STATE POWER AND ASYLUM SEEKERS IN IRELAND

AN HISTORICALLY GROUNDED EXAMINATION OF CONTEMPORARY TRENDS

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For Andrea, Edgar, and Theo whose smiles make it all worthwhile.
Steve L.

To my beautiful wife Nikki, our children Arlo, Jem, Romy, and Tuuli, and our dog Tallie who passed away in the final week of writing.
Steve Q.

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CHAPTER 1

Introduction

In everyday discourse the terms 'immigrant', 'asylum seeker', and 'refugee' are often used interchangeably. Although the distinction is highly problematic (Loyal 2008), those who migrate for economic reasons and those who flee because of political persecution, are judged very differently in both law and the court of public opinion. By definition, an 'asylum seeker' denotes someone seeking refugee status. Emerging first in the context of protocols developed by the League of Nations after the First World War, the modern definition and procedures have been elaborated by the United Nations High Commission on Refugees (UNHCR). By becoming a signatory to the 1951 UN Convention in 1956, Ireland became obliged to grant special protection to citizens of states that could not guarantee their human rights or physical security. The refugee system was constructed during the very specific ideological and historical conditions of post-war upheaval—conditions that had a marked impact on both the technical definition of refugee status and the configuration of state procedures and obligations. Premised on a system of nation-states with fixed borders, the UNHCR's principal aim was to guarantee and provide international protection and assistance to individuals who had become displaced by the Second World War. With the signing of the 1967 Bellagio Protocol, and as the problem of displaced people became more global, this remit for protection was later extended beyond Europe to encompass refugees from all over the world. The standardization of procedures

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dealing with mass displacement led to the concept of 'refugee' becoming institutionalized as a way of labelling and treating individuals as a distinct type of person with a determinate social status.

The early development of the international refugee system was also very much a product of the Cold War (Marfleet, 2006; Marrus, 1985). In a context where the United States retained international hegemony over capitalist states, the concept of refugee was coloured by the experience and perception of individuals defecting from repressive communist states to embrace the relative freedoms of the West. For example, all but 925 asylum seekers from a total of 233,436 who gained refugee status in the United States between 1956 and 1968 were from Communist states, and, even by 1986, 90% of those granted refugee status were from these states. By contrast, would-be refugees from states friendly to the United States were usually denied such status (Loyal 2011; Marfleet 2006).

By the end of the Cold War, asylum seekers were no longer viewed as sympathetically nor used as ideological ballast to highlight the totalitarian nature of communist regimes. Instead, during the 1990s, most European states reacted to the growing flow of asylum seekers by seeking to contain them in their continent or region of origin, and/or to restrict their access into the West.

Increasing hostility to these growing numbers was matched by the anxiety-ridden ideological construction of asylum seekers as opportunistic, an unnecessary burden on the finite national resources and a threat to the cultural and national homogeneity. This reaction echoed the earlier nationalist retrenchment of Western states with the rise of the Nazis during the 1930s. Herein, Jewish refugees were labelled 'illegal immigrants' and denied entry to Britain, France, and the United States—a decision sealed at the 1938 Evian Conference, when Western governments effectively abandoned Germany and Austria's Jews, arguing that their countries were already 'saturated' with Jewish refugees (Marrus 1985).

More recently, the flows of asylum seekers, refugees, and displaced persons have grown so rapidly as to constitute what has been deemed a 'migration crisis'. In its Global Trends Report (2016), the UNHCR recorded a total of 65.6 million 'forcibly displaced people', including over 40 million 'internally displaced', 22.5 million refugees, and 2.3 million asylum seekers. These figures are the highest number on record. And of these, half the refugees come from just three countries: the Syrian Arab Republic (5.5 million), Afghanistan (2.5 million), and South Sudan (1.4 million). Syria also accounts for 12 million of the internally displaced. Over 80% of these refugees were hosted by developing countries with the three largest hosts being Turkey,

Pakistan, and Lebanon. On a per capita basis, Lebanon was the largest recipient with one in six people in the country now a refugee. The vast majority remained outside of Europe, the richest continent in the world. Nevertheless, the increasing numbers—1.3 million applications in 2015 and 2016 (Eurostat 2017)—have had a profound effect, shaking to the core, the Schengen vision of a united Europe with no internal borders. The previous peak in applications had been 672,000 in 1992, following the collapse of Yugoslavia. But significantly, these Balkan refugees were Europeans fleeing from an intra-regional crisis. Not surprisingly, the reception of relatively huge numbers coming from outside Europe has varied considerably. Some countries have accepted very large numbers: Germany took 722,400 in 2016 (60% of all applicants) which went up from 441,900 in 2015, the vast majority from Syria; Italy followed with 123,000 applications (10.1% of all applications) largely from Nigeria, Pakistan, and Gambia. Within the EU-28, 1.1 million first-instance decisions were processed in 2016, of which 57% led to a positive outcome. The leading states for positive outcomes were Slovakia 84% and Malta (83%), while the lowest were in Greece, Ireland, Poland, and Hungary with over 75% rejection rates. In 2015 Ireland received 1552 applications for asylum of which only 9.8% were granted a positive decision at first instance (ORAC 2016).

With overburdened welfare systems and the continuing legacy of the 2008 economic crisis, the flow of asylum seekers came at a time of ebbing confidence in the institutional and political project of the EU. The migration crisis gave momentum to the growth of populist and far-right parties such as Jobbik in Hungary, United Kingdom Independence Party (UKIP) in the United Kingdom, the Front National in France, the Dutch Freedom Party, Danish People's Party, the Swedish Democrats, the Alternative für Deutschland, and Pegida in Germany. Reflecting perhaps more acute historical anxieties about territorial integrity, Hungary and Bulgaria reintroduced internal borders, built walls, and reinforced border security (Jones, 2016. Hungary is currently allowing just one asylum seeker per day from Serbia to cross into each of its two transit zones.

However, the situation is more complex partly reflecting what Gramsci calls people's 'contradictory consciousnesses' which emerge in the struggle over hegemony (1971:333). The tragic and visible death of Alan Kurdi, a three-year-old boy, acted as a lightning rod for public revulsion at the large numbers dying trying to enter Europe. Over 3500 died mostly from drowning in 2015 and another 5000 in 2016, making the route to Europe the deadliest migrant path (Jones 2016). At the same time, there was increasing pressure from Germany for EU states to share the burden

and distribute applications more evenly, especially in respect of those arriving via Greece and Italy. Although the EU eventually collectively agreed to accept a fixed quota of 160,000 refugees arriving in Italy and Greece in September 2015, by the end of 2017 only about 28,000 had been redistributed across Europe, and Hungary, Poland, and the Czech Republic steadfastly refused to comply and accept any refugees. In this context, Ireland agreed to take 4000 under the Irish Refugee Protection Programme of which only 1200 had been accepted by the end of 2017.

Focusing on Ireland, we seek to understand the relation between the state and asylum seekers in a long-term historical framework which is attentive to broader processes of unequal power, domination, and exclusion. Viewed over several centuries, inequality within Western states has declined and power balances between social groups have equalized (Elias, 2000). But whether the increasing inequality between and within states that has accompanied globalization and a policy environment dominated by neo-liberalism and market retrenchment represents a significant reversal of this long-term trajectory is a contested issue (Therborn 2006; Piketty 2014). Therborn has argued that global inequality increased during the nineteenth century and first two-thirds of the twentieth, until the economic growth of China with its huge population and a decline in the levels of poverty. Certainly, regardless of the empirical situation, opinion polls show a consistent perception, among Europeans, that societies are becoming less and not more equal (Khondker 2011: 3). Although capitalism has always been 'instituted' by nation-states (Polanyi 1957), some writers have argued that Western democracies are 'hollowing out' and becoming more directly dominated by corporate licence and less able to sustain distinctive internal regulatory environments and societal regimes (Jessop 2004). In *Ruling the Void*, Mair (2013: 1), for example, argues that 'the age of party democracy has passed'. He continues, 'although the parties themselves remain, they have become so disconnected from the wider society, and pursue a form of competition that is so lacking in meaning, that they no longer seem capable of sustaining democracy in its present form'. Others talk of the emergence of 'post-democracy' (Crouch 2004) in which democratic institutions have been co-opted by a small elite group. If this is the case, we may argue that modern Western democracies over the last few decades are beginning to resemble 'plutocracies', as elite groups usurp greater material resources through processes of closure (Barnes 2015). This has had implications for the post-war, Fordist state-society compact, particularly, from the 1980s onwards, vis-à-vis the arrival of increasing numbers of asylum seekers. Such

tensions were exacerbated by the worldwide economic downturn, a declining rate of profit and, since 1973, an endemic crisis of profitability (Brenner, 2002). The more recent rise of populist and far-right parties and discourses across Europe is one indication of this scramble over resources and reassertion of ethno-national status differentials.

We address some of the effects of these processes in this book. In Chap. 2 we outline the theoretical tools and concepts which we use to analyse the state asylum seeker relations in Ireland. This entails a process ontology which emphasizes the historical development of states and changing state individual relations—in terms of not only socio-spatial dynamics but also authority relations. We also explore social closure strategies as an aspect of established-outsider relations and ongoing attempts by different groups to secure not only economic and material resources such as private property, labour market access, and welfare but also social esteem and status distinctions. These theories are then extended in Chap. 3 in which we outline four irreducible but interconnected institutional logics within which these processes of social closure unfold: capital accumulation, nation-state formation, international relations of interdependency, and the logic of civil society. Chapter 4 examines the State's historical treatment of Jewish immigrants in order to demonstrate the remarkable continuities in the State's social closure strategy towards immigrants, specifically with respect to the perception of economic cost, perceived threats to national security and social order, and challenges to national homogeneity and group identity. Chapter 5 discusses the institutional procedures and policies through which asylum applications are processed. Here we emphasize the State's narrow and sceptical interpretation of asylum claimants and the overriding imperative to demonstrate that it is not a 'soft touch'. Chapter 6 discusses the role of Direct Provision centres in housing asylum seekers and their combined role of deterrence and providing a vehicle for deportation policy. These processes of expulsion or 'deportation' are discussed in more detail in Chap. 7, whilst Chap. 8 concludes by examining the management and restriction of citizenship applications vis-à-vis asylum seekers as evidenced by the Citizenship Referendum of 2004.

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CHAPTER 2

Theoretical Framework and Core Concepts

Introduction

Focusing specifically on asylum seekers and their relation to the Irish State, this book contributes to the growing sociological literature on immigration and the nation-state. But exploring the patterns of asymmetrical interdependence between social groups and institutions, it is perhaps more satisfactorily understood as a contribution to the wider study of a sociology of power. It deals with the dynamic power ratios between state institutions and asylum seekers in areas such as accommodation, freedom of movement and social/civil rights, distinctive patterns of bureaucratic processing, and the pervasive threat of expulsion from the territory. For liberals, systematic and selective social differentiation in the application of state power is perhaps shocking. But such discrimination is intrinsic to the operation of all nation-states, for better or for worse and without exception. In what follows, we refrain from both judgement and prescription. This is not because ethical and political appraisal has no place in the development of policy, but because such interventions are likely to be more effective to the extent that they are based upon realistic models of the underlying processes. Such scientific understanding of social processes and the development of appropriate models, especially with regard to highly emotionally charged discussions of issues such as migration, require a 'detour via detachment' (Elias 2007). With this in mind, our focus will be on these asymmetrical power ratios, on the ways in which they are shifting, and on the broader social impact of

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such changes. For Elias, power balances and power ratios characterize all relationships. In his counter-intuitive view, power is not a 'thing' that one can have (or not). Power is relational and distributed.

> The master has power over his slave, but the slave has power over his master, in proportion to his function for his master—his master's dependence on him. In relationships between parents and infants, masters and slaves, power chances are distributed very unevenly. But whether the differentials are large or small, balances of power are always present wherever there is functional interdependence between people… Power is not an amulet possessed by one person and not another; it is a structural characteristic of a relationship—of all relationships. (Elias 2012: 69–70)

He adds:

> We depend on others; others depend on us. In so far as we are more dependent on others than they are on us, more reliant on others than they are on us, they have power over us, whether we have become dependent on them by their use of naked force, or by our need to be loved, our need for money, healing, status, a career or simply for excitement. (Elias 2012: 88)

The critical thing is the unequal power ratio between these groups, which is itself determined by the way in which they are bonded together, their different degree of organization and cohesion, and the function one group or individual has for the other (which is why, counter-intuitively, a baby can be seen to exert power in relation to a mother). Hence when examining the status and life chances of asylum seekers in terms of 'established-outsider' relationships, power cannot be explained only in terms of the monopolization of physical resources by one group (Elias and Scotson 2008). Also important is the degree of organization, modes of orientation, internal cohesion, and social capital of the social groups concerned.

Power then is a structural characteristic of a relationship, a 'polymorphous, figurationally generated property of all social interdependencies' (Mennell 1992: 115). Any singular emphasis on race, nationality, religion, or ethnicity draws attention away from the underlying and more pertinent causal factor that explains the process of domination and discrimination—asymmetrical power ratios between groups. In our discussion, relative power balances are prioritized over other conventional sociological markers of salient group differences. The latter are second-order categories that 'take on force' or explanatory significance when seen in relation to the former.

Again, following the work of Elias and other historical sociologists, we wish to move away from *hodiocentric* short-term perspectives which often narrow the focus of sociologists to the immediate dynamics of their own societies (Goudsblom 1977). Instead, by discussing these issues in a long-term, developmental perspective—a sequential order *sui generis*—we seek to draw attention to the underlying logics and constraints. Such structured and directional changes include processes of industrialization, bureaucratization, rationalization, disenchantment, urbanization, and the prevalence of a scientific worldview–all working in tandem with processes of state formation and nation-building. Equally, such an analysis would ideally entail a comparative framework. Hence, the treatment of asylum seekers in Ireland needs to be understood comparatively with similar processes taking place in other European states, but given limitations of space this is not possible here. Despite the specificity of migrant trajectories in different nation-states, all have experienced marginalization, secondary access to the labour market, ethno-racial forms of discrimination, and problems of 'habitus translation'.

Moreover, despite very different immigration policies, patterns of organizational incorporation and traditions of citizenship and membership, all European states reacted negatively to the rising number of asylum claims (Marrus 1985; Geddes 2001). From the 1980s, applications for asylum in Europe and North America increased more than ninefold (Keely and Russell 1994). States responded by increasing restrictions and prioritizing deterrence measures—not least by breaking down the conceptual distinction between economic migrants and political refugees, and obscuring the latter with the powerful discursive binary of 'bogus' versus 'genuine' refugees. The imposition of stricter border controls and the current rise in hostility towards asylum seekers are not unique to Ireland but echo similar developments elsewhere in Europe from the 1980s.

We are also concerned with *dynamic* social processes. Recognizing that the reification of concepts or the reduction of processes to static categories (*Zustandsreduktion*) is a major problem in sociology, Elias urges the replacement of static 'thing' concepts with processual terms (Elias 2012). Rather than talking about 'nationalism' (a thing), we refer to ongoing processes of nation-building or nationalization, sovereigntization, and state formation. The inelegance and clumsiness of such terms persistently draw attention to the dynamic, ongoing, and unfinished character of social relations. The processual or 'figurational' approach focuses not on abstracted actions but rather on people who act, or as Elias argues, 'societies are networks of people in the round' (Elias 2008: 118). This also

implies that the relation between the state and individual not only has shifted historically but is still in process, as we see under the impact of neo-liberalism since the 1980s.

State Formation

To understand state practices and strategies towards asylum seekers also entails examining long-term processes of integration and increasing interdependence—between individuals, social groups but also institutions. In contrast to pre-modern polities, modern nation-states are multilayered, institutions often characterized by a plurality of sub-centres. In particular, they are distinctive with regard to the following: their revenue and resource flows; their communicative and regulatory capacities with respect to everyday language and discourse; patterns of redistribution and the social allocation of resources; authority and power structures; their relation to individuals; their involvement in other formerly more independent societal functions such as education, child socialization, interpersonal relations, health, and so on; and their functioning as the primary 'survival units' directly or indirectly responsible for the biophysical safety and security of citizens.

At the same time, the appropriate unit of analysis can never, in the final analysis, be a single nation-state, since all such polities are embedded in a geopolitical world system of states. This said, it is also true that the precise characteristics and contours of individual states vary widely, sometimes as a result of particular historical contingencies in their development but also as a function of their co-development in tandem with other states.

With this in mind, nation-state formation in Europe should be understood as a process that extends from the twelfth century continuing into the present, and following a *directional but unplanned* trajectory characterized by spurts of integration and disintegration. This trajectory has been marked by the transitions from feudalism, through the development of the absolutist state and subsequently to the emergence of modern nation-state: that is, from a multiplicity of relatively small and loosely integrated, segmented dynastic states with a low administrative reach, to more populous and closely integrated social units in the form of larger dynastic states, to yet larger and more highly integrated capitalist-industrial nation-states with a much greater administrative reach and penetration of the population (Mann 1986). These different phases can be understood as systems of power, which—through their differentiated rules of entitlement,