Refugee Protection Meets Migration Management: UNHCR as a Global Police of Populations

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Abstract:

This article investigates the complex relationship between the practices of the United Nations High Commissioner for Refugees (UNHCR) in the field of refugee protection and the more recent political rationality of 'migration management' by drawing from governmentality studies. It is argued that the dissemination of UNHCR's own refugee protection discourse creates certain 'figures of migration' allowing for justifying the build-up and perfection of border controls, which in turn enable any attempt to 'manage' migration in the first place. Conversely, the problematisation of population movements as 'mixed migration flows' allows UNHCR to enlarge its field of activitiy despite of its narrow mandate by actively participating in the promotion, planning and implementation of migration management systems. Based on ethnographic research in Turkey and Morocco, this article demonstrates, furthermore, that UNHCR's refugee protection discourse and the emerging migration management paradigm are both based on a methodological nationalism, share an authoritarian potential and yield de-politicising effects. What UNHCR's recent embracing of the migration management paradigm together with its active involvement in respective practices then brings to the fore is that UNHCR is part of a global police of populations.

Keywords:

Introduction

On the occasion of the *High-Level Dialogue on International Migration and Development* held in New York in 2006, the organisation of the United Nations High Commissioner for Refugees (UNHCR) underlined in a comment that it regards "[r]efugee protection and migration management [...as] distinct yet complimentary activities" (UNHCR 2006: 1). UNHCR's stance towards migration management also found its way into the *International Agenda for Migration Management*, which was published by the International Organisation for Migration (IOM) as the central outcome of the *Berne Initiative* in 2005: "The regime for international protection of refugees, including asylum, is a separate, distinct but complementary regime from the process of international migration management [...]" (Berne

Initiative 2005: 7). Despite its ambitious title, this document is just another version of the many intergovernmental forum conclusions that accompanied the emergence of the diffuse concept of 'migration management' as the dominating paradigm of contemporary migration policies. In a preliminary definition, migration management can be conceived of as a 'global policy discourse' that seeks to counter security oriented (or obsessed) 'zero-immigration' policies by inserting and lobbying for an economic, neoliberal and more pragmatic rationale into migration policies (Geiger and Pécoud 2010: 8-9). The migration management discourse emphasises that the creation of "triple win situations" for countries of origin, destination countries and migrants alike is only possible under the condition that migration proceeds "orderly" through bi- and multilateral agreements (Ghosh 2000; 2012). It therefore promotes the creation of more opportunities for 'legal' migration, while simultaneously reaffirming the need for restrictive measures against 'illegal' migration (Kalm 2010).

UNHCR's positive stance towards migration management, which is indicated by its characterisation as a 'complimentary' activity to refugee protection, marks an important shift in the refugee agency's previous reluctance to address any issue of international migration until the 1990s (Scalettaris 2007). UNHCR representatives were actively involved in the regional forums of the biennial consultation process, which preceded the publication of the *International Agenda for Migration Management*.

However, precisely because the second paragraph of UNHCR's statute stipulates it to be a strictly "humanitarian" and "non-political organisation", whose mandate is restricted to matters of asylum (UNHCR 2010a: 6), the refugee agency's embracing of the migration management paradigm raises many questions. Drawing on an analytical perspective inspired by Michel Foucault's lectures on governmentality (2007), this article addresses some of them, including: What are the specific characteristics of the refugee protection discourse allowing UNHCR to depict migration management as a 'complimentary' activity? How do the refugee protection discourse and the more recent rationality of migration management interact with one another? And, finally, how does the embracing of the migration management paradigm alter UNHCR's field of activities?

In general, the concept of governmentality emphasises the contingency of specific rationales of government and how these in turn shape the particular forms and appearances of "governmental technologies" i.e. the various means, calculations and procedures through which government is accomplished (Rose and Miller 1992). In this vein, we follow the reading of migration management as a political rationality, which, emerging from power

relations and inscribed in governing practices, produces a particular knowledge about migration including certain convictions about how it should be governed (Kalm 2010).

Extending Michel Foucault's famous definition of government from the domestic to the international sphere, Michael Merlingen regards the activity of international governmental organisations (IGOs) as the "international conduct of the conduct of countries" (Merlingen 2003: 367). Instead of imposing their will on national governments, IGOs try to shape the discursive environment through the problematisation of certain phenomena, which are then rendered as targets for political interventions; often at least some of these interventions are provided by the IGOs themselves. Following Michel Foucault's governmentality framework, which assumes a constitutive relationship between the production of knowledge and the exercise of power, we suggest that both the discourse on migration management and on refugee protection are based on and lead to a categorisation of migrants. We content, moreover, that the emergent political rationality of migration management can easily draw on the established refugee protection discourse as articulated by UNHCR. For the latter produces and provides the categories or "figures of migration" (Karakayalı and Rigo 2010), which legitimise the build-up of border controls that enable any attempt to order or 'manage' migration in the first place.[1]

Using Morocco and Turkey as case studies, this paper illustrates that the refugee protection discourse functions as a catalyst for the dissemination of migration management practices. Conversely, UNHCR's endorsement of the migration management paradigm is related to the creation of new "policy related labels" (Scalettaris 2007: 37). The problematisation of certain migratory movements as 'mixed migration flows' permits UNHCR to enlarge its field of activities by actively participating in the promotion and implementation of migration management procedures. What the supposedly humanitarian organisation's outright engagement in migration management and related rebordering practices brings to the fore is that UNHCR is actually part of a global "police of populations" (Walters 2002: 282) and is itself actively involved in the policing of populations and borders.

Indeed, UNHCR belongs to the most important IGOs in the design of the norms and appearances that characterise emergent regimes of border control and migration management.

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[1] According to some critical scholars, by its attempt to classify and categorise migratory movements, migration research creates the 'figures of migration' in the first place, which state attempts of regulation and control can tie on to. These figures of migration – like the 'guest worker', the 'asylum-seeker' or, currently, the 'illegal migrant' – are historically contingent constructions that "do not represent social groups but instead conceptually reflect relations of migration" (Karakayalı and Rigo 2010: 129). Consequently, we do not regard these "policy related labels" (Scalettaris 2007: 37) as analytical categories, but as objects of inquiry themselves. Nevertheless, we mostly refrain from using them with inverted commas in order to make the text more readable.

However, the study of UNHCR and other international agencies has only received little attention so far (Andrijašević and Walters 2010; Geiger and Pécoud 2010). In the case of UNHCR, Jerôme Valluy (2007) has noted that the agency's monopoly over knowledge production on asylum, refugees and forced migration sharply contrasts with the fact that the agency has seldom been the object of study itself. This article aims to contribute to the scarce, but burgeoning literature that follows Giulia Scalettaris' call to make the refugee regime a subject of critical inquiry (2007).

It can be assumed that UNHCR's role in 'conducting the conduct of countries' as well as the function of the refugee protection discourse as a catalyst for the promotion of migration management practices becomes obvious particularly in countries, where migration has not been framed and treated as a 'problem' that needs to be regulated until a short time ago. Morocco and Turkey are chosen as case studies, since this precondition seems to be met in both countries. In its endeavour to involve both states as countries of origin and transit into its restrictive migration policies, the EU construed migration as a 'problem' requiring political regulation (Piraldi and Rahmi 2007; Hess and Karakayalı 2007). As important transit and source countries bordering the EU, Morocco and Turkey are both focal points of the EU's externalisation strategy and its attempt "to develop EU-Regional Protection Programmes in partnership with the third countries concerned and in close consultation and cooperation with UNHCR" (European Council 2004: 21).

This article proceeds in four steps: The first section highlights the dichotomous logic of the refugee protection discourse by analysing UNHCR's training of border guards and its involvement in the construction of 'removal centres' in Turkey. The second section turns to the case study of Morocco and focuses on the narrative of the 'mixed migration flows' as the crucial link between the refugee protection discourse and migration management. Investigating UNHCR's dealing with refugee protests in Morocco, the third section elaborates on the authoritarian character of the refugee protection discourse, a characteristic which it shares with the overall migration management paradigm. Before concluding, the fourth section identifies methodological nationalism and a depoliticisation of the governmental interventions they call for as two features, which are shared by the refugee protection and migration management discourses, thereby explaining their alleged compatibility.

1. Producing 'Villains' and 'Victims': UNHCR in Turkey

UNHCR is present in Turkey since 1960. Although no formal agreement has been signed with the Turkish government until today, UNHCR carries out refugee status determination (RSD)

procedures in close cooperation with Turkish authorities. This strong involvement results from two main specifics of Turkish asylum politics: (I) Turkey signed the *Geneva Convention* and the 1967 Protocol with a 'geographical limitation', through which it is only bound to recognise people as refugees who have fled from European states. By carrying out RSD itself, UNHCR enables also people from non-European states to seek asylum in Turkey. (II) In case they are recognised as refugees, UNHCR has to 'resettle' them to countries other than Turkey, as they are not allowed to stay in Turkey permanently. Although since 1994 there exists a 'parallel procedure', involving both UNHCR and the Turkish Ministry of the Interior (MOI), the UN refugee agency practically single-handedly conducts the RSD of asylum-seekers, since the Turkish authorities largely follow its decisions (Kirişçi 2012).

Through RSD, UNHCR institutionalises a bureaucratic routine that operates along the dichotomous logic of the refugee protection discourse. Using the example of Turkey, critical scholars have argued that the logic of this discourse implicates a split-up of the social field of migration into 'refugees', who are constructed as being in need of protection and whose cross-border movements are recognised as legitimate, and 'illegal' migrants, whose movements' legitimacy is denied (Hess and Karakayalı 2007). What the practice of a sharp binary selection in UNHCR's RSD implicates is a criminalisation of the majority of migrating people. In other words, UNHCR literally fabricates 'illegal' migrants in its RSD procedures: those who do not fall in the narrow category of the refugee are officially attested to be 'illegals' (Andrijašević et al. 2005). The categories provided by the refugee protection discourse do then not only constitute conceptual starting points for the migration management rationality. Rather, these categories are enacted and literally filled with life through RSD. Following Michael Merlingen (2003: 368), RSD can be understood as a 'biopolitical technique', which has very real effects on the lives of those granted or denied the legal status of refugee by bringing them into being as tangible targets for subsequent migration management techniques like resettlement, detention or deportation. Hereby, UNHCR actively participates in rendering governable and 'managing' populations in Turkey.

Besides RSD, one of UNHCR's major activities consists in providing training seminars, in which, since 1997 and with financial aid from EU funds, Turkish officials are instructed in questions relating to asylum (Andrijašević et al. 2005). In addition to officials of the MOI, security forces of the Gendarmerie, the army and the coastguards receive lessons in asylum and refugee law (internal UNHCR statistic on 'capacity building'; UNHCR 2010b). In the words of Michael Merlingen these classes, teaching Turkish officials to differentiate between 'refugees' and 'illegal migrants', could be called a form of "IGO pedagogy" (2003:

386). Through this biopolitical technique, UNHCR tries to 'conduct the conduct of countries' by inserting a logic of "humanitarian government" (Fassin 2007: 151) into migration policy issues.[2] This proves to be especially effective in the context of Turkey's EU accession negotiations: A special unit inside the UNHCR deals with the country's accession process. Here as well, the refugee agency problematises migration in terms of 'forced' and 'legitimate' versus 'voluntary' but 'illegitimate' movements along the binary distinction 'refugee/illegal'. This happens in close contact with the Turkish ministerial administration, mainly through the training of Turkish officials in refugee legislation. During negotiations, EU officials can easily draw on this discourse, in order to demand the installation of a 'comprehensive asylum system' as well as the lifting of Turkey's 'geographical limitation' to the *Geneva Convention*, based on the humanitarian argument that an improvement of refugee protection is urgently needed (Hess and Karakayalı 2007). According to Turkish migration scholar Kemal Kirişçi (2012), although the limitation remains intact in the recent modification of Turkish asylum law, the lifting of the limitation no longer represents a taboo. This development can, in fact, be regarded as a direct result of UNHCR's seminars with Turkish officials. The interviews conducted with UNHCR employees in Turkey confirm Kirişçi's findings: The trust and confidence that have been built over the years have culminated in UNHCR's very active involvement in the drafting of Turkey's first, recently adopted asylum legislation.

UNHCR's regularly published *Global Appeals* constitute another example for a disciplinary technique. They measure Turkey's progress in installing an asylum system against the norms set by the *Geneva Convention* (UNHCR 2009). What these and other UNHCR reports establish are a "normalising gaze" and a "meticulous knowledge", by which Turkey as a target country and reference object "can be corrected and controlled" (Merlingen 2003: 369- 370).

Undoubtedly, this directly supports EU demands towards Turkey. In fact, all of UNHCR's efforts have to be seen in the context of the EU's attempts to declare Turkey a 'safe third country' as a means to outsource and territorially shift the responsibility for refugee protection to Turkey. It is the juridical construct 'safe third country' that will allow EU member states to reject any asylum claim as unfounded if the applicant entered the EU by passing through a country (Turkey), where s/he allegedly could have sought protection. Since the Turkish government fears to be used as a 'migration buffer', it has announced to negotiate

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[2] Fassin defines humanitarian government as "the administration of human collectives in the name of a higher moral principle that sees the preservation of life and the alleviation of suffering as the highest value of action" (2007: 151).

readmission agreements with countries of origin and transit in order to be able to deport failed asylum-seekers and 'unwanted' migrants itself (Şemşit 2008).[3] Through its activities, UNHCR not only operates as a 'catalyst' in the externalisation of the EU migration regime (Andrijašević et al. 2005). As a side effect of the agency's governmental intervention in Turkey, its demand for an expansion of refugee protection also translates into a perfection and dissemination of border control instruments migration management practices are relying on.

Similarly, the distinction between "villains and victims of migration" (Bojadžijev and Karakayalı 2007: 206), i.e. 'illegal migrants' and 'needy refugees' can legitimise stricter border controls, thereby contributing to a securitisation of migration in Turkey (Ratfisch and Scheel 2010). UNHCR's participation in the formation of border guards even legitimises border and migration controls as 'humanitarian actions' on the argument that these activities serve the identification and hence the protection of refugees (Hess and Karakayalı 2007):

"Once Integrated Border Management Systems are established in Turkey and put in place, […] if there are safeguards introduced along with measures that curb illegal migration, then it would be a positive impact for refugees." (Interview UNHCR staff member, Ankara, 2009)

UNHCR's positive stance towards migration management procedures does not only provide authorities with humanitarian arguments for their justification, but is also reflected in its active involvement in the elaboration and creation of new migration management schemes and techniques. For instance, UNHCR already actively participates in the construction of 'reception centres' in six Turkish cities, each of these centres having a capacity of 750 persons. The UN agency takes an active part in the planning process by drafting recommendations concerning humanitarian standards inside the camps and by providing training in 'centre management' to future employees (UNHCR 2010b). According to the UNHCR employee cited above, the organisation supports the centralised accommodation of refugees in reception centres – under the condition of access for civil society stakeholders –, because this would allegedly offer them better 'protection'. The UNHCR Global Report 2009 highlights, however, that "[f]unding was made available and sites were identified" for the construction of – inter alia – "two removal centres for rejected asylum-seekers and illegal migrants" (UNHCR 2010b: 297). In other words, UNHCR actively participates in the

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[3] Until 2008, the Turkish government had already signed readmission agreements with Greece, Kyrgyzstan, Romania, Syria, and Ukraine, while it negotiates further readmission agreements with at least 12 more countries as well as the EU (Şemşit 2008).

construction of deportation facilities whose purposes are not limited to refugee protection but will serve migration management in general, involving deportation and forced return. The dichotomous logic of the refugee protection discourse materialises here in form of an architectural migration control structure that provides the necessary means for operatively carrying out migration management.

In this context it should be noted that a tougher action against 'illegal' migrants is not simply a by-product of the refugee protection discourse's binary distinction. It is in fact actively propagated by UNHCR as an instrument to strengthen the acceptance of ('genuine') refugees among the Turkish population. It is meant to counter the mixing-up of the categories 'refugee' and 'illegal migrant' in media coverage and public perception:

"In order to deal with that kind of public opinion, it is on the one hand good to establish strong border management systems to [...] address the needs of the country in fighting illegal migration. So that those who are abusing the system or who are not needing protection do not [cause] those who genuinely need international protection or should be protected to be left out of the system or be discarded just because of the general negative public opinion or just because of the general burden on the country." (Interview UNHCR staff member, Ankara, 2009)

Through this narrative, UNHCR not only propagates an expansion of border and migration controls, but also provides for a legitimisation strategy by presenting restrictive controls as a necessary prerequisite for effective refugee protection. As indicated in the organisation's outlook for 2011, UNHCR is even willing to "facilitat[e] the humane return of irregular migrants who do not have protection needs" in close cooperation with IOM (UNHCR 2009: 36). By promoting, legitimising and participating in the proliferation of these measures, UNHCR – as illustrated in the case of Turkey – actively engages in a wide range of migration management techniques.

2. From the 'Problem' of Mixed Migration Flows to its 'Solution': UNHCR in Morocco
In contrast to Turkey, UNHCR has been present with an international delegation in Morocco only since November 2004. The fact that the Moroccan government only granted UNHCR diplomatic status in July 2007 after intensive political pressure by the EU illustrates its disapproval concerning one of the UN agency's main goals: to facilitate a national asylum system in Morocco (Valluy 2007).

In order to achieve this goal, UNHCR organises workshops for NGO's and other civil society actors in order to make them committed to refugee protection. UNHCR in that sense attempts to actively generate pressure 'from below' on the government (Valluy 2007). UNHCR staff in interviews confirmed that the bulk of the UN agency's budget in Turkey (which has almost tripled to 1.5 million € in 2008 through additional funds from the EU-MEDA programme) is actually spent on this very form of 'capacity building'. UNHCR's workshops in Morocco again are an example of 'IGO pedagogy' in order to 'conduct the conduct of countries'. In this example UNHCR 'pedagogy' rather influences on civil society actors than on government officials (as in the case of Turkey).

Yet, from UNHCR's own perspective, this 'pedagogy' has not achieved the intended results so far. Its attempts to approach local NGO's rather led to a division: While UNHCR has successfully enlisted some of them for cooperation, many others have been rejecting to engage with the UNHCR. Many Moroccan NGOs fear to be instrumentalised and exploited for externalising refugee protection from EU member states to Morocco. According to this view, the EU solely finances and supports UNHCR's asylum implementation project in order to declare Morocco a 'safe third country'. In this context, the little progress UNHCR has made so far can essentially be attributed to direct EU pressure (Valluy 2007).

In the Moroccan context, the narrative of 'mixed migration flows' proves to be politically more significant: Propagated by UNHCR, this narrative is used to express the assumption that asylum-seekers tend to travel along the same routes as other migrants do. The concept was developed in the 1990s under the label 'migration-asylum-nexus' by scholars like Stephen Castles (2007) in order to demonstrate the continuity between 'forced' and 'voluntary' migration at *all* stages of the migration process and to criticise the refugee definition of the *Geneva Convention* as being too narrow. In December 2000 the concept was taken up by the UNHCR during its 'Global Consultations on International Protection'. It became instrumentalised in order to counter the allegation, whereupon most asylum-seekers were in fact 'economic migrants' (UNHCR 2007a). Contrary to migration scholars like Castles, who emphasise that the motivations for migration are always mixed, UNHCR stresses the need for a clear-cut distinction between the two categories, thereby insisting, at least indirectly, that such simple differentiations can actually be made on the ground:

"[m]igrants are fundamentally different from refugees and, thus, are treated very differently under international law. Migrants, especially economic migrants, choose to move in order to

improve their lives. Refugees are forced to flee to save their lives or preserve their freedom." (UNHCR 2013)

This simple differentiation undoubtedly is in stark disagreement with the research findings and arguments of most contemporary migration scholars. Yet, it provides the basis for the UNHCR's 'mixed flow' narrative – a narrative that constitutes the decisive discursive conjunction between the UN agencies original task of refugee protection and the supposedly purely technical procedures and means of migration management, stretching far beyond the particular field of refugee and asylum politics.

"UNHCR's clearly defined responsibilities for refugees and other persons of concern do not extend to migrants generally. It is, at the same time, a fact that refugees often move within broader mixed migratory flows. […] There is therefore a need to achieve a better understanding and management of the interface between asylum and migration, both of which UNHCR should promote, albeit consistent with its mandate, so that people in need of protection find it, people who wish to migrate have options other than through resort to the asylum channel, and unscrupulous smugglers cannot benefit through wrongful manipulation of available entry possibilities." (UNHCR 2003: 46)

What this statement, taken from the chapter 'Protecting refugees within broader migration movements' in the UNHCR's *Agenda for Protection*, clearly illustrates is that it is the reference to 'mixed flows', which enables UNHCR to enlarge its activities to all other areas and dimensions of migration policy. UNHCR commits itself to all aspects of the migration management paradigm by affirming the following aims:

"1. Better identification of and proper response to the needs of asylum-seekers and refugees including access to protection within the broader context of migration management; 2. Strengthened international efforts to combat smuggling and trafficking, 3. Better data collection and research on the nexus between asylum and migration, 4. Reduction of irregular or secondary movements 5. Closer dialogue and cooperation between UNHCR and IOM, 6. Information campaigns to ensure potential migrants are aware of the prospects for legal migration and the dangers of human smuggling and trafficking 7. Return of persons found not to be in need of international protection." (UNHCR 2003: 47-51)

This enormous enlargement of UNHCR's activities is justified on the base of the assumption that the refugee agency's planned involvement in migration management would enhance refugee protection standards in the face of the supposedly new phenomenon of 'mixed migration flows' (van der Klaauw 2009: 61-63). What remains embezzled in this argument is the repressive effect that UNHCR's 'broader approach' has on all those who don't comply with the narrow refugee definition of the *Geneva Convention. In July 2006,* UN High Commissioner for Refugees António Guterres presented a *10-point plan of action* dealing with the issue of "Refugee Protection and Mixed Migration". The envisaged measures do not only translate UNHCR's endeavour to participate in migration management into practice. They also demonstrate the restrictive and repressive effects resulting from the asserted need to strictly differentiate between 'genuine refugees' and 'irregular' migrants. *According to point three of this 10-point plan, UNHCR intends to participate in the training of border guards in order to 'filter' asylum-seekers from the 'mixed migration flows' and grant them access to asylum procedures. What should happen with all those not meeting the criteria of the Geneva Convention is stated in point nine:*

"For people who are found not to be refugees, and for those who do not wish to seek asylum, expeditious return in safety and dignity is usually the preferred response of states. UNHCR may, on a good offices basis, assist states in the return of people who are not in need of international protection where this is the most appropriate and agreed solution." (UNHCR 2007a: 5).

In other words, UNHCR plans to actively participate in the process of carrying out deportations.To this end, it actively calls for the conclusion and implementation of readmission agreements (UNHCR 2003).

Following a report published by UNHCR's *Policy Development and Evaluation Service* (PDES), the UNHCR office in Morocco has already proposed an "innovative approach" (PDES 2010: 24) on how UNHCR's envisaged involvement in the organisation and execution of deportations could be put in practice. As in Turkey, UNHCR intends to expand its existing cooperation with the IOM, which has been conducting 'voluntary assisted return programs' for several years. In order to increase the number of rejected asylum-seekers who agree to participate in this program, UNHCR has suggested to elaborate particular "profiles of rejected asylum-seekers and irregular migrants […] in order to support the realistic identification of candidates for return and to determine potential rates of return"

(PDES 2010: 24). The underlying reason for the introduction of this biopolitical technique for the management of populations is found in the same report. Here, an effective 'return policy' is regarded as a necessary precondition for an effective refugee protection in Morocco:

"If effective arrangements could be put in place to support the dignified return of rejected asylum-seekers and those no longer pursuing asylum claims, this may provide the [Moroccan] authorities with the encouragement needed to assume more fully their responsibilities in relation to refugees." (PDES 2010: 24)

On the operational level, UNHCR's 'broader approach' is also reflected in the UN Theme Group on Migration, which was formed at the end of 2006 as a means to implement the *10-point-plan of action* in Morocco (UNHCR 2007b). The purpose of this group chaired by UNHCR's chief of mission in Morocco is to "support" the Moroccan authorities in the development and implementation of a "comprehensive policy to manage all dimensions of migration flows" to, from and through Morocco (UNHCR 2007c; van der Klaauw 2009: 77-78). Besides the strategies of the *Agenda for Protection* cited above, the measures proposed include: (1) legal training in the formulation and implementation of migration and asylum laws for Moroccan authorities, (2) encouragement of regional cooperation in matters of migration management, and (3) the implementation of development projects that provide socio-economic alternatives to migration (UNHCR 2007c). Hence, UNHCR takes actually the lead in the overall development and implementation of a comprehensive migration management system in Morocco.

Ultimately, the narrative of 'mixed migration flows' legitimises the perfection of border controls. While the narrative originally referred to the impossibility to differentiate unequivocally between 'migrants' and 'refugees' in practice, UNHCR derives from it the necessity to render border controls more effective and precise. This reversal of the original logic of the 'migration-asylum-nexus' concept is illustrated by the proposal in the PDES report to consider "the introduction of fingerprinting or some other form of biometrics" in order to make it impossible for rejected asylum-seekers to re-register with UNHCR under a new identity (PDES 2010: 27). Accordingly, UNHCR tries to draw and stabilise a clear-cut boundary between 'genuine refugees' and 'irregular migrants' by technological means.

What UNHCR's activities in Morocco demonstrate, in sum, is that the narrative of 'mixed migration flows' justifies an unprecedented enlargement of the agency's field of activity in order to include all aspects of migration management procedures. This shift results

in restrictive effects and negative consequences for the majority of migrating people, including those labelled as asylum seekers.

3. Of Speechless Emissaries and Their Advocate

Although the number of asylum seekers and refugees who have been deported by Moroccan authorities has declined significantly over the past few years, UNHCR is still unable to guarantee them an effective protection against deportations to Algeria until today (PDES 2010). In addition, UNHCR's ambitious efforts in the domain of 'capacity building' contrast with the limited funds the organisation spends on concrete aid for the 750 refugees who have been recognised by the office in Rabat until June 2009. As Fiston Massamba (2006), an activist of the *Conseil des Migrants Subsahariens au Maroc*, states, refugees gain no advantage from their recognition by UNHCR: They don't receive any material or financial support from the organisation, while they neither have access to the formal labour market, nor to schools or hospitals. This results from the Moroccan authorities' decision to stop issuing residence permits to refugees recognised by UNHCR after the enormous increase in asylum applications the agency recorded following the opening of its new office in Rabat in 2005 (Valluy 2007).

Refugees repeatedly reacted to this treatment and during the last years raised several protests in front of the UNHCR office in Rabat (GADEM 2009).[4] In June 2009 more than 100 of them organised a sit-in lasting several days, while UNHCR staff celebrated the World Refugee Day elsewhere (Sakhi 2009). Whereas refugees had demanded resident permits and financial support in previous campaigns, the *Rassemblement pour Tous les Réfugiés au Maroc* (RTRM) formed by the protesters only demanded their immediate resettlement to other countries. In addition, on 25 June 2009 they claimed in an open letter to the embassies of diverse European states the right to speak for themselves (RTRM 2009). Thereby, they challenged the legitimacy of UNHCR, which claims the monopoly to represent their interests in Morocco by referring to its mandate to find "permanent solutions for the problem of refugees" (UNHCR 2010a: 6). Moreover, the argumentation structure and the diction of the letter indicate that the protesting refugees appropriate UNHCR's terminology:

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[4] The phenomenon of refugee protests against UNHCR is not restricted to Morocco. Such protests have also been reported from Afghanistan, Egypt, Guinea, Iraq, Turkey and, most recently, Tunisia.

"Your Excellence, since the 15th of June 2009 we (women, men and children) have gathered in front of UNHCR's office in order to demand our resettlement to a third country where the rights of refugees are respected." (RTRM 2009)

The 'resettlement to a third country' constitutes one of the three 'durable solutions' UNHCR foresees for refugees (UNHCR 2007b). Since they oppose to return to their countries of origin and regard their integration into the Moroccan society as impossible, the protesters count on the remaining 'durable solution' UNHCR has to offer.

In an interview in February 2008, the head of UNHCR's office in Rabat emphasises, however, that resettlement constitutes "a possibility, but not a right". The appropriation of the term 'resettlement' by refugees results in a *dissent* about its scope, which French philosopher Jacques Rancière (2004) regards as the genuine feature of politics. The protests can therefore be read as an "interruption of the UNHCR's monopoly over the language of protection, care, and resettlement" (Moulin and Nyers 2007: 363).

During previous protests, UNHCR tried to regain its authority as their sole legitimate advocate and its monopoly over the definition of politically disputed terms through a mixture of attempts to co-opt the demonstrators by means of informal negotiations and the simultaneous threat of police repression (Massamba 2006). In the past, refugees had always agreed to stop their protests as a precondition for informal negotiations with UNHCR. During the sit-in in June 2009, by contrast, the organisation only promised them negotiations after it had called the police, which violently dissolved the protest right in front of UNHCR's office, leaving several participants badly injured (GADEM 2009).

The strategy of co-optation becomes apparent in the attempt of the head of office to represent UNHCR's office as the stage, but not the actual addressee of the protests. In an interview, the UNHCR chief of mission states:

"We are the only address they can go to, we are the only valve where they can vent their frustration because we are the only ally they have, and they know this. At the end of the demonstration, we embrace each other and go the same way, but they want to make some publicity and we are the stage for it." (Interview UNHCR Chief of Mission, Rabat, 2008)

According to this interpretation, the protests are not directed against UNHCR, but against the Moroccan government, which refuses to issue the refugees with resident permits. This co-optation is only possible for the head of UNHCR's office by construing the content of refugee

demands and narratives in such a way that they comply with the UN agency's institutional needs and objectives. This reductionist re-interpretation becomes obvious when it comes to the call for resettlement. To the question whether UNHCR should resettle all refugees as long as it cannot guarantee their physical safety and material well-being in Morocco, the chief of mission replied that in this case, there would be no imperative for the Moroccan government any longer to alter the present situation. In other words, UNHCR relies on the presence of refugees in Morocco as a means to exercise political pressure on the Moroccan authorities in order to make them, in view of the visible "plight of the refugees" (Nyers 2006: 3), acknowledge the existence of a 'refugee problem' in the country which needs to be addressed through the implementation of a national asylum system.

Numerous scholars have underscored that the ascribed helplessness of refugees constitutes the major feature of their representation in the refugee protection discourse as articulated by NGOs and UNHCR. From this representation of refugees their supposed need for help and protection is derived, which in turn authorises the latter organisations in their function as protectors, providers and advocates of refugees (Malkki 1996; Nyers 2006; Soguk 1999). Refugees are constructed as 'speechless emissaries', whose ability to judge is limited due to the experiences leading to their flight. Supposedly, they are therefore in need of an advocate, who represents their interests, as they are not capable of doing so on their own. Hence, the ability of refugees to act independently as political subjects is denied by means of their victimisation (Malkki 1996). Instead, they are reduced to passive recipients of assistance and objects of knowledge production. As Peter Nyers has aptly put it: "Refugees are silenced by the very discourses that attempt to provide solutions to their plight" (2006: XIV).

What UNHCR's decision to respond to refugee protests with brutal police operations uncovers is the violent character of the asymmetric power relation inscribed in the refugee protection discourse. From the agency's perspective, the criminalisation of the protests appears, indeed, as necessary, because the participating refugees enact themselves as independently acting, political subjects. Thereby, they directly challenge the legitimacy of UNHCR's proxy policies as well as its authority as their advocate. This example points out that the criminalisation of the majority of migrants also includes refugees as soon as the latter break away from the subject position of victims in need of help and protection ascribed to them. It is exactly this authoritarian character that moves the UNHCR's own refugee protection discourse in close relation with the political rationality of migration management. As Martin Geiger and Antoine Pécoud point out, the concept of migration management "is full of normative assumptions of how actors should behave, defining the 'good' migrant to be

'well-informed, respectful of the law, flexible to market needs, ready to circulate and eager to contribute to the development of their home country" (Geiger and Pécoud 2010: 17). Likewise, the refugee protection discourse is full of obligations and norms prescribing the appropriate behaviour of a 'good refugee'. Once people on the move are labelled within these rationalities as not fitting into the narrow channels of legitimate behaviour, the authoritarian potentials of both the refugee protection and the migration management discourse come to the fore, converging and materialising in restrictive and sometimes manifestly violent measures that seek to force 'migrants' and 'refugees' back into the tracks laid out for them.

4. UNHCR, Migration Management and the 'National Order of Things'

In the end, both the authoritarian character of the refugee protection discourse and the de-legitimisation of the mobility of the majority of migrants are implicated in the victimisation of refugees. Peter Nyers suggests that the victimisation of refugees follows from their construction as the negative of the (nation-state) citizen. Accordingly, refugees are defined as suffering from a twofold lack in comparison. First, refugees do not belong to a national community. Due to this 'deficit' their ability and right to political participation are denied. Second, refugees no longer stand under the protection of a nation-state order. From this 'lack' a need for help and protection is derived, through which UNHCR and other humanitarian organisations authorise themselves to act on their behalf (Nyers 2006).

Consequently, the construction and representation of refugees as passive victims bereft of political agency and in need of help, advocacy and protection is only possible because the refugee protection discourse presumes sovereign nation-states as unquestioned and pre-given facts (Lui 2004; Soguk 1999). Through this *methodological nationalism* the nation-state is naturalised as a form of political organisation, while citizenship is essentialised as a form of political identity (Glick-Schiller and Wimmer 2003). Solely inside this "national order of things" refugees can be pathologised as an anomaly requiring "therapeutic interventions" (Malkki 1995: 508-512). At the same time, the problematisation of the refugee as a figure reproduces, at least implicitly, the category of the nation state citizen as a positive and worthwhile alternative draft (Lui 2004; Soguk 1999). Refugees are, by contrast, reduced to a bundle of material needs by the refugee protection discourse and thereby to a 'problem' requiring a 'humanitarian' solution. The political context by which they have become refugees is masked (Malkki 1995). The refugee protection discourse and UNHCR's practices do then not only de-politicise refugees themselves, but also their presence.

It is precisely this methodological nationalism and its depoliticising effect, which UNHCR's refugee protection discourse shares with the migration management paradigm. The *International Agenda for Migration Management* relies on the unquestioned premise, that "one aspect of a state's responsibility to protect its own population and territory is the authority to determine who may enter and remain" (Berne Initiative 2005: 5). In addition to their shared authoritarian character, methodological nationalism can therefore be considered as the second underlying reason for the compatibility of UNHCR's refugee protection discourse with the political rationality of migration management. Third, it is exactly the depoliticising effect of the term 'migration management', which represents border and migration controls as purely bureaucratic, rational and apolitical means to solve supposedly entirely technical problems (Geiger and Pécoud 2010), that permits UNHCR to widen its field of activities in the realm of migration policy, although its original statute defines it as a strictly humanitarian and non-political organisation, whose mandate is restricted to matters of asylum.

Yet, the three measures propagated by UNHCR as 'durable solutions' for the so-called 'refugee problem' confirm that humanitarianism does not constitute a separate sphere beyond the political, but an inherently political concept and rationality of migration management itself. The 'repatriation' as well as the 'reintegration' into the receiving society, just as the 'resettlement' into a third country, are all aimed at retransforming the 'anomaly' of refugees into the 'normality' of state citizens (Nyers 2006). Thereby, UNHCR re-establishes the nation-state order, whose constitution and reproduction is based on the systematic use of violence, by which refugees are created as a permanent phenomenon in the first place (Lui 2004). From this perspective, it is not so much refugees that pose a problem demanding a solution, but the principle of the nation-state, which UNHCR restores and reproduces through its own *politics of migration management*.

Conclusion

UNHCR's embracing of the migration management paradigm as well as its active engagement in respective activities bring to the fore that the UN agency forms part of a global police of populations. As we have shown, all of UNHCR's three durable solutions aim at retransforming the 'anomaly' of refugees back into the 'normality' of nation state citizens. This rationale of UNHCR's refugee protection regime reflects the governmentality of police, which is concerned with the establishment and maintenance of the conditions of a specific order (Dean 1999), in this case, the 'national order of things'.

The drive towards "permanent, continually renewed, and increasingly detailed regulation" that characterises the governmentality of police (Foucault 2007: 340) is reflected in the numerous handbooks that have been published by UNHCR. These handbooks regulate any detail of the RSD procedure, the conditions of the detention, 'repatriation', 'resettlement' or 'reintegration' of refugees as well as their legitimate behaviour in the most meticulous manner. As a result of this "regulation mania" (Dean 1999: 91), refugee protection is inherently authoritarian in regards to those it seeks to govern. This becomes apparent in the repressive way UNHCR deals with refugee protests in Morocco.

The underlying endeavour of the refugee protection discourse to 'order' migration, which it shares with the political rationality of migration management, is reflected in UNHCR's promotion of migration management procedures in both Morocco and Turkey as a supposedly necessary precondition for an effective refugee protection. Since the broadening of UNHCR's agenda occurs in the context of ongoing problems to secure sufficient funding, new activities in this domain take place at the cost of previous practices. This change of activities indicates a considerable shift in the performance and appearance of the refugee protection regime as a whole, which deepens and widens UNHCR's role in the global police of populations.

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References:

Andrijašević, R. et al. (2005) 'Turbulente Ränder. Konturen eines neuen Migrationsregimes im Südosten Europas', *PROKLA. Zeitschrift für kritische Sozialwissenschaften*, 35(3): 345-362.

Andrijašević, R. and Walters, W. (2010) 'The International Organisation for Migration and the International Government of Borders', *Environment and Planning D: Society and Space*, 28(6): 977-999.

Berne Initiative (2005) *International Agenda for Migration Management. Common Understandings and Effective Practices for a Planned, Balanced and Comprehensive Approach to the Management of Migration*. Berne: IOM.

Bojadžijev, M. and Karakayalı, S. (2007) 'Autonomie der Migration. 10 Thesen zu einer Methode', in Transit Migration Forschungsgruppe (ed) *Turbulente Ränder. Neue Perspektiven auf Migration an den Grenzen Europas*. Bielefeld: Transcript, 203-209.

Castles, S. (2007) 'The Migration-Asylum Nexus and Regional Approaches', in Kneebone, S. and Rawlings-Sanae, F. (eds) *New Regionalism and Asylum Seekers, Challenges Ahead*. London: Berghahn Books, 25-42.

Council of the European Union (2005) *Council Directive on Minimum Standards on Procedures in Member States for Granting and Withdrawing Refugee Status. Council Directive 2005/85/EC*.

Dean, M. (1999) *Governmentality. Power and Rule in Modern Society*. London/Thousand Oaks/New Delhi: Sage.

European Council (2004) *The Hague Programme: Strengthening Freedom, Security and Justice in the European Union. Annex 1: Presidency Conclusions*, Brussels 4/5 November 2004.

Fassin, D. (2007) 'Humanitarianism: a Nongovernmental Government', in Feher, M. (ed) *Nongovernmental Politics*. New York: Zone Books, 149-160.

Foucault, M. (2007) *Security, Territory, Population*. Basingstoke et al.: Palgrave Macmillan.

GADEM (Group Antiraciste d'Accompagnement et de Defense des Étrangérs et Migrants) (2009) *Note Informative sur le Procès des Cinq Réfugiés*, Rabat: GADEM.

Geiger, M. and Pécoud, A. (2010) 'The Politics of International Migration Management', in Geiger, M. and Pécoud, A. (eds) *The Politics of International Migration Management*. Basingstoke et al.: Palgrave Macmillan, 1-20.

Glick-Schiller, N. and Wimmer, A. (2003) 'Methodological Nationalism, the Social Sciences, and the Study of Migration: An Essay in Historical Epistemology', *International Migration Review*, 37(3): 576-610.

Ghosh, B. (2000) 'New International Regime for Orderly Movement of People: What Will it Look Like', in: Ghosh, B. (ed) *Managing Migration: Time for a New International Regime?* Oxford: Oxford University Press, 220-248.

Ghosh, B. (2012) 'A Snapshot of Reflections on Migration Management. Is Migration Management a Dirty Word?', in Geiger, M. and Pécoud, A. (eds) *The New Politics of International Mobility. Migration Management and its Discontents (Special Journal Issue IMIS Beiträge 40)*. Osnabrück: Institute for Migration Research and Intercultural Studies (IMIS), 25-30.

Hess, S. and Karakayalı, S. (2007) 'New Governance oder die imperiale Kunst des Regierens. Asyldiskurs und Menschenrechtsdispositiv im neuen EU-Migrationsmanagement', in Transit Migration Forschungsgruppe (ed) *Turbulente Ränder. Neue Perspektiven auf Migration an den Grenzen Europas*, Bielefeld: Transcript, 39-57.

Kalm, S. (2010) 'Liberalizing Movements? The Political Rationality of Global Migration Management', in: Geiger, M. and Pécoud, A. (eds) *The Politics of International Migration Management*. Basingstoke et al.: Palgrave Macmillan, 21-44.

Karakayalı, S. and Rigo, E. (2010) 'Mapping the European Space of Circulation', in De Genova, N. and Preutz, N. (eds) *The Deportation Regime: Sovereignty, Space, and the Freedom of Movement*. Durham: Duke University Press, 123-144.

Kirişci, K. (2012) 'Turkey's new draft law on asylum: what to make of it?', inPaçacı Eliotok, S. and Straubhaar, T. (eds) *Turkey, Migration and the EU: Potentials, Challenges and Opportunities*. Hamburg: Hamburg University Press, 63-83.

Lui, R. (2004) 'The International Government of Refugees', in: Larner, W. and Walters, W. (eds) *Global Governmentality. Governing International Spaces*, London/New York: Routledge, 116-135.

Malkki, L. (1995) 'Refugees and Exile: from "Refugee Studies" to the National Order of Things', *Annual Review of Anthropology*, 24: 495-523.

Malkki, L. (1996) 'Speechless Emissaries: Refugees, Humanitarianism, and Dehistoricization', *Cultural Anthropology*, 11(3): 377-404.

Massamba, F. (2006) 'Mouvements aux Frontières', *Vacarme* 37.

Merlingen, M. (2003) 'Governmentality: Towards a Foucauldian Framework for the Study of IGOs', *Cooperation and Conflict*, 38(4): 361–384.

Moulin, C. and Nyers, P. (2007) '"We live in a Country of UNHCR" – Refugee Protests and Global Political Society', *International Political Sociology*, 1(4): 356-372.

Nyers, P. (2006) *Rethinking Refugees: Beyond States of Emergency*, New York/London: Routledge.

PDES (Policy Development and Evaluation Service, UNHCR) (2010) *Refugee Protection and International Migration: A Review of UNHCR's Role and Activities in Morocco.* Geneva: UNHCR.

Piraldi, M. and Rahmi, A. (2007) 'Des 'Pateras' au Transnationalisme. Formes Sociales et Image Politique des Mouvements Migratoires au Maroc', *Hommes & Migrations*, 1266 (March/April): 66-94.

Rancière, J. (2004) 'Who is the Subject of the Rights of Man?', *The South Atlantic Quarterly*, 103(2/3): 297-310.

Ratfisch, P. and Scheel, S. (2010) 'Migrationskontrolle durch Flüchtlingsschutz? Die Rolle des UNHCR im Kontext der Externalisierung des EU-Migrationsregimes', in Hess, S. and Kasparek, B. (eds) *Grenzregime. Diskurse, Praktiken, Institutionen in Europa.* Berlin/Hamburg: Assoziation A, 89-110.

Rose, N. and Miller, P. (1992) 'Political Power beyond the State: Problematics of Government', *The British Journal of Sociology*, 43(2): 173-205.

RTRM (Rassemblement pour Tous les Réfugiés au Maroc) (2009): *Nous Solicitons votre Intervention. Open letter by the Rassemblement pour Tous les Réfugiés au Maroc dating from 25 June 2009 to the Ambassadors of Switzerland, Poland, Italy, Denmark, Austria, the Czech Republic and Belgium as well as to Amnesty International, AMDH (Association Marocaine des Droits Humains) and CCDH (Conseil Consultatif de Droit de l'Homme).*

Sakhi, M. (2009): 'Les Réfugiés Demandeurs d'Asile se Mobilisent contre la Précarité', *Libération (Casablanca)*, online: http://www.libe.ma/Les-refugiesdemandeurs-d-asile-se-mobilisent-contre-la-precarite_a3781.html.

Scalettaris, G. (2007) 'Refugee Studies and the International Refugee Regime: a Reflection on a Desirable Separation', *Refugee Survey Quarterly*, 26(3): 36-50.

Şemşit, S. (2008) 'Transformation of Migration Policies in Poland and Turkey in the EU Accession Process: Europeanised and/or Securitised?, *CEU Political Science Journal*, 3(4): 365-387.

Soguk, N. (1999) *States and Strangers. Refugees and Displacements of Statecraft*, Minneapolis/London: University of Minnesota Press.

UNHCR (2003) [2002] *Agenda for Protection*, 3rd edition, Geneva: UNHCR.

UNHCR (2006) *High-Level Dialogue on International Migration and Development. UNHCR's observations and recommendations*. Geneva: UNHCR.

UNHCR (2007a) *Refugee Protection and Mixed Migration: A 10-Point Plan of Action*. Geneva: UNHCR

UNHCR (2007b) *Groupe Thématique 'Migrations'. Proposition de Termes de Références*. Geneva: UNHCR.

UNHCR (2007c): *Groupe Thématique 'Migrations'. Cadre Stratégique*. Geneva: UNHCR.

UNHCR (2009) *UNHCR Global Appeal 2010-2011 – Turkey*. Geneva: UNHCR.

UNHCR (2010a) [1950] *Statute of the Office of the United Nations High Commissioner for Refuges. General Assembly Resolution 428 (V) of 14 December 1950*. Geneva: UNHCR.

UNHCR (2010b) *UNHCR Global Report 2009 – Turkey*. Geneva: UNHCR.

UNHCR (2013) *Mixed Migration*. Geneva: UNHCR.

Valluy, J. (2007) 'Contribution à une Sociologie Politique du HCR: le Cas des Politiques Européennes et du HCR au Maroc', *TERRA-Editions, Collection 'Etudes'*, online: http://terra.rezo.net/article571.html (12 September 2007).

Van der Klaauw, J. (2009) 'Refugee Rights in Times of Mixed Migration: Evolving Status and Protection Issues', *Refugee Survey Quarterly*, 28(4): 59-86.

Walters, W. (2002) 'Deportation, Expulsion, and the International Police of Aliens', *Citizenship Studies*, 6(3): 265-292.