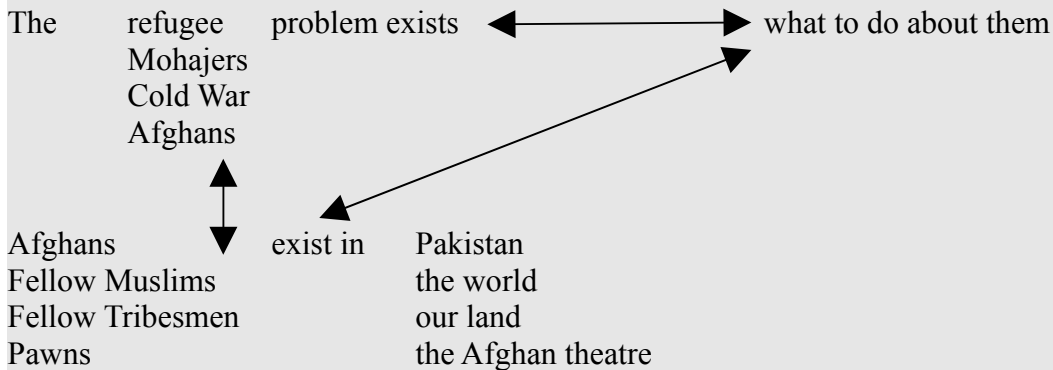
Furthermore, when the refugee problem is postulated in relation to specific populations –to *them*, exactly- both cells 1 and 2 change in three different ways (in very simple terms, depending on the questions: who, where and when).

In relation to specific populations considered (who), first, the specific “refugee problem” (cell 1) acquires a different connotation if one group *or* the other of refugees/asylum seekers is considered: the fact that “Afghans exist in the world” and that, for example, “Iraqis exist in the world” (see diagram above) poses different problems, precisely because of the specificity of each population group (e.g. the nature of persecution in the country of origin, their numbers, their socio-demographic profile, their previous livelihood, etc.). As a consequence, cell 2 changes, because the type of solutions to each “refugee problem” would be different.

In relation to country of asylum (where), second, cells 1 and 2 change because even considering only one displaced population –e.g. Afghans- their becoming refugee is differently configured in each country of asylum. The “refugee problem” caused by “Afghans that exist in Pakistan” or by “Afghans that exist in Iran” (cf. diagram above) is thus different, even as seen from the perspective of UNHCR. Furthermore, cells 1 and 2 change even in relation to the specific location, within each country, where protection and assistance are delivered. Thus the “problem” of “Afghans existing in Karachi, Islamabad or in FATAs” is different both as a consequence of the type of institutional arrangements in each location, and as a consequence of the specific type of Afghan existing there. In relation to the historical moment considered (when), finally, cells 1 and 2 change because of the

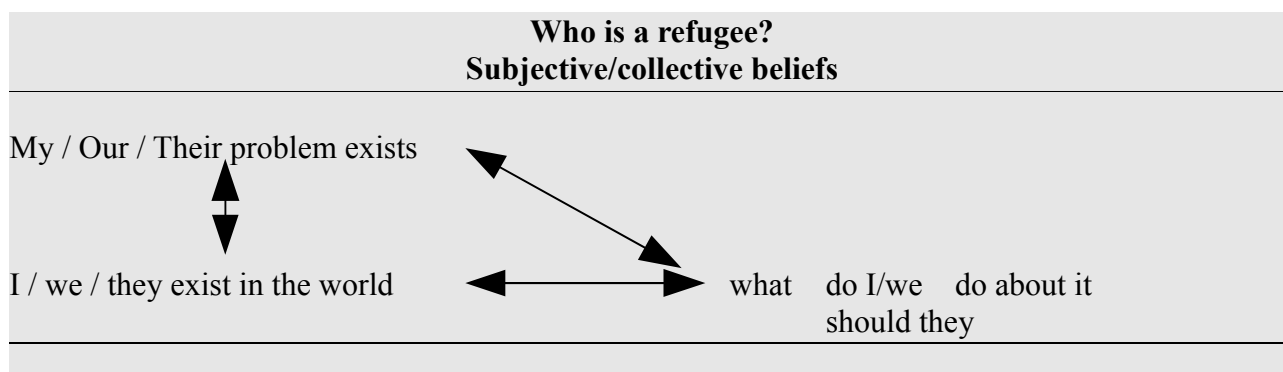
different significance *they* have in it. These changes, in fact, can be assessed even without specifying a refugee population. The meaning and interpretation of the “refugee problem”, as much as the way in which UNHCR defines optimal field operations planning procedures or best practices vis-à-vis gender, for example, has changed and is, in fact, in constant evolution, on the basis of “lessons learned” exercises, consultancies, debates within the humanitarian community, academic theorisations, etc. This holds true, perhaps even more forcefully, if a specific population of refugees is considered. Example food distributions

Who is a refugee? Authorities and systems of thought



The inclusion of *them* complicates the diagram's relations in two other very important ways. **First**, the statement "Afghans exist in Pakistan" could also be inserted in similar diagrams that problematise their existence in different ways. In other words, specifying a group of people opens up the analytical framework because *that* particular group of displaced people in Pakistan is subject to multiple interpellations.

Each of them would conceptualise Afghans in Pakistan in a different fashion (as mohajers, as fellow tribesmen, as pawns, etc.), and therefore heterogeneously conceptualise the type of "problem" identified in cell 1. Furthermore, each would define different solutions to that problem: each perspective, in fact, adheres to particular principles and logics ("humanitarianism", "Pushtunwali", "sovereignty", etc.). In other words, the relation between problem, solution and field of activity, represents the (internal) *logic* of governmentality regimes to define an object of thought, prescribe codes of conduct, and normalise relations between subjects ordering their roles and responsibilities (see earlier slide -interpellations).



Second, because the problem of Afghans existing in Pakistan can also be assessed from a subjective perspective, i.e. from the perspective of those who actually exist in Pakistan, and their own problematisations.

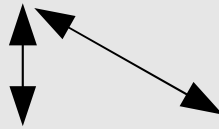
The object of thought “Afghan refugees in Pakistan”, in fact, is not homogeneous. On the contrary, each individual populating the subject-group “Afghan refugee in Pakistan” *refracts* the meaning and significance of being such object of thought. Furthermore, and for this reason, each of them, individually or in their self-defined group, is able to *respond* differently to such refractions, and in some cases to actually shape them. In other words, the subjective perception of *being* and/or having *become* a refugee, (cell 3), defines both subjective problematisations (cell 1) and different courses of action (cell 4). It is possible, through this addition to redraw the diagram from a “bottom up” perspective, as above.

Several examples can be applied to / are behind this diagram. Example, repatriation

these examples suggest three important points.

Who is a refugee? Subjective/collective beliefs

“The” problem exists



I / my family exist in the world

We Afghans

We Pushtuns

We Hazara

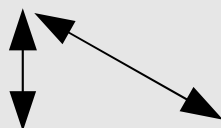
What should I/we/they do about it?

First, the inclusion of *them* in the diagram forcefully breaks away from the (relative) homogeneity of the previous analysis, by inverting the analytical perspective from which to study “problems” and their “solutions”. The problems of “Afghanistan”, of “Afghan refugees in Pakistan”, as seen from the eyes of an “Afghan”, an “Afghan refugee in Pakistan” or an “urban Afghan formerly working for the Government”, are quite different, as previous chapters have suggested; and they stimulate different solutions. Not all refugees equally benefit from protection and assistance, not always UNHCR can provide international protection, not all states abide to such rules of conduct, not all NGOs implement guidelines in the same manner. In other words, subjects of each regime do not follow the rules of the game established by the regime *in toto*. On one side, each (embodied) subject heterogeneously experiences opportunities/constraints offered by *being* “an Afghan refugee in Pakistan” (weather he/she/they have *become* one, and if so of which type). On the other, each of them differently respond to them:

From this perspective, second, the inclusion of *them* in the diagram alters the content of both problematisation and solution from yet another perspective. As suggested above, in fact, problematisations, solutions and populations intervened upon, all enter into dynamic relations. This is the case, even more so, when populations are not taken for granted, as a homogeneous object of intervention, but studied in their heterogeneous composition. In other words, the “top down” and “bottom up” understanding of problems and solutions presented in the previous diagrams (i.e. the act of problematising, the definition of solutions, their instantiation in territory and upon a group of persons, as much as the responses and re-appropriations that such instantiation generates), are clearly not unrelated.

Who is a refugee? Subjective/collective beliefs

“The” problem exists



I / my family exist in the world

We Afghans

We Pushtuns

We Hazara

What should I/we/they do about it?

We Oxfam/UNHCR/IRC staff

They (beneficiaries)

They (mandate/humanitarian refugees)

They (objects of my PhD research)

Third the same problem can -and should- also be seen from the perspective of those who intervene upon “refugees”. A UNHCR staff, a refugee in Kacha Gari, a malik, or a Ph.D. Student all shape the actual content of the refugee institution. Clearly not all of them do so equally.

This is the most interesting aspect of this approach: it allows recognising the different perspectives and subjectivities of a vast range of individuals and social groups, yet contextualising them in the deep inequalities and contradictions that characterise society -as developed by combining the “bottom up” and “top down” directions of analysis.

Who produces a refugee?			
An institutional point of contact, conflict, articulation			
1.	The refugee problem exists	2.	What to do about it?
3.	I/we/they exist in my/our world	4.	What do I/we (they should) do about it?

the main objective of the table is to answer the question “who is a refugee?”. It attempts to provide an understanding of “the refugee” as a dynamic social process, and to illustrate the relation between different processes shaping who is one, in its embodied manifestation and material effects. Previous slides were concerned with establishing the relational and multiperspectival nature of the term refugee. this slide attempts to suggest the production-based nature of the term ‘the refugee’, and helps highlight power relations.

Different conceptualisations of the ‘refugee problem’ negotiate and interact around the form in which such ‘problem’ is postulated in specific locations (cell 1), as much as on the contextualised implications such ‘problem’ brings about (cell 2). These overlapping constructs produce refracted experiences and they are also negotiated both at the level of identity as claims by potential refugees (I am/we are refugees) or on their behalf (they are refugees) (cell 3). Cell 4 attempts to depict the concrete manifestation of these processes.

Two forms of power, and two (dynamic) configurations of it, can be identified through the Table. The first form of power can be referred to as *institutional agency*. institutional agency refers to the (internal) logic shaping the contents of cells 1, 2 and 3, which has the *power* to shape the contents of cell 4 (i.e. what actually happens in a particular situation; i.e. concrete, embodied social change). Such power is mitigated by the existence of other similar, and partly overlapping, forces which: negotiate the contours of a particular problematisation (cell 1); negotiate the implications of such problematisation (cell 2); interpellate *as* particular kind of subjects individuals, organisations and social groups (cell 3).

The first mitigating factor, contributing the contents of cell 4, can be captured by recognising the existence of other forces possessing similar, and partially overlapping, ordering systems. Such analytical recognition implies taking into consideration that each of them, simultaneously, attempts to assert its own force in the definition of particular problematisations, solutions and conducts.

The second form of power, and mitigating factor, identifiable through the Table, could be dubbed as *human agency*. Human agency refers to the capacity of individuals to shape their own destiny. examples. Clearly, the (dynamic and contingent) configuration of power between different forces, described above, defines the contours of what is possible, or impracticable, in a particular context. Human agency is thus not absolute but itself nested within wider forces. At the same time, however, these configurations of power do not deterministically shape human behaviour. Thus, on one side, while *shaped by* such configuration of power (cells 1, 2 and 3), subjects themselves concur to concretely *shape* it. On the other side, not all individuals, organisations or social groups are able to do so equally. I / we / they are not just random individuals, equally encompassed by such institutional configurations of power, or equally able to shape them. The second *configuration of power* that can be identified through the table refers to the balance of social power within a given society, which enhances / constraints the possibilities of particular individuals, organisations or social groups to take advantage / resist the particular configuration of power encompassing them. In fact, in the coeval understanding of context offered above, such society is to be considered in a worldly context.

