

## **New State-Theoretic Approaches to Asylum and Refugee Geographies**

### **Abstract**

*This paper examines recent innovations in the way the concept of the state is employed by geographers researching forced migrants' and refugees' experiences. A still-dominant body of thought tends to essentialise the state and foreground both its institutional forms and coercive powers by asking questions that take the primacy of these attributes for granted. In response, post-structuralist geographers and sociologists have begun to forge alternative views of states, drawing upon a useful cynicism over the coherence of the state, as well as an engagement with Foucauldian notions of governmentality. These alternative approaches are examined in order to distil the characteristics of an emerging critical asylum geography.*

### **Keywords**

**State theory; state re-scaling; asylum; refugees; migration.**

### **Introduction**

There is a strong association between the notion of a refugee and the notion of states. Political refugees flee their country of origin as a result of the fear of persecution by their domestic state, and often consequently experience a condition of statelessness, meaning that they do not have citizenship of any recognised nation-state. The notion of refugees is, from the outset, therefore a contingent one (Samers, 2004): it rests upon the Westphalian ideal of a system of interlocking nation-states that traverse the globe, implying that the experience of not being under any state's authority and protection is both absurd in theory and unusual in practice (Zolberg, 1983). What is more, not only is the category of the refugee contingent upon the idea of nation-state sovereignty, but the legitimacy of the world-wide system of nation-states is itself bolstered by the simultaneous objectification and abjection of those unfortunate enough to not belong to a nation-state community. Refugees are understood as lacking something that only a state can provide (Malkki, 1996). What better way to recommend the worldwide system of nation-states than through the abjection of those outside it?

Given the symbiotic relationship between forced migrants and the concept of refugees on the one hand, and notions of the state on the other, it is perhaps surprising that research into forced migration has not

been readily associated with any particular state theory. This is due, firstly, to the diversity of commentators writing about asylum seekers' experiences both within and beyond geography, representing between them a multitude of different conceptions of what the state is, as well as what the state should be (for example, contrast the approaches of Day and White, 2001, Hopkins and Hill, 2009, Hubbard, 2005, Hyndman, 2000, Koser and Pinkerton, 2002, Koslowski, 2006, Neumayer, 2005, Stewart, 2003, Storey, 2006). Secondly, the predominance of social and cultural geographic approaches to asylum issues, while providing a range of insights, illustrates the relative infrequency of political-economic contributions, which might be expected to engage more closely with contemporary state theory.

This paper therefore pursues two objectives. Firstly, it seeks to make explicit the connections between state theory and the wealth of empirically rich social, cultural and policy-orientated inter-disciplinary scholarship that addresses asylum and refugee issues. This is important because, while many contributions do not make overt connections to state theory, they nevertheless employ implicit notions of the state which steer and influence the range of insights they offer. Making these embedded state concepts explicit will allow critical asylum scholars to assess the effects of these concepts in their work. Secondly, having unearthed the implicit notion of the state that underwrites much asylum scholarship, the paper seeks to critique this implicit conception and offer alternatives. Specifically, it is argued that much forced migration and refugee scholarship tends to see the state as an essential entity, standing apart from society and acting upon it from a distance. This paper will argue that this state concept threatens to preclude a range of insights and close down a number of important lines of enquiry that an anti-essentialist conception of the state, which is critical of the distinction between state and social domains, leaves open. By making this argument, the paper calls for approaches to asylum and refugees studies to become more critically reflexive about the notions of the state that they employ. This in turn promises to open up new, fertile grounds for enquiry precisely within the grey, contested and contestable areas between 'state' and 'social' spheres.

In the first part of this paper the implicit notions of the state that form the common ground between a range of asylum and refugee scholarship are distilled. In particular, four debates are reviewed that are each located at the nexus of citizenship, forced migration and states. Asylum research is particularly voluminous and touches upon a range of issues in health studies, including the study of stress among asylum seeker communities, housing studies, and approaches that engage directly with employment and the causes and consequences of poverty. Hence the four debates reviewed are only intended to be illustrative of the sorts of state concepts that commonly circulate. Nevertheless, their treatment of states and state theories points towards a widespread tendency to reify the state in asylum and refugee research. Indeed, even the most hotly contested areas of disagreement within these debates have nevertheless taken for granted, and therefore subtly promulgated, particular state concepts.

The second section of the paper goes on to identify some of the consequences of these routine habits of thought in terms of the closing down of fruitful lines of enquiry that de-centre the state or emphasise its chaotic, grounded and everyday forms. This section throws into relief the people, objects and sites through which asylum seeker subjugation is often perpetuated in 'state' settings. In the third section, drawing together recent and on-going work in sociology and post-structural geography, the key characteristics of an emerging school of critical asylum geography are sketched out that seek to move the academic engagement with asylum seekers and refugees beyond an inhibiting conception of the state.

## **Unearthing an implicitly essentialist view of the state**

Four questions have dominated the academic debate about the relationships between asylum seekers, refugees, citizens and nation-states: How should states respond to refugees? Is it in destination states' interests to welcome refugees? Do border control policies work? And are states free to put their border control policies to work? These debates are interesting not just on their own terms, but also because they bring into being a notion of the state that stands apart from society and intervenes in it relatively unproblematically. It is worth briefly reviewing the debates that have played out around each of these issues in order to illustrate this effect.

Firstly, the debate surrounding how states should respond to the situation of the world's refugees is structured around the ethical dilemma that asylum seekers and refugees pose to recipient states (Black, 2001, Gibney, 2004, Ruhs and Chang, 2004, Schuster, 2003). On the one hand, 'cosmopolitans' argue that the state should not accord primacy to the rights of citizens over non-citizens (Singer and Singer, 1988, Singer, 1993). On the other hand, 'particularists' argue that the state's very function is to further the interests of citizens, even at the expense of non-citizens if necessary (Hendrickson, 1992). Various compromises have been offered between these ethical poles, such as the extension of asylum to those in greatest need (Dummett, 1992), to those nearest to receiving states either geographically or culturally (Miller, 1988, Walzer, 1983), or indiscriminately but only up until the point at which an unacceptably adverse impact upon incumbent nationals' welfare is experienced (Gibney, 2004).

All sides of this debate, however, depict the state as a deliberative rational actor, located outside society and capable of making relatively clean interventions into the social realm on the basis of moral or ethical principles, without compromising its own distinction from the social order. By using this conception, the ethical debate employs a conceptual separation between state and society, bestowing the former with competences and capacities that are independent from, and ontologically prior to, the latter. This seminal ethical debate may have structured and delimited the ways in which forced migration and refugee issues have been conceptualised both within and beyond geography.

Secondly, for example, a number of arguments have been put forward suggesting that, all other things being equal, it is in Western, developed destination states' interests to welcome refugees for the economic benefits they offer to host societies. The projected contraction of the working aged population of the EU-25 from 67% to 57% of the total by 2050, while the number of people aged over 65 simultaneously rises from 16 to 30%, underpins the European demographic case (Castles, 2006). Refugees who have the social and financial capital, as well as the personal resilience, to escape violent situations represent a particularly welcome addition to the workforce (Stewart, 2003, Van Hear, 2004). From the perspective of an

instrumental state, this is especially true if refugees and asylum seekers occupy insecure labour market positions, allowing firms to exploit a highly skilled population at relatively low cost (Samers, 2005).

Against these arguments for asylum seeker entry, post-Fordist firms have been viewed as relatively internationally mobile, capable of locating labour-intensive production functions wherever labour is cheapest, thereby dispensing with the requirement to import cheap labour and with the need to exploit migrant communities (Cohen, 1987, Krugman, 1995). Others have argued against the exploitation of migrant labour on the basis that labour unrest can be highly disruptive and inefficient (Bradley *et al* 2000), as well as socially costly (Castles and Miller, 2003, Mahnig, 2004). Still more have suggested that the proliferation of part-time, flexible working practices in mainstream, Western economies has been sufficient to meet the need for flexibility and cheap labour (Marie, 2000, Williams and Windebank, 2001). Immigrants' effect upon native wages constitutes further grounds for concern. Although a small number of authors argue that the impact of immigrants upon native wages is significant (Angrist and Kugler, 2001, Borjas, 1999, Borjas, 2006) most authors conclude that the effect is negligible (Bean and Stevens, 2003, Constant and Zimmermann, 2005, Cornelius and Rosenblum, 2004, , Hatton and Williamson, 2004). They nevertheless see the unequal distribution of the competitive wage effects of immigration as problematic, however, because low income households tend to bear a disproportionate share of the effect (Cornelius and Rosenblum, 2004, Hix and Noury, 2007, Scheve and Slaughter, 2001). Importantly, even if this is not always the case or is not always significant, the very perception that immigrants are associated with wage declines is enough to render the support of liberal borders an exceptionally risky political strategy that may be enough to deliver substantial support to the political Right (Swank and Betz, 2003).

Even throughout this debate, however, the state is essentialised. The pros and cons of supporting asylum migration from the perspective of states' interests makes the peculiar assumption that there is such a thing as a national interest. In reality, the difficulty of accessing the preferences of national populations is endemic, even within a liberal democracy (Dunn, 1992). Furthermore, the idea that the institutional and legal mechanisms of the state are representative of national interests, even if such interests could be derived, has been lambasted by left-wing scholars. They draw attention both to the ways the state apparatus can be appropriated by classes and factions (Miliband, 1973) and to the inbuilt tendencies of states, whoever runs them, to privilege capital-owning classes (Jessop, 1990, Poulantzas, 1978). For these reasons, the state is liable to systematically under-represent different factions and classes within society, making the notion that state policy towards asylum seekers represents objective consensus appear extremely precarious. Once again, academics working on these issues may have endured a dearth of work that radically questions the assumptions upon which key debates are predicated.

A third debate about asylum seekers and refugees concerns the effectiveness of policies designed to control asylum flows (Neumayer, 2004, Samers, 2004). There is widespread disagreement about the effectiveness of state policy in a globalised world. On the one hand, there are a number of reasons to view

nation-states as commanding effective control over their borders. The sheer magnitude of public expenditure indicates, in the first instance, that government policy must be having an effect. Surely the public sector in the UK, for example, could not be so wasteful as to pour over £2 billion a year into a lost cause? Accordingly, some quantitative studies provide support for the efficacy of states in maintaining borders. Hatton (2004) for example, analyses asylum migration from Africa, Asia and Eastern Europe to fourteen Western European countries and finds that the implementation of a single deterrence policy is associated with a 10% decline in requests for asylum to the state that has implemented the policy.

On the other hand, transnationalist scholars have emphasised the global structural factors that prevent states from operating successful border control policies (Castles, 2006, Koser, 2007). Transnationalism takes as its point of departure not the landscape of national state territories, but the routes, networks and patterns of migrants and migrant communities. As social, economic and cultural linkages between communities that are located in different countries have strengthened, due in part to the communicative and technological developments that produce globalisation, transnationalists have been able to point out the increasing unsuitability of nation-states as an appropriate lens through which to understand and take stock of these developments (Al-Ali and Koser, 2002, Black, 2001, Castles, 2004, Koser, 2007, Van Hear, 2006). In their view, the transnationalisation of migratory patterns has served to undermine the nation-state as a discrete destination or container of migrant experiences, communities and networks (Koser and Pinkerton, 2002, Van Hear, 2002). Transnationalists can also cite numerous quantitative studies that support their point of view (Böcker and Havinga, 1998, Cornelius and Rosenblum, 2004, Thielemann, 2004). What is more, the evidence of the complementarity between globalisation and migrant smuggling networks underscores the difficulties globalisation presents for immigration control (Salt and Hogarth, 2000). As globalisation has gathered pace, it is argued, the cost of organisation and performing cross-boundary smuggling operations has fallen. At the same time, the potential gains have risen due to the erection of a profusion of legal and physical barriers to entry, designed precisely to curb smuggling activities. This cost structure has incentivised human smugglers, who are consequently beginning to operate with more sophisticated business models and on a larger scale (Cohen and Rai, 2000, Koser, 2007).

While compelling however, these disagreements serve, once again, to reify the state-society divide. Throughout both sides of this debate, borders are assumed to be both national and under the exclusive control of the state. This abstracts from broader processes of asylum seeker exclusion by privileging the national scale and by factoring out processes of asylum seeker exclusion that may not be state-based or state-driven. This indicates a need for a set of theoretical concepts that allow us to examine in greater detail the role of social factors in the exclusion of asylum seekers at both sub-national and supra-national scales as well as through geographical concepts that draw more upon relationality, network and place than upon the often-artificially constructed category of 'scale' (Guild, 2002; Marston et al, 2005). By exclusively examining national border control policies, the debate about their effectiveness threatens to obscure alternative drivers of asylum seeker exclusion.

What is more, the assertion that border control does not work because of the transnationalisation of asylum seeker flows pitches a sophisticated understanding of migration patterns and flows against an impoverished, overly-territorial theory of the state. Transnationalists who argue that networks of migrant routes and communities do not follow the administrative boundaries of states (and that states are therefore ill-equipped to control them), use an implicit theory of the state that models state power as static, contained by its own borders and constrained by its own boundaries (for a critique, see Taylor, 2003). In this conception of the state, state power is relatively immobile, territorially-rooted and incapable of networked transmission of its own. By employing a territorial, contained concept of the state, transnationalists preclude the possibility that the state is capable of mirroring the transnationalisation of migrant flows by working through the commitments and comportment of dispersed social actors themselves (see, for example, Larnier, 2007). This observation challenges static, territorial views of the state and state power and confuses any clean distinction between state and social domains. The risk from the perspective of geographers engaging in these fields is that to enter into the debate about the effectiveness of government policy in controlling asylum and migration flows is to take on, and thereby to ratify, the implication that state controls are essentially national in scale and essentially immobile.

A fourth debate that has received widespread attention within and beyond geographical engagement with asylum seeker and refugee issues is the degree to which states are free to put their policies to work, even if they do command effective border control mechanisms. Numerous authors have claimed that the proliferation of human rights norms and rules, embodied in humanitarian treaties such as the Geneva Convention (1951) and the Universal Declaration of Human Rights (1948) have begun to impose increasingly stringent constraints upon the sorts of activities nation-states are authorised to engage in when policing their borders (Hollifield, 1992, Jacobson, 1996, Soysal, 2004). With the co-operation of international, legally recognised institutions such as the European Union, the European Court of Human Rights and the United Nations, the implications of these treaties are slowly being rolled out into national law (Ife, 2001, Nicol, 2004).

A number of objections have been voiced against this view. The notion that national sovereignty has been ceded to international levels has been problematised by studies that examine the ways in which international collusion has actually served national interests, in terms of both the pursuit of an imagined, shared security agenda and in terms of legal legitimacy (Byrne *et al*, 2003, Cholewinski, 2000, Lavernex, 2001). Others have drawn attention to the ability of nation-states to opt-out of humanitarian rules or to ignore them in the absence of credible enforcement mechanisms (Hathaway, 1990, Schuster, 2003, Welch and Schuster, 2005.). A final, more surprising, objection is that states have actually begun to refer to international legal obligations to avoid their previous responsibilities. Rather than ignoring international humanitarian rules, states have been able to defer responsibility upwards for a range of issues relating to asylum, especially in the legal sphere (Nicol, 2004).

Where the idea of constraints acting over states may have enjoyed more currency, however, is in the context of domestic, internal resistance to tough immigration policies. Immigrant communities, for example, have been argued to constitute an increasingly powerful lobbying force that is able to frustrate states' aspirations for tougher immigration policies 'from within' (Freeman, 1995, Money, 1999,). According to this school, the alignment of migrants' interests and the interests of the private sector in securing relatively free access and the minimisation of state intervention has been seen to provide migrant communities with powerful allies in their pursuit of liberal borders, affording them privileged access to the state apparatus (Freeman, 1995, 2001). Furthermore, migrants have been supported by the emergence of a vocal coalition of liberal activists, lobbyists and civil society organisations (Castles and Miller, 2003). This has rendered the state as exposed to charges of racism and xenophobia as it is to charges of excessive liberalism (Jupp, 2002, Schuster and Solomos, 2004, Solomos, 1993). These domestic checks upon states' treatment of migrants are particularly potent during periods of social unrest and high immigrant unemployment that constitute burdens to the state as well as to the host society (Mahnig, 2004, Studlar and Layton-Henry, 1990). This liberal coalition has gained further momentum as trade unions have reviewed their traditionally restrictive stance on immigration (Goldin, 1994). Labour movements are increasingly choosing to see immigrants as potential new members in the face of declining domestic support, rather than as threats to native workers (Haus, 2002, Watts, 2002). This is especially welcome in labour markets that are poorly regulated, where the distinction between economic migrants and refugees or forced migrants often becomes blurred, meaning that forced migrants can become reliant upon union support despite the fact that they should not officially be working (see Wills, 2005)<sup>1</sup>. Joppke (1998: 59) consequently concludes that '[N]ot external, but internal constraints have prevented liberal states from shielding themselves completely from global refugee movements'.

Yet again, however, these debates are framed in such a way as to reify the division between state and society. Although this debate comes closest to recognising the blurred distinction between state and social forces, through the importance of 'internal' resistance that operates from within the state apparatus to exert power over it, the very language of 'constraints' implies an antagonism between social and state spheres that pre-supposes their distinction. By conceptualising and talking about 'constraints' a sense is preserved in which there is a continuing separation between society and state, because it is only by virtue of this separation that the former can be opposed to the latter. In all four debates therefore, particular assumptions about the state are made that frame the discussions that have taken place. In general, the state is assumed to occupy a separate position to society and to regulate it from a position of exteriority, usually at the national level. This separation can subsequently allow scholars to attach autonomous characteristics to the state, such as a separation between the formation of 'state' objectives and the

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<sup>1</sup> The literature on refugees and forced migrants is often ambivalent about employing the distinction between 'economic' and 'forced/political' migrants because of an enduring suspicion that the latter are sometimes used by private companies and states to serve distinctly economic functions by providing a reserve workforce beyond the protection of minimum wage and welfare legislation (Samers, 2004). Some authors consequently employ an intentional slippage between economic migrants and forced migrants in order to highlight this possibility. As Hyndman and Mountz (2007, p77) note, for example, 'those seeking protection are not so different from impoverished migrants'.

aspirations of ‘society’ as well as the notion that states tend to exclusively employ territorial and forceful/legal forms of power.

### **The consequences of an essential state concept**

State theorists have been critical of the assumed separation of state and society (the so-called ‘separate spheres’ assumption) (Abrams, 1988, Ferguson and Gupta, 2002, Mitchell, 1999,). This distinction imagines a relatively autonomous sphere of the state that ‘intervenes in’, ‘regulates’ or ‘affects’ another autonomous sphere labelled ‘society’ (Sharma and Gupta, 2006). Central to concerns over the separate spheres assumption is the observation that the boundary between state and society has proven remarkably elusive over a number of decades of state-focused research. Although various scholars have attempted to pin down exact what constitutes ‘the state’ (Nordlinger, 1988; Skocpol, 1985), precise definitions have often been contested because social influences tend to pervade even the most central and powerful institutions of governments (Mitchell, 1991; Jessop, 2001). For this reason Abrams argues that ‘We have come to take the state for granted ... while remaining spectacularly unclear as to what the state is’ (1988: 59). Policy-centric accounts of the state, such as those that revolve around the effectiveness of policy or the degree to which policy-makers are constrained, threaten to do the same because all those activities that perform the practice of migrant exclusion have been ascribed to the state *ex ante*, without thoroughly interrogating what it is about them that make them state practices.

In the particular context of forced migrants and refugees, the employment of the separate spheres assumption and the implicitly essentialist conception of the state that this belies has at least four specific effects, each of which constitute grounds to be cautious when employing an essential state concept. First, it threatens to obscure the agency of social forces and social actors in the exclusion and subjugation of refugees and asylum seeking communities. In debates about the effectiveness of border policy, for example, social actors are depicted as intrinsically resistant to any involvement in policies that exclude migrants by implication, needing to be legally obliged, or financially induced, to partake in them. Yet Lahav and Guiraudon (2000) record the eagerness with which American vigilante border patrols at the Mexican border have pursued state recognition and ratification of their activities, while Koslowski (2001) recounts the enthusiasm with which Eastern European countries accepted their new responsibilities as European ‘gatekeepers’ upon accession. In general, when immigration law allows for discretion at the border, the result tends to be a greater number of exclusionary practices, not fewer. Weber (2003) for example, contends that there are several examples of immigration detention practices of dubious legality which have come to be officially sanctioned, implying that the law is not so much an imposition upon society as a crystallisation of pre-existing exclusionary practices (for a discussion of the law as an effect, not a cause, see MacKinnon, 1989). In the British context, detention to prevent crime, for instance, subsequently appeared in the Immigration and Asylum Act (1999), detention in order to speed up processing when claims are perceived to be unfounded was subsequently officially made into law and upheld as best practice, and the targeted detention of particular nationalities of asylum seekers who are

perceived to have poor chances of a successful asylum claim was subsequently formalised and legalised (Weber, 2003 p253). Weber concludes that when the law is unclear this often results in more, rather than fewer, exclusionary practices, and when exclusionary practice is illegal, efforts are made to legalise it. These observations undermine the notion that states have to calculate and impose exclusionary practices upon an unwilling or un-compliant social sphere.

A second reason why geographers should be sceptical about the causal power of 'the state' in general is the fact that the legislative and policy-enshrined objectives of states are reflective of complex processes of political sociology within and around the state apparatus, involving an array of competing actors with conflicting and diverse objectives. 'The state', understood as a relatively coherent actor, masks the competition for institutional capture that occurs around many policy arenas and debates.

The on-going rescaling of asylum policy from the national to the European level, for example, has exposed the selective and differentiated response rates of a number of groups of actors in competition for political influence (Lahav and Guiraudon, 2000). Authors disagree about which interest group has reacted most effectively. For example, Bigo (2002) traces the Europeanisation of asylum policy to a security discourse, claiming that the transformation of security and the consequent focus on immigrants is directly related to security professionals' interests, defined in terms of 'competition for budgets and missions' (Bigo, 2002: 64). This contrasts with Koslowski's (2001) emphasis upon EU bureaucrats' control of the asylum policy field within Europe, Quassoli's (1999) identification of local magistrates as the key players, Favell and Geddes' (2000) identification of NGO and military interest groups, and Guiraudon's (2003) discussion of diplomats' pivotal role. Freeman, writing in the American context, has added industrialists and immigrant groups to the categories of state actors competing for the capture of border policies (Freeman, 2001). What these disagreements reflect, paradoxically, is the consensus that the actors who populate the state are diverse, competitive and, above all, are distinguishable not as 'state actors' but by their particular social roles (Favell and Geddes, 2000). The category of 'state actor' threatens to obscure these important distinctions.

Related to the potential of a reified state to obscure the political sociology within states is, third, the risk that an essential state concept might also obscure the agency of individuals working within the state. Whilst there has long been awareness of the tension between structure and agency in the production of state effects, renewed emphasis is being put upon volitional agency within the state infrastructure (see Painter, 2006; Mitchell, 1999). Within geography, for example, Jones (2007) appeals for greater attention to be paid to the personal politics and immediate cultural context of key powerful decision-makers within the state, drawing upon historical studies around Welsh nationalism and devolution to illustrate the decisive influence that individuals' convictions and social positions can have over nation-state formation. Within post-structural geographies of the state in particular, a rich vein of research has also opened up concerning the degree to which states rely upon social re-production through mundane and repetitive practices in local contexts (Ferguson and Gupta, 2002; Painter, 2006; Mountz, 2007). Again, central to

state power in these accounts are the people that enact states and put them to work. Deciphering how these key state actors view themselves and view the state that they seek to produce opens up a layer of productive research that refuses to take the everyday, situated state for granted.

A fourth reason to treat accounts of an essentialist state cautiously concerns the contingency of policy genesis and policy outcomes upon social and cultural circumstances. In the context of immigration policy, it has been argued that Britain's parliamentary system transmits pressure from local constituencies to the national level fairly rapidly, meaning that public perceptions are keenly felt (Money, 1999). By contrast, neo-corporatist institutional structures in Scandinavian countries insulate liberal elites from the whims of mass publics, depoliticising the migration issue (Brochmann and Hammar, 1999). These constitutional differences between countries affect the likelihood of democratically-informed state policies emerging, the details of their content and the likelihood of their success. Societal histories and circumstances can also affect the ways in which state policies are implemented on the ground: different polities may share similar ideological stances towards immigration but may carry out radically different practices in order to pursue these stances. Andreas (1998: 612), for example, contrasts the steel fences and stadium lights of the Mexican-American border with their notable absence from the German-Polish frontier, arguing that the 'combined legacy of the country's authoritarian past and recent memories of the Berlin Wall inhibit the use of more high-profile policing and surveillance methods'.

### **Alternative understandings of the state for an emerging critical asylum geography**

Aware of the risks of essentialising the state in the ways described, there have been a number of developments both outside and within geography that have sought to provide a corrective to the essentialised notions of states that have dominated academic debates about asylum and refugee issues. Within international political studies, for example, the concept of multi-level governance has been employed as a way to emphasise the multi-faceted nature of the state (Bache and Flinders, 2004; Nash, 2000). Multi-level governance approaches have sought to emphasise the increasing participation of non-state actors in the determination and implementation of policy outcomes, the overlapping territorial networks that give rise to state processes and the new forms of co-ordination, steering and networking available to the state that allows broad consensus to be built (Stubbs, 2005).

Within sociology also, there have been concerted attempts to recognise the fractured, multi-scalar and peopled nature of states. Political-economic theories of the re-structuring of the state in the face of post-Fordist, Schumpertarian pressures employ a notion of the thorough imbrication of state by society, so that the state is understood as nothing more than a form-determined condensation of social forces (Brenner, 2004, Jessop, 2002; 1990). The state is seen here as a means of interacting between social factions, for example in ways that are considered legal, jurisdictional and penal. In this sense the state is viewed as a 'social relation', underscoring the contingency of state power upon social action and interaction (Jessop,

2007). Understood in this way, political-economists within and outside geography have examined the profusion of scales upon which state-like social relationships occur (Brenner, 1999; Goodwin et al., 2002, Jones et al., 2004). It is argued that the state relation is being 'hollowed out' from its national nexus to both sub-national and supra-national scales (Roberts and Devine, 2003). The political-economic state literature arising within sociology consequently escapes from both the separate-spheres assumption by conceiving of the state as a social relation and the tendency to associate states with national-level polities by examining its de- and re-territorialisation at a variety of scales (Brenner, 1999).

A minority of forced migration scholars have taken these theorisations of states seriously and drawn attention to the ability of states to direct asylum flows not directly but through the governance of a range of actors involved in the asylum sector, whose location with respect to the state is often unclear or ambivalent (Guiraudon, 2003, Lahav, 1998, Samers, 2003, Zolberg, 1999). These actors might include privately contracted detention custody officers, police officers, judges, immigration officials, security staff, asylum advocacy groups, charity organisations, airline and shipping employees, health and education service providers and communities of refugees in destination countries. Increasing attention is being given both to the factors that influence this diverse set of actors and to the role of the state in configuring such influences. Lahav and Guiraudon (2000), for example, outline the 'exteriorisation' of state control over asylum migration through three inter-related strategies - upward, downward and outward divestment of responsibility from the central state. 'Upwardly', states are increasingly engaged in international collusion in the area of migration control, for example through shared security measures (Cholewinski, 2000), co-ordinated use of transit countries as buffer zones to reduce applications to popular destination countries (Collinson, 1996), and the wholesale transfer of legal mechanisms for the governing of refugees and asylum seekers from national to international law (Noll, 2000). 'Downwardly', local government has extended its activities in checking the legal status of immigrants, and local public sector organisations such as police forces and hospitals have become increasingly active both in the verification of immigration status and in the subsequent with-holding of services from those without status (Cohen, 2002, Groenendijk, 2002). The third trend identified by Lahav and Guiraudon (2000), alongside the upward and downward shift in government responsibility, is an 'outward' shift in responsibility away from states towards social actors. This shift, they argue, has been brought about by legal innovations that render social actors increasingly responsible for the policing of asylum seekers. The levying of fines upon private transport companies if they are discovered to be transporting clandestine immigrants represents one such example, the levying of fines upon the named contacts of would-be immigrants in destination countries if immigrants' paperwork is found wanting constitutes another, and fines levied against immigrants themselves for the short term costs of their own incarceration represents a third example of this trend (Guiraudon and Joppke, 2001, Guiraudon, 2003). These measures are indicative of a shift away from direct state policy towards governance and autonomisation in the asylum migration control arena, accompanied by state withdrawal and minimisation.

While the political-economy of the state's geographical re-structuring is a useful lens through which to understand responses to global pressures, however, there is still an implicitly essentialist notion of a state

from which powers have been exteriorised. For example, the form of governance that Lahav and Guiraudon (2000) discuss relies upon legal innovations and sanctions, thereby not admitting that social factions may be driving, rather than simply driven by, asylum law. What is more, this notion of governance privileges legal power which is guaranteed by the eventual threat of force. Such a privileging re-produces realist notions of the state and can obscure alternative forms of power (see Allen, 2003). Rather than over-riding or appealing to exogenous subaltern interests, some forms of power contest the very aspirations of subjects themselves, thereby owing less to legal and institutional governance than to techniques that act upon what a volitional subject actively seeks to achieve (Foucault, 1979, Lukes, 2005). That these more insipid, governmental forms of power are also often referred to as ‘governance’, albeit in a Foucauldian sense, is deeply unhelpful (Walters, 2004). While the notions of state de- and re-territorialisation is undoubtedly more sophisticated than a simple state vs. society approach, employing at the very least a dialectic concept of the relation between state and society (see Pierson, 2004), there remains a sense in which the two are ultimately separate domains, that the state is still driving social factions to act in calculated ways and that the means by which this is achieved are through relatively overt, legal and financial mechanisms that preclude ideological struggle.

Post-structural state theorising among geographers seeks to open up new ways of thinking about the state, and is being both applied and developed by scholars who are engaging explicitly with issues facing forced migrants and refugees. In particular, a number of geographers have become concerned about the consequences of an essentialised state concept and have theorised the state differently in order to ameliorate some of these. Painter (2006) for example, motivated by a concern for the importance of situated, everyday practices in the (re-)production of state effects, draws upon the work of Philip Abrams (1988) and Timothy Mitchell (1999) to suggest that the study of the state might usefully be substituted for the study of the notion or idea of the state. While it is, for Painter, almost impossible to pin down precisely what the state is, the more interesting question is to examine what the state is taken to be, by whom and in which historical periods. In this way, attention is then allowed to focus upon the social effects of particular understandings of the state, especially among ‘state actors’ themselves, although this category is deeply contested in this view (see also Bourdieu, 1994). The shifting, extending and deepening of particular notions of statehood throughout society – a process that Painter describes as ‘statisation’ – may go some way towards explaining the changing behaviour of distant social actors without recourse to legal or coercive state powers.

If Painter’s work can be understood as a way to re-imagine the social power of the state, other geographers have engaged in a range of attempts to re-imagine its spatial forms. Staeheli and Mitchell (2004), for example, are motivated by a concern that essential notions of the state cannot capture the mixing of public and private domains in the current epoch, and that this failure to focus on the rearrangement of public and private space leaves our understanding of democratic processes wanting. Similarly, Radcliffe (2002) responds to the difficulty of viewing the state as a bounded and territorially static entity by drawing attention to the networked transnationalisation of state power itself. ‘The broader geopolitical and institutional settings for transnational connections’, she writes, ‘demonstrate first, the

continued salience of state power, and second, the ways in which transnational connections are in themselves bound up with the state's reproduction', signaling not an abandonment of the state, but a re-articulation of the way in which it is to be conceptualised by geographers (Radcliffe, 2002, p20).

Another difficulty of an essentialised state concept, as set out in the previous section, is the tendency to see the state as the driver of change, and to overlook the ways in which social factions might be driving legal changes through the state. Giving attention to the influence not only of state over society, but also society over the state, has allowed some geographers to examine in detail the way in which states, concerned with the regulation of migration, do so subject to the social biases and dispositions of their national and cultural contexts. In particular, the gendered impact of state interventions in the migration arena has underscored the degree to which states do not act in a social vacuum, but instead behave as both conduits and promulgators of social attitudes and biases (Giles and Hyndman, 2004). Commenting on the gender bias of the Canadian state in the migration sphere, Giles and Hyndman (2004, p304) argue that '[M]ost refugee 'womenandchildren' applicants [are] represented as "victims" or "recipients" of humanitarian aid or welfare...' which tends to promulgate a condescending, needy image of female asylum seekers and refugees whilst simultaneously casting the state as a provider and protector for these women.

The radical rejection of a clear distinction between state and society allows attention to also focus upon the strategic 'absence' of the state as an explicit strategy of refugee control and asylum seeker exclusion (Hyndman and Mountz, 2007). Playing upon the symbiotic relationship between refugees and states Hyndman and Mountz draw upon the work of Giorgio Agamben (1988) to identify the ways in which the forced migrant is routinely placed 'outside' formal state spaces, in an increasing variety of exceptional zones and sites at which 'normal' legal protection is suspended. The strategic 'non-presence' of the state allows states to simultaneously commit to a range of progressive international agreements concerning the rights of migrants and then to avoid the responsibilities that inhere in these agreements through the maintenance of zones of uncertainty and legal ambiguity. Perversely, the additional policing and security measures that extra-territorial, extra-state zones require, such as the networks of carceral institutions for terror suspects that are ostensibly outside normal legislative processes, means that the very places that claim to be absent of the state are often home to more state actors and state-like institutions than most areas and people 'within' state jurisdictions and protection. Hence, a focus on the strategic 'absence' of the state promises not only to offer important lines of enquiry relating to the treatment of asylum seekers who are positioned in ambiguous non-places and understood in terms of the non-categories that result, but also to problematise claims to the presence or non-presence of the state itself.

Another way in which geographers are rethinking the relationship between state and society is through the concept of governmentality. As Brown and Boyle (2000) suggest,

*'State power is no longer simply the power to wage war or pass laws, it also lies in very ordinary, mundane bureaucratic practices. Specifically: a state's own knowledge of its population powerfully frames the conditions and terms through which its citizens can see themselves as a nation. In this way, they come to 'govern' themselves through the state's 'mentality''.*

Governmentality offers a way to understand how individual behaviours in asylum and refugee contexts can be elicited by the state, not through any legal or forceful activities, but by engendering within subjects the desire to conduct themselves in one way or another. Such an ability extends the more common understandings of 'governance', which may rely upon financial or forceful means of eliciting the self-policing of subjects, to encompass a range of different forms of power, such as persuasion, seduction and ideological inculcation, that generate a deeper degree of autonomisation among subjects (Allen, 2003; Gramsci, 2006). This approach foregrounds not only the psychology of 'state actors', but also the competing influences over this psychology, indicating the importance of social allegiance to state programs.

Silvey (2007, p268) explores the importance of the development of governmentality within migration studies, pointing out the ability of governmentality studies to break free from the realist confines of coercive state power and its consequent ability to reveal the importance of local, situated decision making and the struggles that occur around these. Once again, the contested role of actors and agency are reiterated in her description of the growing engagement with governmentality in the migration field:

*'Whereas much classical work emphasizes states' manifestations of centralized, sovereign power, the growing body of critical work highlights governmentality and the dispersion of power beyond formal state apparatuses. For migration research, this analytical shift encourages greater attention not only to discursive production of migrant's bodies, national borders, and citizen-subjects, but also to the everyday mediations of exclusion/inclusion by actors involved in these circuits of migration and governance.'*

The actors involved in circuits of migration and governance therefore become key sites of contestation and resistance in their own right when a governmentality perspective is adopted. They might include lawyers and judges, police officers, immigration enforcement personnel, airport staff, local government officials and health service providers to name but a few. The volitional allegiance of these influential actors within the asylum sector is contested through such governmental techniques as institutional cultures (Düvell and Jordan, 2003), the language with which the asylum issue is discussed and debated (Turton, 2003), media depictions of asylum seekers (Cwerner, 2004, Finney and Robinson, 2007), policy document representations (Malkki, 1996, Weber, 2003) and their spatial and temporal management (Gill, 2009). It is the combination of these techniques that can enlist influential asylum sector actors into conducting themselves in ways that they envision are state-serving.

The breadth of interventions made by political scientists, sociologists and geographers highlights the fact that the dominance of an essentialist notion of a strict division between state and society, and the consequences of this division, are being radically questioned. While it is clear that there remain some significant differences between the various reactions to the consequences of state essentialism in the study of asylum migration, there are nevertheless commonalities in the approaches of radical commentators that point towards the emergence of a distinctively different intellectual project that seeks to provide an alternative way of understanding the relationship between states and forced migrants. At the risk of generalisation it seems useful to sketch out these key characteristics of an emerging critical asylum geography:

- *Acknowledgement of the importance of different forms of state power.*

A refusal to reify the state means that the symbolic and ideational power of the state is not subordinated to the state's coercive, legal or institutional powers. In fact, various different types of state power operate to produce not only the economic, security and military incentives necessary to promote border control practices, but also particular 'states of mind', or governmentalities, that are conducive to the policing and promulgation of borders in an increasing range of social settings.

- *Emphasis on everyday, situated practice in the reproduction of state effects.*

Refusal to see the state as a monolithic, ontologically separate phenomenon from the social order allows critical asylum geographers to emphasise the contingency of the state, to point out its contradictions, and to name the practices that produce it. This recognition of the centrality of practice to the continuing influence of the state is also important from the perspective of effective resistance to state projects: where there is contingency there are opportunities for disruption even in apparently mundane and everyday contexts.

- *Awareness of the influence of, and influences over, people within the state, outside the state, and, especially, those whose positions in relation to the state are contested.*

The importance of the sociology of the state itself is central to any project that is sceptical of the coherence of 'states'. Moreover, in this view, the social borders of the state become particularly contested sites of ideational allegiance, and it is through this contest that the state itself is either rolled out or rolled

back. This renewed attention to the people who make up institutions echoes recent calls in both state theory and feminist geographies to give agency a fuller place alongside structure in the analysis of state effects.

- *Attentive to the complex geographies of connection and disconnection between different sites, practices and assemblages through which asylum and refugee governance is achieved.*

By dispensing with traditional, territorially rooted notions of the state, the different scales, networks and topologies of (different) state power(s) can be allowed to come into view. In particular i) the intimate links between global and local events can be fore-grounded by employing a post-structural geographical lens and ii) the notion that power is itself territorial, that it may be stacked, that it might flow, or that it is contained by borders or boundaries, can also be revised within a framework that is critical of traditional conceptions of state power.

- *Attentive to the discursive and material power of the state's purported absence.*

A nuanced view of the relationship between state and society, that insists upon their interpenetration, opens up the possibility that state purposes, strategies and certain forms of state power can be served either by the absence of state apparatuses or, perhaps more insidiously, by their purported absence. Indeed, it may be precisely as a result of the purported absence of certain formalised and institutionalised aspects of the state that particular effects come about which are entirely concordant with state strategies. The deployment of stealth, confusion, change, mismanagement and legal/jurisdictional ambiguity all facilitate these strategies.

## **Conclusion**

This paper set out to make explicit the particular vision of the state that is commonly employed in asylum and refugee literatures both within and beyond geography. By reviewing four debates about the relationship between citizenship, states and asylum and refugee communities, an implicitly essentialist conception of the state was shown to dominate the discussions that have taken place. When key questions such as the degree to which nation-states should liberalise borders, or the degree to which they are able to control borders, are considered, there is often an under-scrutinised notion of the state that forms an unacknowledged, yet influential, common ground between the various sides of the debate. Furthermore, this notion of the state is consistently structuralist, meaning that the state is viewed as a separate entity operating upon society from a position of exteriority relatively unhindered.

The paper therefore proceeded to explicate and critically examine the consequences of this state concept. These consequences were shown to include a tendency to downplay the agency of social forces in the governance of asylum communities, a tendency to overlook the importance of political struggles between competing public sector factions, a tendency to under-emphasize the agency of state actors themselves within state bureaucracies, and a tendency to over-estimate the ease by which state policies are translated into outcomes regardless of social and cultural circumstances. These consequences can be seen as important blind spots in debates about asylum, citizenship and states that arise due to the notion of the state that is employed.

Drawing upon innovations among a number of geographers and sociologists who are working with a post-structural, anti-essentialist conception of the state, the paper went on to outline the characteristics of an emerging critical asylum geography that might counteract some of these consequences. Key among these characteristics are an acknowledgement of the different forms of state power, including governmental power; an awareness of the contingency (and hence the contestability) of state power upon practices that produce the state itself; awareness of the importance of people within the state and, relatedly, the importance of struggles around the labelling and enrolling of people as 'state' actors; and sensitivity to the power of claims made concerning the state's presence and absence.

This approach seeks to move asylum and refugee scholarship beyond a simplistic or inhibiting conception of the state, with all the consequences that these entail, towards work that is deeply suspicious of totalizing state concepts. In so doing, this insight offers a number of specific advantages to subsequent asylum and refugee studies. First, by rejecting simplistic notions of power, and especially state power, a richer understanding of the ways in which asylum sector actors might be brought to act in particular ways towards asylum seekers is promised. In particular, the possibility that diverse actors might be strategically inculcated with the desire to autonomously pursue state-directed logics is raised. Second, the recognition of asylum sector actors themselves as key sites of governance and, by extension, potential resistance, is afforded by a focus upon the everyday, situated practices of bureaucrats. Third, a sceptical attitude towards any *prima facie* division between state and social domains allows for a recognition of, and critical reflection upon, the development of forms of asylum sector governance that traverse state-society boundaries and intermingle state and social actors. Fourth, by dispensing with a structuralist commitment to the actual division between state and society a set of research avenues opens up that examines the effects of *the claim* of separateness between these two domains, as well as other claims relating to the state including its absence and presence.

By exploiting the advantages afforded by viewing the state critically, it is hoped that awareness of the implicit conception of the state that underpins much asylum and refugee scholarship will give rise to new areas of research that attend more closely to the sites at which state practices are executed, the powers that precipitate these practices and the people that both mobilise and experience these powers. More generally, the increasingly frequent interventions of scholars working in the forced migration and refugee studies

fields who seek to radically question the settled assumptions surrounding states, power, agency and practice reveal that the field of asylum research has become a site where a number of critically reflexive and theoretically ambitious conversations are taking place.

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