Biopolitics and immigration: restrictions and desecrations in the asylum system in Spain (2019-2023)

Biopolítica e inmigración: restricciones y profanaciones en el sistema de asilo en España (2019-2023)

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Abstract

The biopolitical control of the asylum seeker in the EU carried out by three legal mechanisms is analyzed: Frontex, Eurodac and the Dublin Regulation, and the resistance practices of immigrants to this control. Methodologically, a theoretical documentary review on biopolitics and a survey of 1 478 asylum seekers in Spain between 2021 and 2023 was implemented. It is concluded that this population brings together the elements that characterize *Homo sacer* and that, in response to this, they desecrate the control devices, generating a *form-of-life* in a community that extrapolates its own rules to the Law, as Agamben proposes. However, it is shown that this extralegal life is transitory and, therefore, does not coincide with the Agambenian ideal of the *highest poverty* but reveals its practical difficulties. The basis of an *ethic of action* adjusted to the reality of the immigrant are proposed, which goes beyond the Agambenian *form-of-life*.

Keywords: biopolitics, immigration, forms-of-life, Agamben, legal mechanisms.

Resumen

Se analiza el control biopolítico al solicitante de asilo en la UE que efectúan tres mecanismos jurídicos: Frontex, Eurodac y *Reglamento de Dublín*, y las prácticas de resistencia de los inmigrantes ante este control. Metodológicamente se implementó una revisión documental teórica sobre biopolítica y una encuesta a 1 478 solicitantes de asilo en España entre 2021 y 2023. Se concluye que esta población reúne los elementos que caracterizan al *Homo sacer* y que, en respuesta a esto, profanan los dispositivos de control estudiados, lo que genera

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una *forma-de-vida* en comunidad que extrapola sus propias reglas a la ley, como plantea Agamben. Sin embargo, se demuestra que esta vida extralegal es transitoria y por lo tanto no coincide con el ideal de *altísima pobreza* agambeniano, sino que deja ver sus dificultades prácticas. Se proponen las bases de una ética de la acción ajustada a la realidad del inmigrante, que va más allá de la *forma-de-vida* agambeniana.

Palabras claves: biopolítica, inmigración, formas-de-vida, Agamben, mecanismos jurídicos.

Introduction

"The Adolfo Suárez Madrid-Barajas airport has become the main border of Spain", said Pepe Aniorte, delegate for the families, equality and social welfare area of the Madrid City Council, in a statement to the central government to request aid for the reception and care of asylum seekers in Madrid.

Although there was a decrease in the registration of applications for international protection due to the pandemic in 2020, in that same year, two-thirds of all asylum applications in Europe were presented in only three states: Germany (122 000), France (93 000) and Spain (89 000) (Martín, 2020). The Ministry of the Interior of Spain (Ministerio del Interior, 2021) publicly acknowledged that the asylum management system was saturated.

Spain went from receiving 34 067 international protection applications between 2010 and 2014 (Oficina de Asilo y Refugio [OAR], 2011, 2012, 2013, 2014) to receiving 118 920 requests between 2015 and 2018 (OAR, 2015, 2016, 2017, 2018). Between 2019 and 2022, Spain had the largest influx of asylum seekers in its territory, with a record of 391 596 applications (OAR, 2019, 2020, 2021; Subsecretaría del Interior, 2022). By September 2023, the Asylum and Refugee Office registered 125 164 applications submitted, that is, an average of 3 476 requests per week since the beginning of the year (Subsecretaría del Interior, 2023).

According to the European Asylum Support Office (EASO), Madrid is among the cities in the European Union with the highest number of asylum applications since 2019. Quantitatively, Barajas Airport is the main border point of Spain crossed by applicants for international protection from Venezuela, Colombia, Nicaragua, Honduras and El Salvador (Ministerio del Interior, 2021).

Since 2012, the number of asylum seekers in Spain has multiplied by 45. For this reason, without a significant expansion of the administrative apparatus at the central level, the procedures of this process in practice have taken longer, adding to the delay that had already been taking place for several years. This situation is aggravated if the quota for recognition of the right to asylum is considered negligible: 95% of the applications are rejected after an average of two years of processing (Martín, 2020).

Asylum seekers have formed a new population group trapped in the legal, economic and social limbo that opens with the presentation of their applications and closes with their resolution and possible denial. This article addresses the case of applicants for international protection in Spain based on the following questions: how do biopolitical devices operate on the asylum-seeking population at borders? What ethical alternatives are plausible in the face of the biopolitical control of immigrants who request protection in Spain?

The first of these questions is addressed from the Agambenian conceptual framework, and based on empirical data, the application of three biopolitical devices to asylum seekers in Spain is identified and analyzed: Frontex, Eurodac and the *Dublin Regulation* (also known as Dublin III). These three devices are installed on the citizen-foreigner bipolarity and use the concept of border as a mechanism to include immigrants in the legal and defense system of Spain while excluding them from the enjoyment of citizenship.

In this research, the interest is to broaden the frontier of knowledge about the use of biopolitical devices in the immigrant population to move toward an approach to life as a capacity for agency, that is, a critical perspective according to Agamben himself. On the one hand, Schindel (2017), who advances in the same direction, concludes that "the border regime can degrade travelers to an area of *bare life*, but those who hold it are not [necessarily] passive recipients" (p. 24). Similarly, Fernández de Rota (2012) highlights three fields of ethnographic study of biopolitics, namely, the anthropology of science (ethnographies for the field of health sciences); colonization and decolonization studies with research on issues of racism to understand the dangerous nature of biopolitics; and, finally, the anthropology of diasporas, displacement and *asylum seekers*. On the other hand, there are works by Estévez López (2012), for whom the empirical data of immigrant communities, as people without the right to have rights, show the correspondence and questions about politicization and not only the depoliticization that asylum seekers experience.

This research also contributes to studies on migrant labeling systems that shape a policy of exclusion in the dialectic of illegality versus legality, where the individual acquires new ways of being a citizen, depending on the migratory nature that he or she reaches (López-Sala, A. & Moreno-Amador, 2020). This study seeks to extend this critical horizon from the Agambenian perspective with empirical data and to ask if, in addition to what Estévez, Schindel, López-Sala and Moreno-Amador propose, applicants for protection are a focus of realization of a *form-of-life* under the parameters of *extremely high poverty,* according to Agamben, or if it is even possible for them to "aspire to more" through acts of desecration, not only of the law and the procedures for labeling the asylum but also of breaking the very framework of passivity of the subject that predominates in Agamben's approach and that, in a way, also labels the ideal type of oppressed subject. When desecration is mentioned, the reference is specifically to an outrage of the sacred in two senses: on the one hand, in the perjury response that the applicant puts before the asylum procedures and, on the other hand, the challenge that the empirical data they obtained anticipate in the scheme of original passivity from which Agamben starts. In this sense, the desecration detected here is also a "sacrilege" that empirically supports Giorgio Agamben's own ethical proposal of *extremely high poverty.*

The research project that precedes this publication allowed access to unpublished information on asylum seekers in Madrid, Spain. The survey is the result of two years of participant observation, a set of five semistructured interviews and a characterization survey of 1 478 applicants for international protection settled in the Spanish capital. After analyzing the field data, five forms of nonapplication of the right have been identified in the immigrant population that bring it closer to the creation of a community life and to each individual as "users of himself or herself and the world that surrounds him" (Agamben, 2018, p. 128). After analyzing the possible *form-of-life* that immigrant communities that request protection in Spain could develop, it is questioned *whether*

such koino bio does not constitute an end or realization of their freedoms for this same population. This questioning is transferred to the Agambenian conceptual framework, with which the problem has been analyzed, and this movement highlights a structural and methodological problem in the Veronese philosopher: the foundational myth of the passivity of the subject on which Agamben structures his proposal. This approach prevents the construction of an ethical alternative that is at the height of its own diagnosis of the pathologies of the West.

The article is divided into four sections. The first section explains the research methodology implemented to reach the results and conduct the analysis of the study. The primary and secondary sources from which the main data were obtained are detailed. The second section discusses the biopolitical control of the applicant for international protection in Spain; that is, it explains how the managed devices operate from a legal and defense perspective in matters of asylum. In the third section, we analyze how asylum seekers develop a communitarian *form-of-life* and describe the Asylum Law in Spain in five different ways. In the fourth section, we question whether the identified desecration constitutes an ethical purpose or accomplishment for asylum seekers. According to the empirical data analyzed, desecration is only a means of achieving legal inclusion in the host society through residence or citizenship. Finally, the conclusions are presented with the most relevant findings of the study.

Research methodology

For the preparation of this article, qualitative and quantitative methods were used to explain and analyze objective social facts. Specifically, *bibliographic reviews* and *survey* techniques were used. This methodology was developed in the following stages: collection, classification, contrast, interpretation and analysis of empirical (descriptive) and conceptual (theoretical) data obtained from primary sources such as life histories, journalistic news, surveys, and interviews and from secondary sources such as academic papers, theoretical proposals by authors such as Giorgio Agamben, the media, and official public reports from governments and nongovernmental organizations (ngos).

Specifically, the methodological design was divided into two phases. In the first phase, a *bibliographic review* and general analysis were conducted on the problem of the refugee crisis in the European Union since 2015, during which the most critical period was from that year until the publication of this text. Specifically, this paper focuses on the case of Spain, taking into account that its migration crisis developed between 2019 and 2023. The implementation of this technique consisted of, on the one hand, having an overview of the state of the research topic in reality and contrasting the information obtained between the various sources and, on the other hand, performing a hermeneutical review of the authors, texts and events that refer to biopolitics within the current Spanish context. The implementation focused on Agamben's proposal because migration management and the use of legal devices of power are part of the management of life in terms of the biopolitics that this Italian author has proposed.

The theoretical proposal of this author, faced with the problem studied here, allows us to describe, interpret and analyze the phenomenon of study. In this phase, it was

possible to classify the concepts, determine the variables and their relationships and propose a reflection on the desecration that disapplies the right to the development of a community life in the style of extremely high Agambenian poverty.

In the second methodological phase, the *survey was quantitatively modified*. With this instrument, 1 478 self-administered computer-assisted web interview (CAWI) interviews were collected with asylum seekers residing in Madrid, Spain. The survey was based on an *ad hoc* questionnaire of 35 closed multiple-choice questions divided into eight topics (items). These were elaborated from the main categories of analysis identified in the documentary review. The sampling process was random and consisted of six events (online and face to face) of citizen participation. In these cases, training and legal advice were given to asylum seekers in Madrid, with the aim of conducting the survey. At each event, approximately 200 to 300 completed surveys were obtained; at the end of the investigation, a sample of 1 478 was reached.

From this technique, unpublished data were obtained on the sociodemographic profile of this population group; that is, a representative sample of asylum seekers was used to standardize the data and perform computerized treatment and statistical analysis. The objective of the survey was to measure and analyze the problems that these people face in Madrid and how they face them; it was possible to know what their previous situation was like in the country of origin; in what position they are when facing the asylum system in Spain; what their socioeconomic and personal conditions are; what their situation is facing the reception system in Spain (accommodation, meals and limited health insurance); what their labor inclusion is; what their sociocultural integration is; what their family ties and future prospects are; what their democratic inclusion is; and what their projections to establish a life in Spain are.

The survey was programmed in CAWI through the Google Forms platform, with a sampling error of +2.62% for a confidence level of 95.5%, and more unfavorable sampling conditions were assumed ($p = q = 50\%$). Subsequently, the results were weighted by the country of origin of the respondents. According to the empirical descriptive data obtained from this technique, the Agambenian theoretical framework is confronted, according to which human lives are reduced through devices of power to *bare life* that operates on them under a hypothetical starting point of passivity in the face of power. It was found that asylum seekers do not have, as their only alternative, the development of resistance to government power and an ethic of survival that exalts the values of a simple life; rather, they assert their vital impulse to escape the interstices of the gap between being a citizen and a foreigner in search of legal residence.

Notably, however, regarding the decision to choose the three legal devices (Frontex, Eurodac and Dublin Regulation), other devices that vary by country were analyzed. In fact, the biopolitical mechanisms outside the European Union that respond in a complementary way to the three devices analyzed here were also taken into account but not addressed because they complicate the situation to an unattainable level for the scope of this research. For example, employees in Morocco were analyzed, particularly for the Spanish case, which is specified in Law 02-03, which legalizes deportation, and in the National Strategy of Immigration and Asylum of Morocco, which establishes a "legal" framework for arbitrary detention in non-formal centers, forced displacements and deportations of the population from West and Central Africa (Lo Coco & González Hidalgo, 2021, p. 79). In general, it was found that the constellation of biopolitical mechanisms that operate outside of Europe, under the protection of national laws and bilateral development cooperation agreements, *conditional on migration control,*

provides legal and economic support for a complex architecture of mechanisms for the control of human flows. Ultimately, the biopolitical mechanisms outside the EU, whether in Senegal, Mauritania or Turkey, serve to both stop and allow the passage of human lives to Europe, a movement that varies depending on conditional cooperation that the old continent offers to the nations that surround it.

Specifically, this study focused on three devices, Frontex, Dublin III and Eurodac, on the one hand, due to their level of legal obligation within the European Union (they are regulations) and, on the other hand, because they constitute the only consensuses that have been achieved in Europe regarding the control of asylum seekers in recent decades. This means that, as devices resulting from a democratic consensus, they reflect a political position for the member states regarding asylum and, with it, a specific place of enunciation, which can be summarized in the following idea: Europe as a land to be protected. Taking different devices applied in a heterogeneous way in EU member states or those that operate outside of Europe supposed an immeasurable data treatment and would not be representative of the migratory policies on asylum of the European Union, which is something that these three devices allow.

Biopolitical control of applicants for international protection

In his outstanding genealogy of politics and government, Agamben points out that world civilization has been built on (and is trapped in) the age of *biopolitics*. In it, the barbarism of the exercise of power (that is, totalitarianism, the state of exception and the concentration camp), far from being an exceptional element in a progressive history, constitutes a paradigm inherent to the modern social process and is ultimately constitutive of what is known as the *West* (Agamben, 2009). This tradition shares a line of argument with Foucault (2009), for whom power over life (biopower) constitutes the maximum expression of the rationalization of societies in neoliberalism (*vitalpolitik*) that contrasts with German ordoliberalism, which gives form to biopolitics. Therefore, the construction of the modern paradigm of the Western state is "one of the most remarkable forms of human government and one of the most fearsome" (Foucault, 1986, p. 25).

In the biopolitics of the West presented by Agamben, "life is what is put aside[1] by law, what is produced and managed by law" (Galindo Hervás, 2010, p. 71). Life unfolds in a permanent game of control in which people are included by excluding them and excluded by including them by means of legal-linguistic power devices. These devices are in charge of this peculiar way of inclusion using the resource of (re-)knowledge of human life, a substance, in subjective terms, that is, at the same time, governable.

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[1] Here, aside is a term from the philosophy of law that refers to the notice or order of the authority that is made public, usually to announce a threat to public order. The bando, in its origins in ancient and medieval law, consisted of a sign posted in the streets to warn people about the will of the sovereign in the face of those lives and behaviors that are, by definition of the same authority, outside the law. The act of "putting aside" what is not allowed in social life "legally" delimits life itself. Agamben is inspired by the phrase "to put aside" (originally used by Jean-Luc Nancy) to refer to the power of no: the capacity of a law that manages to maintain itself by disapplying itself, that is, using the power not to pass to the act. Thus, the concept of "siding" denotes the power of sovereign authority to leave life at the mercy of the law or what amounts to the same thing: to constantly reduce life to a juridical existence publicly defined by the one who holds the authority to do so.

In such conditions, life is treated as matter without human form, a sacrificial resource for the benefit of the sacred ideals of a modern *oikonomia* (Hernández Gamboa, 2022, p. 197). Thus, the main contribution of sovereignty is the production of *bare life* as the "link" that articulates the simple fact of living with a politically qualified life.

Every citizen is susceptible to being treated and defined in the manner of a *Homo sacer,* whom anyone can kill and who, at the same time, is legally unsacrificable. This *Homo sacer* is a remnant of *Homo economicus,* which governs its life through the mercantile idea of production as the ordering regime of social life (Foucault, 2009). Thus, a life that is not productive is bare life—naked life and life for death—, total impunity, by the sovereign power or by those who compose it as citizens (Agamben, 2006b, p. 123). Consequently, the sovereign power would have as the "foundation and constitutive element the unlimited power to dispose of the lives of the subjects, by the simple fact of their sovereignty" (Múnera Ruiz, 2008, p. 45).

Agamben uses the concept of a device to explain an entity that, without being human, has the ability to transform human life into a manipulable entity. When Agamben speaks of devices, he directly refers to "everything that has, in one way or another, the ability to capture, guide, determine, intercept, model, control and ensure the gestures, behaviors, opinions and discourses of living beings" (Agamben, 2006a, p. 21). Life thus transformed into an entity between objects is subjected, one after the other, to continuous processes of subjectivation and desubjectivation through the devices of biopower (Agamben, 2006a, 2006b).

In the specific case of immigrants who try to reach Europe in search of protection and refuge, the application of three biopolitical devices based on three different forms of appropriation of the border concept by government authorities was found.

The first device identified is called Frontex, the *Regulation on a European Border and Coast Guard.* Although the European Border and Coast Guard Agency was created in 2004 (European Union Committee, 2008, p. 13), in 2019, the Parliament and the European Council reached a definitive agreement to reform the regulation of Frontex, which is a historic decision in the EU (it is the only issue related to immigration in which there has been full consensus between the Commission, Parliament and European Council). This reform stipulated that between 2020 and 2027, this system will be equipped with more than ten thousand operational agents and more mandate capacity to monitor and control the external borders of the EU and thus respond to crisis situations such as those experienced in 2015. In addition, member states can support migrants in return operations in irregular situations and have more decision-making capacity regarding the expulsion of foreigners (Consejo Europeo, 2022; Kalkman, 2021). According to the Spanish Commission for Refugee Aid (Comisión Española de Ayuda al Refugiado [CEAR], 2021), the criteria and autonomy established for this neo-force, parallel to the military authorities of the states, to expel an immigrant from the territory are strongly linked to the criminalization of the foreigner. In fact, under the euphemism of "risk analysis", the classification of "suspicious persons" includes sufficient motivation, even for the return of those who deny international protection.

This device limits the guarantees of immigrants through border procedures and security controls and makes expulsion a decision self-founded on whoever makes it. Under the criteria of suspicion for alleged participation in criminal activities, such as the smuggling of immigrants, trafficking human beings and terrorism depending on the country of origin, Frontex stands as the first biopolitical device on the border agreed upon in consensus by the EU. Life on the borders of the EU portrays, from the Frontex

agent, the vulnerability of the concentration camp that Agamben describes. Immigrants trying to enter Europe are reminiscent of the *Homo sacer* (Agamben, 2006a)*,* not only because of their particular conditions of excessive vulnerability but also because of the limited connection with the interior itself that the borders want to separate, with what stands behind us: Europe. The immigrant, like the *Homo sacer,* finds ultimately himself at the base of the idea of modern *oikonomia* and the governmental machine of the West.[2] The life of the *Homo sacer,* in this case metaphorically identified with the immigrant who crosses a border post controlled by Frontex, is one that implies, at the same time, "the exclusion of sacrifice and the possibility of being killed with impunity" (Karmy, 2012, p. 169).

The second device is the *Eurodac Regulation,* which regulates the database of fingerprints of asylum seekers and foreigners from third countries, with the aim of maintaining permanent control of the place where they are with respect to European state borders. Since its birth in 1993, it has evolved as a computer program to become a powerful source of comparisons of the personal data of immigrants who could fit serious criminal or terrorist profiles; it even applies prospects in crime prevention. The fingerprint database of Eurodac is used to stipulate the state that is responsible for evaluating the asylum application; that is, if someone appears in France to request asylum but was already registered in Spain, France returns the person to Spain. This aspect highlights two very important elements: on the one hand, it implicitly takes into account the capacity for irregular agency of the subject; on the other hand, it takes advantage of its connection with the *Dublin Regulation* device, which establishes that the first state through which the subject accesses the EU will be in charge of processing the asylum application (even if it has been an irregular entry), leaving the countries of the southern European border in a very particular position.

As of July 2015, Eurodac has "dispelled" the doubts it generated regarding data protection by putting the immigrant on the side more effectively; that is, it includes the immigrant in the field, in this legal case, but excludes the immigrant insofar as it operates on the immigrant by labeling the immigrant so that the immigrant can be located and controlled in his movements. On the one hand, Eurodac separates the subject from the group of immigrants as persecuted to death in search of international protection (desubjectivation); on the other hand, it generates an imposition of a potentially dangerous legal personality: a proto-criminal avatar formed with data with which they identify him (subjectivation) with a precise place; Eurodac includes him, but it isolates him. The immigrant *I,* with a concrete history of persecution that forces him to migrate, remains in the background before an I-instance-of-discourse (Agamben, 2009); that is, the subject produced by a machine that has labeled and "cares" for him in a specific place in Europe, while he, transformed into an anthropological machine (Agamben, 2005a) in supposed passivity, "allows himself to be cared for".

In any state institution with access to fingerprint readers, it is possible to identify whether an asylum seeker is in breach of his obligation by crossing the borders of his new "protective state". Here, biopolitics rests on an important foundation: the recogni-

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[2] *Homo sacer is est quem populus iudicavit ob maleficium; neque fas eum immolari, sed qui occidit parricidi non damnatur:* A sacred man, however, is one whom the people have judged for a crime; it is not lawful to sacrifice him, but whoever kills him will not be convicted of homicide (Agamben, 2006, p. 94). Agamben refers to Festus and his contribution to Roman law. *Homo sacer* has two conditions: he is unsacrificable (*neque fas eum immolari*), and at the same time, he is killable (*sed qui occidit parricidi non damnatur*).

tion of the body as the ultimate place of political legitimacy, where the body, represented in fingerprint marking, ends up supplanting life with a disciplining individualization (Fassin, 2001). However, the impediment of legally crossing borders does not end with the possibility of illegal passage; in fact, indirectly, it drives it. Here, desecration, as could be seen among asylum seekers, consists of avoiding fingerprints at all costs to choose the place in Europe where to develop life.

In these latter cases, the third device comes into play, the last border security ring that has been identified: the *Dublin Regulation.* This regulation establishes criteria to define the person responsible for examining asylum applications presented in the member states of the European Community. Its latest version, applicable since 2014,[3] established exhaustive and defined deadlines to process and transfer asylum seekers who left the country in which they had requested protection. Through this administrative procedure (with judicial force!), the transfer to border countries, especially Mediterranean countries, is processed and resolved for immigrants seeking international protection who try to move from Greece or Italy, for example, to France, Germany or northern Europe.

People identified as violating the obligation to stay within the borders of the country in which they have requested protection are known as "dubliners". With them, a process of radical desubjectivation and subjectivation takes place; this process consists of making the immigrant an entity that exercises the feeling of being *alive by being a speaker.* Specifically, the disciplinary institution replaces the original subjectivity of the applicant since its control is aimed at "producing" a new internationally protected subject only in the terms in which the protective agent defines. In addition, it assumes the new identity of the applicant by endowing it with legitimacy within the structure that the device allows. In other words, the identity that the immigrant can achieve by moving to the country in which he wishes to be protected and to live is replaced by what Eurodac and the *Dublin Regulation* indicate regarding his relocation, internment in an alien center or deportation to a third country, provided that the principle of non-refoulement is fulfilled. From a Foucauldian perspective, this "bear hug" on the docile body of the applicant for international protection would be at the base of Western disciplinary institutions so that the *protego ergo obligo* in the management of the asylum would be oriented toward producing a subject controlled (monitored and punished) under the justification of the proper functioning of the system and of "protection" as a superior value.

Figure 1 shows the bipolarity of the Common European Asylum System. Note the direction of the lower blue arrow. The two edges, citizen/foreigner, suppose a bipolar gap; they do not represent a path in which the devices "create citizens from foreigners". In contrast, devices manage bipolarity by governing foreigners who enter the asylum system through a regime of disciplinary control over their lives.

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[3] Regulation (EU) No 604/2013 of the European Parliament and of the Council, of June 26, 2013. Applicable from January 1, 2014.

Figure 1. Biopolitical asylum devices on the border
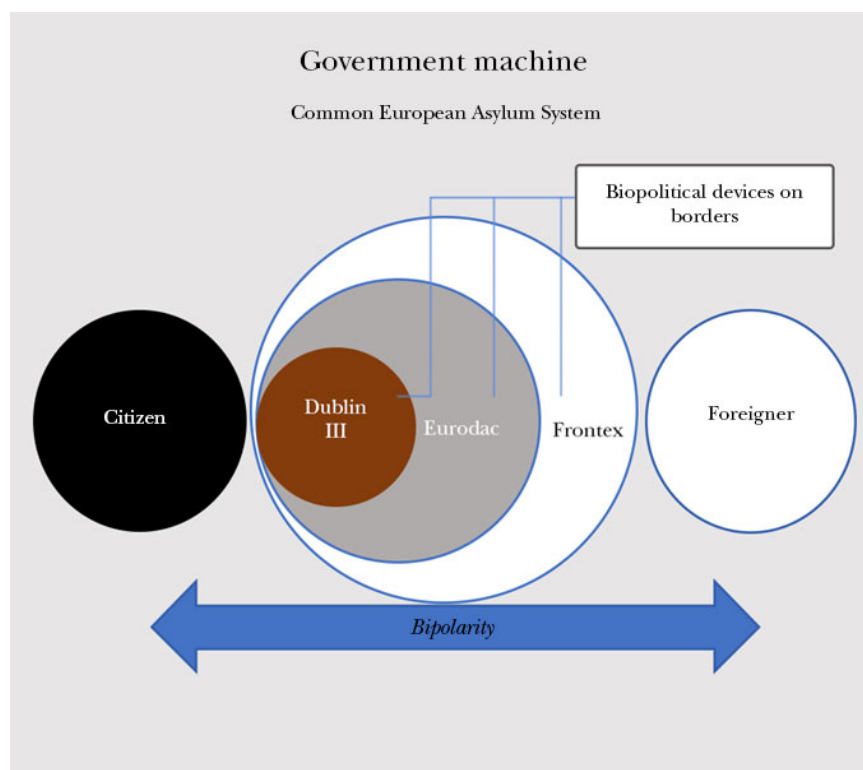
Source: own elaboration (2023)

The development of a communitarian *form-of-life* for applicants for international protection?

Around the notion of the *extremely high poverty* of the Franciscans, Agamben raises a possible resistive alternative to the diagnosis made by him in *Homo sacer I* to *III*. It offers an alternative and supposedly revolutionary reading of Hannah Arendt's famous formula "the right to have rights", according to which, for Agamben, the community *form-of-life* of the fraternity can be extrapolated to the law itself so that the truly liberating gesture would be embodied in the "right to *have no* rights" (Agamben, 2013, p. 160).

Arendt understands the person stripped of the right to have rights as someone located outside the territoriality of the legal field and who, nonetheless, can be defined only by virtue of his relationship with the law. The international fugitive, for example, does not belong to any legal community for which there is no law that can subject him, and conversely, he does not have any rights that he can exercise. Therefore, his life is defined on the outskirts of the law. The paradox is that he can regain his existence only by being interned in a legal "field" that defines him, according to Arendt, only as a violator of the law. This movement of only negative inclusion—I include you to put yourself on the side that is contrary to the law and the legal community—gives rise to a

form of "life" *ad bandonada*, without externality against the law; therefore, it is completely exhausted in the criminalizing law. This life saturated by law captures the attention of Agamben and is at the base of his influences. In his opinion, negative exclusion defines what sums up the founding paradox of sovereignty in the West: "exclude by including and include by excluding" (Agamben, 2004, 2006b).

According to Agamben, the question of taking sides is not something exceptional; rather, it refers to a particular type of relationship between people and the law in the West that rises to the level of a paradigm. It is by putting together individuals that the original order and structure of the government of the West are reproduced. This movement provides an account of the *signature* of the political beyond politics; it refers to a higher level, to an "ontology of modernity that must be destroyed", according to Agamben, the governmental machine of the West, as posited by Alain Badiou (2014). Regarding the origin of the state, for Agamben, it is not born in a social relationship that precedes it, not even an antagonistic relationship in the sense of Schmitt. Rather, it is the result of the permanent prohibition to establish extrajudicial community social ties, the censorship of the *kionos bios* and the launching of all forms of relationship with things that are different from property. Possession and usufruct make legal exceptionality the most normal of states in the West. The government over life in the West—in the constitution of all the political units that can come to mind, from the Greek *polis* and the Roman Empire to the present day—has been established, according to Agamben, in the experience of impossibility and prohibition of dissolving such a government. That is, it comes from the victimizing form of the political *sacrament* and not from any pact or rational foundation. Hence, there is no logical background or legitimate basis for the obligation of law. The obligatory nature of the law stems from the domain of Western *oikonomy*, especially *bios* and *zoe,* and from the installation of an indeterminate and permanent state of exception in which "what is captured is, jointly, excluded" and in which one can be outside the field of government and still belong to it *ad bandonado* (Agamben, 1996).

For Agamben, the phenomenon of "excluding including and including excluding" is based on the fact that the relationship between constituent and constituted power is not causal but coincidental. Thus, the government over human life is based on a power without a place or past origin; it is detached and fed from the indeterminacy of the place and foundation of the same power. This form of government is "more aggressive than specific regimes such as totalitarianism and dictatorship; in fact, it opens a threshold of indeterminacy between democracy and absolutism" (Duque Silva & Del Prado, 2021a, p. 122, 2021b, p. 512), in which the biopolitical government succeeds and is maintained. The West, according to Agamben (2005b), has built a state of exception that does not forge an open dictatorship; rather, it creates a space void of law: a zone of anomie in which all legal determinations feed a perverse and "intimate solidarity between democracy and totalitarianism" (Agamben, 2005b, p. 154).

According to this framework, Agamben's diagnosis arose in his first work from *Homo sacer*, whose description of *bare life* has been addressed in the previous section and exemplified with the case of immigrants seeking protection in Spain. In his latest works, Agamben investigates the possibility of escaping from this device of government and finds the key in the very *locus* of a constituent power that is never exhausted in constituted power, a state of exception that never disappears and makes the constituent power a permanent force of return. According to Agamben, the key to resistance to its biopolitical devices is found in subverting this indeterminacy and fleeing from
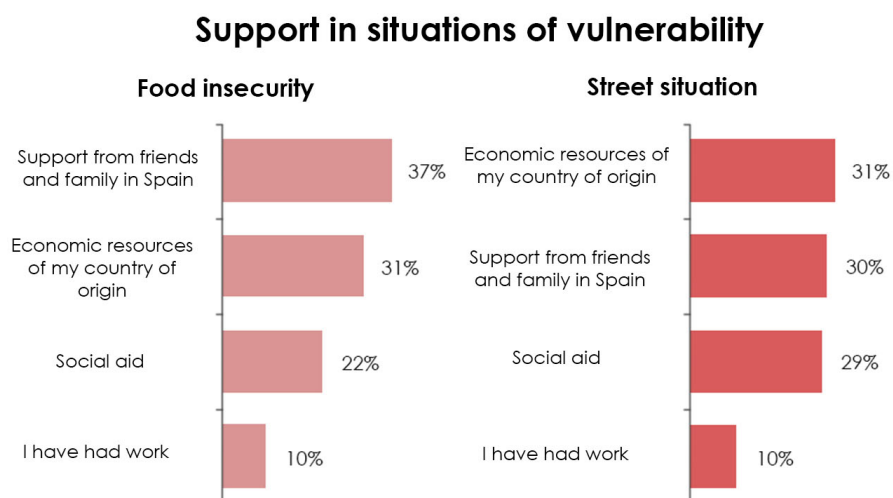
the forms of property that fall on the individual through the law, under labels such as the *illegal alien*, the criminal, among all. For this reason, Agamben's alternative to the Arendtian diagnosis is the search for a *form-of-life* in which *not having any* rights becomes a rule. The Franciscan, despite his subsequent failure, is for Agamben the archetype of one who escapes the saturation of the right to live accordingly with his own rule (Agamben, 2013).

The emphasis on the words *not having* is key. This leads to the fundamental question of property in Agamben, which can be removed from the dialogue between two of his works, *Most High Poverty* and his book *Opus dei*, which is a genealogy of work. Agamben highlights the issue of property in *use of the corpi* and ratifies it in the *Kingdom* and *Glory* through the importance of *use* compared to other forms of relationship between human beings and things in Roman law; through use, the rule of life is extrapolated to the law. In the Franciscan way of life and in the *use* of things under the parameters of detachment typical of extremely high poverty, Agamben sees an elusive potential in the face of the biopolitical devices of the West. The philosopher believes that "constituent politics" may be subtracted from the representation itself that generates sovereignty over individuals (Agamben, 2017). In contrast to the laws of the Holy Church and the life represented in canon law, the question of the Franciscan vow of poverty, for example, is internalized as a rule *of life* so that life develops accordingly with it and not in response to the submission of an external law or the development of a specific function (Agamben, 2013). In Franciscan evasion toward a *kionos bios*, the elements of nonsacrificial politics and the bases of the construction of an authentic nonordered community are gathered from an absolute power. The community that comes will be sustained by a *form-of-life* that alters the eternal return of the constituent power, detaching itself from the law from the fulfillment of the rules of life.

In relation to the above (that is, Agamben's approach) and based on unpublished primary data obtained from the collected field sample (from the survey of 1 478 asylum seekers), five practices that violate the law have been identified that fit in cases of nonapplication of the law among the community requesting international protection in Spain.

The *first* practice groups the predominant search for social assistance (Hagan, 2023) outside the reception system and state institutions, which are often overwhelmed and saturated, with regard to international protection (CEAR, 2019). To avoid being detained for having an expired document or an expulsion letter or being processed under the *Dublin Regulation*, applicants for international protection privilege their networks of friends and family who provide them with aid. As shown in Figure 2, the results of the survey indicate that these aids are fundamentally aimed in two directions: avoiding food vulnerability (the inability to provide three meals a day) and avoiding the street situation.[4]

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[4] Of the people surveyed, 44% had one of the two types of vulnerability reflected. Of the 1 478 asylum seekers surveyed who present one of the two types of vulnerability, 68.6% seek help in their community, compared to 19% who do so through state social assistance.

Figure 2. Main situations of precariousness and origin of the social aid received

Support in situations of vulnerability

Food insecurity

Support from friends and family in Spain	37%
Economic resources of my country of origin	31%
Social aid	22%
I have had work	10%

Street situation

Economic resources of my country of origin	31%
Support from friends and family in Spain	30%
Social aid	29%
I have had work	10%

Source: report of the results of the survey carried out on the asylum-seeking population in Madrid (San Miguel Pérez et al., 2023)

Second, there is the use of an open government and its electronic channels to "play the game" and obtain, on the one hand, a social security number without having work authorization and, on the other hand, to make an appointment for the asylum interview in cities other than one's residence. While personal attention represents a risk of not being able to provide a valid identity document, applicants for international protection use methods to access essential procedures *online*. On the one hand, they create certificates and digital signatures to obtain a social security number and thus "legally" register for employment, even if they do not have active work authorization. On the other hand, given the reduced number of appointments, protection applicants come to design bots for their search or use "digital sentinels" in their countries of origin to cover all the schedules for obtaining an appointment, giving rise to the existence of a "black market" for requesting appointments. Finally, they use the portals of the state to search for appointments in cities other than their residence and "prove" that they live, supposedly, in that city by modifying invoices in *online* portals and notifying changes of address through the electronic public registry of the state.

The *third* practice consists of the alteration, on the one hand, of the dates of the identity documents, known as "white sheet" and "red card", and, on the other hand, documentation such as a payroll, letters of recommendation, employment contracts and the registration form. In the first case, both the white sheet and the red card indicate that the request has been made, but it does not indicate its approval, which presupposes an inability to enter an employment opportunity, that is, a restriction on the fundamental right to work for a person regardless of his or her immigration status (Rodríguez Salinas, 2022). The second case reflects the desperation of asylum seekers to access a rent since their condition of being *on the side* of the law limits their access to decent housing because they do not have a payroll, a work contract or some type of support for letting them rent a home. Finally, irregular jobs under any form of employability become common practices for applicants who have to subsist on a day-to-day

basis. For this purpose, they must insert themselves into the economy and the labor market in any way and under any conditions.

This practice, in addition to being a precarious forgery, is a constituent act against the law that transfers being to operability. This path becomes a form of escape from the world that takes advantage of the long response times as a result of the exchange of information between the social security database and those of the Ministry of the Interior. That is, this practice shows the need to make the asylum seeker exist in the world of work, even when this involves a legal-administrative setback or an illegal act.

The *fourth* practice refers to so-called "dubliners" and consists of avoiding transfer from one country to another by requesting asylum "in family" but from fathers and mothers in different countries. The *Dublin Regulation* established mechanisms to alleviate the exceptional pressure generated by the refugee crisis in 2015 by temporarily locating applicants to later seek reunification (Fernández-Rojo, 2021). The possibility of resorting to a transfer decision, arguing for family reunification, which includes Dublin III, has become a rule so that asylum seekers can safely move from one country to another and expand their options and opportunities to live in Europe.

The *fifth* and final practice encompasses the *use* of the law for the creation of a generalized rule, with which the most feared of the legal provisions in question of asylum is applied: the expulsion order before a decision denies the application. A lawsuit before administrative litigation or an appeal has become a generalized means, a rule against the law; it is the "automatic response" to the expulsion order from the European territory that accompanies the denial of 96% of the applications for international protection received by Spain. A claim to the state, which usually takes a year and a half to be resolved, postpones the expulsion of a former claimant for international protection. This last action adds months, although not life, to the legal existence of the immigrant. The lawsuit before administrative litigation seals the status of the living dead that has characterized the journey—of two years, on average—between the application and the denial of asylum. However, at the same time, it opens the possibility of putting down roots because it allows the immigrant to "win time" in Spain. The denial of asylum causes the immigrant to go to a state of greater legal uncertainty, according to which he must not be in Spain—since an expulsion order weighs on him—and, nevertheless, he can remain in the country until his demand. On the one hand, the immigrant is in a legal residence status, and on the other hand, the immigrant does not enjoy basic rights such as authorization to work or to access, in some autonomous communities, a health card.

Table 1 represents the distribution obtained in the survey of 1 478 asylum seekers in Madrid. The majority of immigrants in the period studied come from Ibero-American countries. This period of demand allows them to accumulate the two years of legal permanence that are required to obtain a residence permit in Spain by putting down work or training roots; therefore, such indeterminacy, in the long run, favors them.

Table 1. Sampling distribution by Ibero-American nationality

	Venezuela	Colombia	Honduras	Peru	Nicaragua	El Salvador	Ecuador	Guatemala	Other country of origin
Origin interviews	348	779	45	171	22	17	12	9	55
Weighted interviews	510	438	109	103	73	41	29	22	133

Source: report of the results of the survey carried out on the asylum-seeking population in Madrid (San Miguel Pérez et al., 2023)

Through new uses of biopolitical devices, the immigrant lengthens his or her legal existence in Europe, which in turn brings him or her closer to true inclusion: legal residence by way of social, work, family or training roots, categorized as exceptional reasons for foreigners. The strategy described consists of buying time by applying for asylum to apply for a residence via putting down roots.

Considering the five types of nonapplication of the law, it is seen that "something does not fit" in this *form-of-life* with respect to the Agambenian approach: transience. The immigrant does not see in these new uses of law his ethical realization; he seeks not to escape between the cracks of the bipolar machine but to close bipolarity "by becoming a resident". In other words, the ethical *goal* that Agamben proposes, in the reality of asylum-seeking immigrants, is only a tortuous *means* that individuals must boldly travel to achieve recognition as legal residents. In summary, the ethical goal of the immigrant that can be identified in the field does not correspond to the *extremely high poverty* that Agamben raised. If this is the case, it would be best to introduce a tool into the Agambenian conceptual framework that broadens the horizon of political demand from the *form-of-life* toward the agency of the immigrant seeking asylum.

The overrated ideal of a *form-of-life* and the (realistic) goal of an ethic of action

Agamben's description of the biopolitical devices of government, which has been applied to the case of Frontex, Eurodac and the *Dublin Regulation*, leads to a new reading of the bipolarity in which the governmental machine of borders is installed. These devices are interpreted not as hegemonic powers but, rather, as anomalies in the functioning of migration as a fundamental capacity in human life, a functional *failure* that is not installed on the citizenship/foreigner dichotomy to manage the life of the immigrant, as Agamben puts it. Rather, it exalts this distinction as an artifact that unequalizes the natural capacity to migrate and, therefore, would leave room for an *ethic of action* with horizons of emancipation that would go further than the Agambenian proposal of a *form-of-life*.

This interpretation modifies Agamben's starting point—the presumed original passivity of life—to its opposite extreme: the action of migrating as an irrepressible and innate trait on which the distinction between citizenship and foreigners is artificially imposed. This change in approach arises from what was observed in the field during

the investigation with asylum seekers from Latin America and has important consequences for the criticism of the Agambenian theoretical model and its modest ethical aspiration of *very high poverty*.

In the case of asylum seekers, the application of the law, through the internalization of life rules, is not aimed at creating a *form-of-life* in the spaces left by the gap between citizenship and foreigners. However, this gap should be closed through naturalization or by obtaining a regular residence in Spain. Consequently, the criteria for the moral legitimacy of the five actions identified in the immigrant population are based not on the search for a *koino bio* in *very high poverty* but on the use of that *form-of-life* as a necessary turning point to continue toward *well-being* in Europe as legal residents. Asylum seekers in Spain—at least those from Latin American countries who have exceptional advantages in terms of nationalization—understand that their legal *status* is transitory; therefore, their actions under such conditions have an expiration date of two years, twenty-four months to make the leap from asylum to immigration by way of putting down roots and thus obtain a residence that, in turn and after two years of validity, will allow the immigrant to opt for Spanish citizenship by residence. Thus, the five actions of disapplication of the law identified above represent not an ethical realization for the immigrant, as pure permanent resistance, but simple tactics that describe their own condition. They are part of a strategy that leads to Spanish legal residence in approximately two years. These empirical data, beyond their apparent particularity, provide three new perspectives with which to question the Agambenian biopolitical conception as a whole since they highlight three general shortcomings of its theory and ethical proposal.

First, this application to the specific case of asylum seekers obliges us to question whether Agamben distinguishes the specific order—discursive, ontological, architectural or physical—in which each device operates (as has also been noted by Periáñez Llorente, 2020). Thus, Agamben's interpretation of the "place" of the devices highlights an old problem that stands out in this empirical observation: there is no way of knowing why to fight if done does not know precisely what one is fighting against. It must be remembered that, as a good postmodern, Agamben, on the one hand, erases from his approach "the role of the Subject, History and Totality and in that sense also annuls the notion of political antagonism and utopian horizon" (Duque Silva, 2017). On the other hand, contradictorily, it raises an ethic of freedom and calls for "stopping the machine of the permanent state of exception, through acts of resistance" (Duque Silva, 2017). Although Agamben eludes the determination of a political order against which it is fought, the resistive act that it proposes is itself a confirmation of the existence, even if it is precarious, of a *status quo* before which one is dissatisfied since all resistance is based on the need for or faith in change. Therefore, if there is a possibility for resistance through experimentation with the pure linguistic being of the Agambenian man, it is because there is also room for political change, and since the universal *status quo* in Agamben is the impolitic nature of the Western machine, all of these transformations are expected to imply a form of politicization, to some degree, of the world.

Thus, from the perspective that this text raises, the new uses of a *form-of-life*, in addition to allowing the ungovernable to emerge, give rise to the political: a partial definition in the life of the oppressed about the "against what" and "against whom" to fight. Therefore, resistance would be not the end but the means by which the potentiality that resides in the inaction of man, according to Agamben, is realized after the leap—

in the present proposal—of an *ungovernable life* (in the asylum regime) to a *politicizing life* (as legal residents) that ends his inaction. According to the case studied, if it can be verified that the people on the side of the law fight against the devices by disapplying the law and subjecting it to new uses, it is because there is *a reason* and an *against what* for their struggle that are not recognizable through the theoretical lenses of Agamben: immigrants do not resist remaining ungovernable in the *highest poverty*, but they fight against the condition of poverty with which they are labeled. This means that, at least in the case of asylum seekers, the devices against which they resist are not located at the ontological level but, rather, are merely linguistic and physical since, paradoxically, the immigrants surveyed are not fighting against the West; they are opposed to its discursive and physical devices because they want to be part of European society and those mechanisms prevent it.

Second, the study calls into question Agamben's insistence on presenting the subject as constitutively passive. What ethics can arise from a situation of oppression that, according to Agamben, is leveraged in a condition of passivity inherent to the human being? The supposed natural passivity of the human being makes all ethical aspirations weak since it is not known exactly how it can be understood that the conditions of "life" of the *Homo sacer*—in this case, the "dubliner" or the "expelled"—are atrocities (Periáñez Llorente, 2020) that *must be* changed. To reduce human life to the level of the *Homo sacer* (or the *muselmann* in extreme cases in which the immigrant is "allowed to die" in the Mediterranean), it is necessary to manipulate violence; in turn, it is justified to qualify violence only as an *atrocious* coercive force; otherwise, it is not possible to explain how Agamben's proposal can support the ethical search for freedom. Therefore, to justify the existence of an ethical aspiration that allows life to evade "atrocious violence", it is necessary to recognize that the latter can be defined only as such if it has, first, an entity that opposes such violence and, second, an opposition that is not only physical but also moral (otherwise, it cannot be described as an atrocity). Thus, resistance presupposes action as an innate feature of life. In this sense, if the result of the equation in which *devices* and *immigrants* converge is the emergence of an ethic of the migrant whose *aim* is to close the gap between citizens and foreigners *through* the disapplication of the law, which is innate life, it will not be passivity, as Agamben says, but *praxis*. In this study, the action of migrating (think about its age) is presented as an innate trait to human beings, preexisting with the devices and their coercive violence; therefore, any control is placed before it generates not only an effect that is resistive but also a creative effect: a stimulus capable of promoting the very capacity to migrate through the submission of the right to new uses. While Agamben celebrates the *form-of-life* that emerge under walls that separate citizens from foreigners as a realized ethical aspiration, the focus of this article highlights the life that makes its way, like ivy between granite stones, to unite both walls.

Finally, also installed in the myth of the passivity of the subject, Agamben considers that the development of a *form-of-life* is a laudable end insofar as it is modestly achievable, taking into account the omnipresence of the governmental machine. With this, it diminishes the value of the *form-of-life* and loses sight of the fact that this is the manifestation of a capacity for agency of the human being to even understand the devices, their production, and their use and thus expand the human phenotype (Villacañas, 2016). The capacity for action as a characteristic inherent to life not only generates resistance but also learns about power devices and, with this, an impulse to life in evolutionary terms. In other words, if migrating is inherent to human life, any obstacle

that stands before that action is not only doomed to fail but also a source of learning to perfect the very action of migrating; it is an indirect impulse to life.

Criticism of Agamben's proposal gives rise to an ethical alternative based on the action of the migrant. This emancipatory option starts from a definition of resistance that places life as an agency at the center and movement as its innate quality. For the Italian philosopher, "being poor means staying in relation to an inappropriate good" (Agamben, 2019), in an unalterable center, and against which he opposes, in the best of cases, the *use* as "a polar gesture: on the one hand, appropriation and habit; on the other, loss and expropriation" (Agamben, 2019). In both its *diagnosis* and its *sanitatem,* (human) life resembles the eye of a hurricane: an empty center on which things are produced, possessed, used or, with luck, *used.* From the perspective of the authors and based on the research with asylum seekers, human life is much more than an empty center that is defined based on different types of property, to the extent that, at least in the case of the action of migrating, life and possession of property converge in the same capacity and in the same entity, inasmuch as life cannot be understood without movement and such movement is not reducible to a specific type of property since it does not refer to a relationship between the entity and things but, rather, to a relationship between the entity and its power. Among other reasons, migration is directly associated with survival, as it is a *sine qua non* for the existence of any species.

An *ethic of action* relativizes the omnipotence of biopolitical control devices and transforms Agamben's reading of them, which opens up new emancipatory possibilities in the case of migration. However, for Agamben, the Franciscan-inspired *form-of-life* slips, ungovernable and rebellious, and among the constant watchdogs of Western governmental machines, in the *ethic of action,* the biopolitical devices are reduced to the level of instruments that affect the functioning that *naturally* allows the development of basic life skills, including migration. In other words, biopolitical devices such as Frontex, Eurodac and Dublin III, like arenas in the reels of the *natural functioning of human capacities,* affect some lives to satisfy their basic need to migrate. The virtue of relating the normative contributions of Agamben to the primary data of the sample in the field of 1 478 asylum seekers in Spain lies in the fact that, in this way, the Italian philosopher can be "turned upside down" and be taken as the great prescriber of the pathologies of the West: a lens that clarifies the aspects that "go wrong" in the development of human capacities and nothing else.

Conclusions

The *form-of-life* that Agamben proposes starts from the founding myth of the inborn passivity of human life, thereby ignoring the very reality of the limitations and exclusions that it entails; for example, for the immigrant who requests international protection in Europe, the submission to a form of (extra-)legal self-government in which poverty prevails by necessity and not by choice; simplicity as a temporary punishment and not as a sign of freedom.

The biopolitical devices of inclusion and exclusion, such as Frontex, Eurodac and Dublin III, are examples of the way in which borders constitute limits to freedom. They are an atrocious imposition to the extent that they presuppose natural resistance in the immigrant since no ethical aspiration can be derived from passivity. The imposition

also involves the use of violence for three reasons: first, because these devices have the power to limit access, exclude and stereotype the figure of the immigrant by considering him an object of exclusion based on suspicion; second, because of the conditions of excessive vulnerability to which migrants are subjected, even behind a physical or computerized border, they lose value, and consequently, they are considered disposable and superfluous beings.

The Eurodac devices and the *Dublin Regulation*, in fact, are the best representation of inclusion that excludes and puts on the side. Their main function (de-)subjectifies making the immigrant *ego* a classified and digitized agent, one more number in the system. Thus, the computer inclusion system has gained strength, but the agent of its own destiny has gradually disappeared. By including migrants in a data system, their exclusion in life systems is facilitated. Controlled and guarded, immigrants reduce their capacity for agency to follow the control regulations that allow them to remain but not to be or to do.

Agamben provides a conceptual framework, to a certain extent ideal, for identifying the devices of biopolitical control applied to immigration at borders. However, this framework omits the agency of immigrants and human participation in the production, understanding and use of these devices. The Italian philosopher starts from the assumption of passivity. In such circumstances, an approach that recognizes that action is an inborn quality in human life is more useful for understanding the role played by devices and their imperfect attempt to subjectify from the outside, for example, the immigrant seeking protection in Spain. The subjectivation that accompanies Frontex, Eurodac and the *Dublin Regulation* encounters the natural resistance of immigrants in permanent struggle with their environment. According to the field sample obtained from the survey of 1 478 asylum seekers, practices such as the application for asylum in the family, jointly in several countries, but separately among its members, the demand for administrative litigation to neutralize an expulsion order or even the "practice" of sinking boats to be rescued on the high seas are examples of paradoxical forms of agency that escape the Agambenian framework and demonstrate that life ultimately makes its way before the control devices—not because of the passivity that resists them but because of the irrepressible *praxis* that overcomes them.

Acknowledgments

References

Agamben, G. (1996). *Mezzi senza fine. Note sulla politica*. Bollati Boringhieri.

Agamben, G. (2004). *Estado de excepción. Homo sacer II, 1*. Pre-Textos.

Agamben, G. (2005a). *Lo abierto. El hombre y el animal*. Pre-textos.

Agamben, G. (2005b). *Profanazioni*. Nottetempo.

Agamben, G. (2006a). *Che cos'è un dispositivo?* Nottetempo.

Agamben, G. (2006b). *Homo sacer. El poder soberano y la nuda vida*. Pre-textos.

Agamben, G. (2009). *Lo que queda de Auschwitz. El archivo y el testigo, Homo sacer III*. Pre-Textos.

Agamben, G. (2013). *Altísima pobreza. Reglas monásticas y forma de vida*. Adriana Hidalgo editora.

Agamben, G. (2017). *Medios sin fin. Notas sobre la política*. Adriana Hidalgo editora.

Agamben, G. (2018). *El uso de los cuerpos* (2nd. ed.). Adriana Hidalgo editora.

Agamben, G. (2019). *Creación y anarquía*. Adriana Hidalgo editora.

Badiou, A. (2014). *Filosofía y política: una relación enigmática*. Amorrortu.

Comisión Española de Ayuda al Refugiado (CEAR). (2019). *Informe 2019: Las personas refugiadas en España y Europa.* https://www.cear.es/wp-content/uploads/2019/07/INFORME_CEAR_2019.pdf

Comisión Española de Ayuda al Refugiado (CEAR). (2021). *Informe 2021: Las personas refugiadas en España y en Europa.* https://www.cear.es/wp-content/uploads/2021/06/Informe-Anual-CEAR-2021.pdf

Consejo Europeo. (2022). *Reforma del sistema de asilo de la UE*. Secretaría General del Consejo.

Duque Silva, G. A. (2017). El Carl Schmitt de la tanato-política: la veta de filosofía schmittiana en el pensamiento de Giorgio Agamben. *Praxis Filosófica*, (45), 107-129. https://doi.org/10.25100/pfilosofica.v0i45.6056

Duque Silva, G. A. & Del Prado Higuera, C. (2021a). Agamben tiene razón: COVID 19 y estado de excepción permanente. *Bajo palabra*, (27), 105-124. https://doi.org/10.15366/bp2021.27.005

Duque Silva, G. A. & Del Prado Higuera, C. (2021b). Political theology and COVID-19: Agamben's critique of science as a new "pandemic religion". *Open Theology, 7*(1), 501-513. https://doi.org/10.1515/opth-2020-0177

Estévez López, A. (2012, January-June). Asilo y derechos humanos en Estados Unidos y Canadá. Cuestionamientos a Giorgio Agamben. *Norteamérica, Revista Académica del CISAN-UNAM, 7*(1), 183-206. https://www.revistanorteamerica.unam.mx/index.php/nam/article/view/164

European Union Committee. (2008). *Frontex: the EU external borders agency. Report with evidence* (9th report of session 2007-08, HL Paper 60). House of Lords. https://publications.parliament.uk/pa/ld200708/ldselect/ldeucom/60/60.pdf

Fassin, D. (2001). The biopolitics of otherness: undocumented foreigners and racial discrimination in French public debate. *Anthropology Today, 17*(1), 3-7. http://www.jstor.org/stable/2678317

Fernández de Rota, A. (2012). Biopolítica y humanitarismo: debates conceptuales e investigaciones etnográficas. *Ankulegi,* (16), 127-141. https://aldizkaria.ankulegi.org/index.php/ankulegi/article/view/55

Fernández-Rojo, D. (2021). La supranacionalización de la asistencia operativa a los sistemas nacionales de asilo en la Unión Europea. *Revista Electrónica de Estudios Internacionales,* (41). https://www.doi.org/10.17103/reei.41.11

Foucault, M. (1986). *Vigilar y castigar.* Siglo xxi editores.

Foucault, M. (2009). *Nacimiento de la biopolítica: curso del Collège de France (1978-1979).* Ediciones Akal.

Galindo Hervás, A. (2010). La gloria y el concepto de lo político en Giorgio Agamben. *Revista de Estudios Sociales, 1*(35), 66-77. https://doi.org/10.7440/res35.2010.06

Hagan, M. (2023). "They tell us to keep our distance, but we sleep five people in one tent": the opportunistic governance of displaced people in Calais during the COVID-19 pandemic. *Social & Cultural Geography, 24*(3-4), 484-502. https://doi.org/10.1080/14649365.2022.2107228

Hernández Gamboa, R. (2022). Biopolítica y la legitimación de las vidas prescindibles. *Espiral: Estudios sobre Estado y Sociedad, 29*(85), 189-217. https://doi.org/10.32870/eees.v29i85.7250

Karmy, R. (2012). La máquina gubernamental. Soberanía y gobierno en el pensamiento de Giorgio Agamben. *Res Publica: Revista de Historia de las Ideas Política,* (28), 159-193. https://revistas.ucm.es/index.php/RPUB/article/view/47880

Kalkman, J. P. (2021). Frontex: a literature review. *International Migration, 59*(1), 170. https://doi.org/10.1111/imig.12729

Lo Coco, D. & González Hidalgo, E. (2021). La doble lógica de la externalización europea: protección y deportación en Marruecos. *Revista CIDOB d'Afers Internacionals,* (129), 79-106. https://doi.org/10.24241/rcai.2021.129.3.79

López-Sala, A. & Moreno-Amador, G. (2020). En busca de protección a las puertas de Europa: refugiados, etiquetado y prácticas disuasorias en la frontera sur española. *Estudios Fronterizos, 21,* Artículo e048. https://doi.org/10.21670/ref.2006048

Martín, M. (2020, February 4). España se sitúa ya a la cola de la UE en las concesiones de asilo. *El país.* https://elpais.com/politica/2020/02/04/actualidad/1580821771_393934.html

Ministerio del Interior. (2021). *Avance de datos de protección internacional, aplicación del Reglamento de Dublín y reconocimiento del estatuto de apátrida. Datos provisionales acumulados entre el 1 de enero y el 31 de diciembre de 2021.* https://elconfidencialdigital.opennemas.com/media/elconfidencialdigital/files/2022/08/26/Nota_avance_trimestral_datos_proteccion_internacional_2021_12_31.pdf

Múnera Ruiz, L. (Ed.). (2008). *Normalidad y excepcionalidad en la política (Schmitt, Agamben, Žižek y Virno)* (Colección Gerardo Molina 13). Universidad Nacional de Colombia.

Oficina de Asilo y Refugio (oar). (2011). *Asilo en cifras 2010.* Secretaría General Técnica-Ministerio del Interior-Gobierno de España. https://proteccion-asilo.interior.gob.es/documentos/Asilo-en-cifras-2010-NIPO-126-11-048-8.pdf

Oficina de Asilo y Refugio (oar). (2012). *Asilo en cifras 2011.* Secretaría General Técnica-Ministerio del Interior-Gobierno de España. https://proteccion-asilo.interior.gob.es/documentos/Asilo-en-cifras-2011-NIPO-126-12-011-9.pdf

Oficina de Asilo y Refugio (OAR). (2013). *Asilo en cifras 2012.* Secretaría General Técnica-Ministerio del Interior-Gobierno de España. https://proteccion-asilo. interior.gob.es/documentos/Asilo_en_cifras_2012_126130552.pdf

Oficina de Asilo y Refugio (OAR). (2014). *Asilo en cifras 2013.* Ministerio del Interior-Gobierno de España. https://proteccion-asilo.interior.gob.es/documentos/ Asilo_en_cifras_2013_126140719.pdf

Oficina de Asilo y Refugio (OAR). (2015). *Asilo en cifras 2014.* Ministerio del Interior-Gobierno de España. https://proteccion-asilo.interior.gob.es/documentos/ Asilo_en_cifras_2014_126150899.pdf

Oficina de Asilo y Refugio (OAR). (2016). *Asilo en cifras 2015.* Ministerio del Interior-Gobierno de España. https://proteccion-asilo.interior.gob.es/documentos/ Asilo_en_cifras_2015_126150899.pdf

Oficina de Asilo y Refugio (OAR). (2017). *Asilo en cifras 2016.* Ministerio del Interior-Gobierno de España. https://proteccion-asilo.interior.gob.es/documentos/ Asilo_en_cifras_2016_126150899.pdf

Oficina de Asilo y Refugio (OAR). (2018). *Asilo en cifras 2017.* Ministerio del Interior-Gobierno de España. https://proteccion-asilo.interior.gob.es/documentos/ Asilo_en_cifras_2017_126150899.pdf

Oficina de Asilo y Refugio (OAR). (2019). *Asilo en cifras 2018.* Ministerio del Interior-Gobierno de España. https://proteccion-asilo.interior.gob.es/documentos/ Asilo_en_cifras_2018_126150899.pdf

Oficina de Asilo y Refugio (OAR). (2020). *Asilo en cifras 2019.* Ministerio del Interior-Gobierno de España. https://proteccion-asilo.interior.gob.es/documentos/ Asilo_en_cifras_2019_126150899.pdf

Oficina de Asilo y Refugio (OAR). (2021). *Asilo en cifras 2020.* Ministerio del Interior-Gobierno de España. https://proteccion-asilo.interior.gob.es/documentos/ Asilo_en_cifras_2020.pdf

Periáñez Llorente, L. (2020). Vidas desnuda(da)s la necesidad de una "precaución etnográfica" como complemento a la "precaución arqueológica" en el análisis de los dispositivos del poder político en Occidente de Giorgio Agamben. *Eidos,* (33), 262-292. https://dialnet.unirioja.es/servlet/articulo?codigo=7498814

Rodríguez Salinas, R. (2022). Política migratoria en las islas Canarias: violaciones de derechos humanos durante la pandemia. *Derecho PUCP,* (89), 37-75. https:// doi.org/10.18800/derechopucp.202202.002

San Miguel Pérez, E., Del Prado Higuera, C., Duque Silva, G. A. & Pérez Bolaños, D. M. (2023). *Informe del proyecto. Integración, derechos humanos y ciudadanía global.* Dykinson.

Schindel, E. (2017). Migrantes y refugiados en las fronteras de Europa. Cualificación por el sufrimiento, nuda vida y agencias paradójicas [Dossier]. *Revista de Estudios Sociales, 1*(59), 16-29. https://doi.org/10.7440/res59.2017.02

Subsecretaría del Interior. (2022). *Avance de datos de protección internacional, aplicación del Reglamento de Dublín y reconocimiento del estatuto de apátrida. Datos provisionales acumulados entre el 1 de enero y el 31 de diciembre de 2022.* Dirección General de Política Interior-Ministerio del Interior. https://www.interior.gob.es/opencms/ pdf/servicios-al-ciudadano/oficina-de-asilo-y-refugio/datos-e-informacion-estadistica/Proteccion-Internacional/Avance_trimestral_datos_proteccion_ internacional_2022_12_31.pdf

Subsecretaría del Interior. (2023). *Avance de solicitudes y propuestas de resolución de protección internacional. Datos provisionales acumulados entre el 1 de enero y el 30 de septiembre de 2023.* Dirección General de Política Interior-Ministerio del Interior. https://www.interior.gob.es/opencms/pdf/servicios-al-ciudadano/oficina-de-asilo-y-refugio/datos-e-informacion-estadistica/Proteccion-Internacional/Avance_mensual_proteccion_internacional-2023_09_30.pdf

Villacañas, J. L. (2016). Dispositivo: la necesidad teórica de una Antropología. In R. Castro Orellana & A. Salinas Araya (Eds.), *La actualidad de Michel Foucault* (pp. 185-212). Escolar y Mayo.

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