On Governing Unruly Population Flows

By

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In two sections in the first volume of *The Materiality of Politics* (Anthem Press, London, 2007), where I was dealing with technologies of rule, I had argued that of the basic technologies of rule under modern conditions governing population flow and achieving the right composition of the population, *the right mix*, was one. Yet I also showed in the course of same demonstration that the subject, that is the migrant, was refusing to be completely obedient to governmental methods and techniques, and that the subjectivity of the migrant remained unruly, defying categorisation, mixing up all kinds of flows and compositions, and remaining possibly the biggest question mark in the plan of reorganising the global politico-economic-strategic space.

Involved in this discussion was another question, namely, that of the rights of the migrants, in particular the victims of forced migration, of protecting those rights, and the responsibility to protect the victims. I termed the way in which the government wanted to stabilise the population flow as the humanitarian method, also "the non-dialogic world of the humanitarian" (*The Politics of Dialogue*, Ashgate, 2004, Chapter 9), where humanitarianism reigned as the ruling administrative ideology. The institutional methods by which governments and the international administration governed population flows were known as humanitarian methods, and these were unilaterally decided, in short they were non-dialogic.

Today, these two issues have come even closer – on one hand mixed up, messy, population flows, provoking desperate governmental methods, on the other hand innovations at a furious pace in humanitarian methods, functions, institutions, and principles. Suddenly governments have discovered why people move: not only violence, threat of violence, torture, and discrimination (by now banal causes), but they move also due to natural disasters, man made famines and floods, climate change, developmental agenda, resource crisis, environmental catastrophes, and the like. The humanitarian response has grown accordingly in range. Governments say that they have to gear up not only to emergencies but "complex emergencies" - a scenario that alludes to a complicated assemblage of factors

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and elements leading to the emergency situation. At the same time it is clearer than ever that the responsibility to protect the victims of forced migration must be wrenched away from its "humanitarian roots", and located anew in the context of rights, justice, and the popular politics of claim making today. In this article I want to discuss three of the issues requiring discussion in this context:

    (a) The mixed nature of population flows and the governmental responses to this new phenomenon at both national and international levels;

    (b) The inadequacy of earlier legal definitions and the changing nature of the humanitarian response to these mixed and massive population flows;

    (c) The emergence of the migrant as a significant subject under conditions of globalisation, transgression of borders, and a political economy that allows differential inclusion of migrant labour.

The Mixed Nature of Population Flows and Governmental Responses

Let us begin with the issue of the mixed nature of population flows. We can take up for discussion the protracted situation of internal displacement in India. As we know, in terms of the sustainability of rights under protracted situations of vulnerability, the situation regarding the rights of the internally displaced persons (IDPs), particularly those displaced due to developmental reasons, in the entire region of South Asia is one of the most precarious. The stiff political resistance put up by the displaced with the help of various public organisations in the last few years against displacement testifies the truth of the precariousness. In an overwhelming number of cases of such displacement either international norms (for instance, the Guiding Principles on the IDPs) are violated, or are simply ignored; likewise national administrative practices remain ad hoc.[1] Judicial guarantees are few and far between; law except in few cases (for instance the Asiad case) remains silent. National human rights mechanisms have thus nothing to fall back upon. On the other hand, in India alone, due to developmental projects, the number of the IDPs is said to be more than twelve to fifteen million – though it remains a guess as the state does not recognize the "developmental IDPs" as a legal category of citizens who are vulnerable to a particular type of situation. Therefore there is no official count. Various groups of the internally displaced persons throughout the massive country and through the sixty years of our independent life remain dispersed. In all these cases the "right to return" remains an illusion. In the policy circles, empirical knowledge on the victims of internal displacement remains poor leading to poor policy formulation. At the same time the skill level of the administrators also remains at an unsatisfactory stage throughout the region.

As a consequence of these four factors, cited above, and we can list them now systematically – (a) protracted situation of displacement owing to lack of scanty rehabilitation and resettlement policies and measures, (b) absence of any inherent right of the victim in such a situation of vulnerability, (c) poor data base, and (d) low knowledge and skill base of the human rights and humanitarian institutions and functionaries – developmental displacement has come to symbolize the state of wounds in societies of the region, in this case certainly India. Each of the policies takes displacement as given and does not make it a priority to put the onus on the concerned agencies to find least displacing measures, alternative projects and plans etc. Thus problems persist in determining the identity of the displaced, and newer policies never encompass the concepts of impact and affected (vulnerability) in the widest, that is to say, in the social sense of these two terms. As a result, institutional mechanisms are forever insufficient to strictly enforce the provisions of whatever resettlement and rehabilitation policy is available. Resettlement and rehabilitation provisions are thus always insufficient to restore the displaced their condition prior to displacement, not to talk of turning them to better conditions. One instance of this state of affairs is that even a simple thing such as the following is ignored: namely, there is no limit to the amount of land to be acquired by an agency. As a result sometimes land is acquired in excess of what is strictly necessary in terms of the developmental project; thus land remains unutilised and is subsequently used or sold to private agencies for purposes other than those for which land was acquired on the first instance, and is never returned to those from whom land was acquired.[2]

It is a permanent state of injury, in which all kinds of displacements have piled on each other, and which now reflect the phenomenon of the mixed and the massive nature of internal displacement. Conflict causes displacement, development causes displacement, resettlement causes displacement – all these result in mixed situations – Chattisgarh in India is a good example of that. One has to only read year wise the various reports on forced displacement in Chattisgarh to see how causes pile on each other.[3] All in all, we are now witness to a situation where each year huge numbers of population are receding beyond the pale of visibility, and thus beyond the gaze of citizenship.[4]

Law lags in reinforcing their rights. National legislations to guide administrations are very few and far between; there are mostly policies.[5] At international level also there are only principles albeit derived from human rights principles and treaties But here too the lack is so much that some of the experts now speak of the need to develop a (new if there was ever one) normative framework for the protection of the internally displaced persons for an appropriate legal regime to come into existence. One can note in this respect that the international legal language still speaks of "internally displaced *persons*" (and not *persons and groups*), a word that betrays the reality of massive group migrations, indicating almost permanent vulnerability of certain groups of population to displacement and forced migration. These

groups could be typically minority groups, or groups of indigenous population, or other immigrant groups subject to various kinds of discriminations. The existing legal language remains deficient partly because human rights treaty-making has witnessed a decline in recent years because of its vulnerability to great power calculations, its appeal and utility have thus gone down. There are also obvious limitations, now requiring recourse to alternative legal techniques. There are problems of consensus, protracted or stalled negotiations, ratification and entry into force of the provisions agreed upon, reservations, and above all huge domestic administrative overload in tackling internal displacement in countries marked by massive flows of forced migration internally. Refugee protection had taken the route of treaty making, which now proves extremely difficult to duplicate for the protection of the internally displaced, because sixty years of human rights treaty making have tragically demonstrated fundamental structural and procedural weaknesses: there is lack of structure, of coordination, initiation and planning, expertise, but most importantly, there is normative inconsistency that these legislations have allowed. The UN Commission of Human Rights has not been able to develop alternative legal norms. Will the Guiding Principle survive beyond simply guiding? Soft law making, if these principles are an instance of that, are again universal in ambition, and have to be recreated through alternative norms of legal pluralism. Above all, given the great power and the usual state responses, the biggest challenge remains to create a climate of compliance and acceptance at the international, regional, and national levels, which can then enable greater political support, financial support, and a broader range of expertise (for protection, rehabilitation, and other solutions). All in all these imply a new normative framework that does not rely on great powers and state-centric solutions, but more on new avenues such as regional consensus, greater rights-centric approach (which means more enabling mechanisms through legal, customary, and soft approaches) than protection centric approach, etc.[6]

Like mere legal contraptions, mere humanitarian feelings also are of little use. Displacement now signifies what a limited democracy characterized by forces of property, globalisation, ethno-centric vision, xenophobia, and poor state of management capacity to cope with developmental-environmental disasters does to de-colonized societies. Such massive displacement due to developmental reasons does not come alone. As I have indicted, displacement can be the consequence of situations such as – conflict, development, and hunger. While there has been attention on the first two factors, the relation between hunger and displacement remains even further beyond the range of visibility. Hunger leads to not only deaths, but displacement too. Disabled and dispossessed of means of survival and social security, precisely what the state of displacement brings in, large bands of unemployed labour move from town to town, from mine to mine, and construction site to another site. Thus, pockets of hunger, endemic poverty, and forced migration of the people also mark societies, which are characterised by massive displacement. Hunger deaths become common in

such circumstance (in Singur in West Bengal for instance we are witness to such situation – five hunger deaths in one year). Hunger, stemming from loss of jobs, breakdown of agriculture, and absence of social security leading to the formation of mobile armies of footloose labour of men, women, and yes, children, thus causes displacement, and forces the victim to move on. But where does the labour move? Ironically, it moves to a new developmental site, which has already displaced another population group. But this is not enough in terms of irony. We also witness deforestation leading to impoverishment of the indigenous population groups who are again forced to migrate, all these finally culminating often in violence, conflicts, hatred, and ethno-centric politics, leading further to internal displacement. Root causes must be thus found out and eliminated to cope with issues of displacement if we are not going to be satisfied with short-term humanitarian measures.[7]

We can also note the nature of social response to such situation. Human rights groups conduct inquiries, engage with the human rights institutions (such as the National Human Rights Commission) and conduct advocacy work, try to link social and economic rights with the Guiding Principles on the IDPs, and popularise them, begin public audits of anti-poverty programmes (for instance, this is what has happened in the *right to food* campaign, which sparked off public hearings in various parts of northern India), mount campaigns for a justice-oriented relief, rehabilitation and resettlement policy; try to intervene in dense conflict situations as in Chattisgarh or Assam in India where the complex of causes ranging from hunger to deforestation and plunder of resources led to massive displacement, and finally these human rights groups try to broaden the mandate of the work on the IDPs, by way of connecting the *right to food* and *right to work* campaigns with the right to get justice and protection from forced displacement. All these responses, I shall plead, must not be seen as fruitless or limited responses to a remorseless situation. They are enriching the significance of democracy in a typical post-colonial manner, by which I mean, direct mass intervention, marked by dissatisfaction with representative democracy, institutional innovation, a reinforced discourse of responsibility, and an overwhelming desire for justice, which goes far beyond the liberal principles on the theme. The response of the uprooted reflects a mixed range of legalities and (what Michel Foucault once called) illegalities, that is, what remains beyond the pale of the understanding of the forces of *rule of law*. The history of the resistance to displacement in post-independence India when properly chronicled will shed light on one of the obscure parts of the universal history of democracy, namely how do contentious claims determine the destiny of a particular democracy? How did it work out in nineteenth century Europe where too industrialisation led to massive displacements, and how will it work out today? After all developmental displacement is not new. It is as old as capitalism. The promulgations of Land Acquisition Acts in all places are marked by actions of grab, control, seize of land, but also resistance.

To have that full picture, I believe, equally critical will be our understanding of the way governments of the day respond. Clearly, modern democratic governments cannot allow uncontrolled forced migration to continue. Scenarios of bands of roving labour, destitute armies of women and children moving from one place to another are scary for conditions of modern civility. Governments also know that that the discourse of national development is not enough to justify the massive rates at which displacement is occurring and forced migration takes place. This is where we have to understand the nature of modern governmentalities. I shall mention here in brief three governmental strategies, which are articulations of modern governmentality.

- First, one after another policies are enunciated. As if there is a policy explosion. Relief is provided; if that is not enough, resettlement accompanies relief; and if that even is not enough, governments talk of rehabilitations, which technically should mean an end to vulnerability. We know, more than anything democracy is a regime politics, which creates a space of rights to create the autonomous individual being, who will be now recognised as citizen, but and this is important, the simultaneous purpose is now to control him, regulate and discipline him (and now her) through the laws and mores that had made the emergence of the citizen possible in the first instance. Therefore the R&R policies have a double edge: they create rights (to relief, etc.), and these rights must be implemented legally, by governmental doses, under juridical supervision, arbitration etc. Displacement is thus caught in a legal maze – the *deux ex machina* of modern governmentality.

- Second, add to this the governmental strategy to remove sections of population, whose rights will be thus always half, beyond visibility. No body will talk of the displaced, no history can be written of them (of course you can write single, isolated ethnographic accounts), no canopy over their graves, no epitaph over their loss of citizenship, we are indeed speaking here of what Eric Wolfe had called long ago, *people without history*. The public sphere of development has thus its underside…[8]

- My third, and the final point, the governmental strategy also speaks of the "informed consent" of the potential victim to be dispossessed of land (that is to be victimised).[9] This actually follows from the rights angle I just mentioned. Again here, the process of manufacturing and securing consent has been graphically described in several current accounts – where poor, tribal, dailt, and marginal farmers have been herded into closed grounds, intimidated, and threatened into submission and consent to the effect that, yes, the developmental project can begin, they will cede the land the companies or the governments want; they are ready to sacrifice the work that employment in those pieces of land had given them so long. For, they too want development of the nation. Thus, one can

see that even the victims of displacement cannot escape the process of generating democratic consent towards displacement, or for that matter none can escape…later of course these victims can leave the place, perhaps forever, and only in that way they can give their informed opinion that is giving consent with their feet.

In this contentious milieu we have to turn our attention back on the question of responsibility, wrenching it away from its Weberian shackles of self and humanitarianism,[10] and place it firmly in the context of claims, contentions, and justice. If, as we are told, this situation is one of the inescapable results of globalisation, then obviously the implication is that coping with the phenomenon of developmental displacement is one of global responsibility. And, thus if our good sense tells us today that maintaining climate and preventing its change is a global responsibility, can we not say, that displacement due to development is a matter of similar global concern? Or, are the stakes too high in this respect?

In any case protecting rights sits clearly at the core of responsibility in our contentious time; and if this in brief is the national scenario, it will be interesting to see how the international governance exercises this task. Here we find ourselves returning more clearly to the theme of humanitarianism. For instance, the ICRC (The International Committee of the Red Cross and Red Crescent) in its Thirtieth International Conference pointed out in a resolution, "the humanitarian consequences of four great challenges facing the world today, which affect the individual and specifically the most vulnerable: environmental degradation and climate change; humanitarian concerns generated by international migration; violence, in particular in urban settings; and emergent and recurrent diseases and other public health challenges, such as access to health care". It added further,

> The global scale of each of these challenges requires a collective response as it exceeds the coping capacity of individual States or humanitarian organisations".[11] In particular the resolution went on to say on moving populations, "We, while acknowledging the many benefits of international migration as well as its complex and multifaceted nature, recognize that migration may generate issues of humanitarian concern in all regions of the world. We are particularly concerned that migrants, irrespective of their status, may live outside conventional health, social and legal systems and for a variety of reasons may not have access to processes which guarantee respect for their fundamental rights. We reaffirm the importance of examining ways and means to reinforce international cooperation at all levels to address the humanitarian concerns generated by international migration. We acknowledge the role of Governments, within the framework of national laws and international law, especially international human rights law, refugee law and International Humanitarian law, to address the humanitarian needs of persons negatively affected by migration, including families and communities and to take effective measures. We are deeply

concerned by all forms of human trafficking and exploitation, in particular, involving children and women and we acknowledge the role of governments to prevent such practices, to provide protection and assistance to all victims of such practices and to ensure respect for the national and international instruments prohibiting them. We also acknowledge the role of the International Red Cross and Red Crescent Movement in this respect. When addressing the humanitarian needs of persons negatively affected by migration, particularly migrants and members of their families in countries of origin, transit and destination, we take into account, where relevant, the considerable experience of the Red Cross and Red Crescent with respect to:

(a) Humanitarian assistance: e.g., providing food, shelter, clothing, health care, first aid, psycho-social support, etc.

(b) Protection: e.g., restoring family links, legal and administrative advice, acting against exploitation and deception, providing information on the risks of irregular migration, visiting migrants in detention with a view to helping improve their detention conditions and their treatment when necessary.

(c) Advocacy: providing the humanitarian perspective to policy decisions, combating racism, xenophobia and discrimination, promoting international norms in that respect.

(d) Integration and reintegration: e.g., reception services, fostering social participation and solidarity (e.g., as Red Cross and Red Crescent volunteers).

(e) Human dignity: promoting respect for human dignity.

Taking into account the negative consequences of large scale influxes as a result of humanitarian crises, international actors should consider the needs of host country communities.

We acknowledge the role of National Societies, based on the principles of humanity and impartiality, and in consultation with public authorities, to provide humanitarian assistance to the vulnerable migrants, irrespective of their legal status.

The ICRC followed this up with articulating its concern on escalating violence in the cities, once again where hordes of migrants converge, and again placed its concern in a humanitarian cask, which means (a) acknowledgement of the phenomenon of migration, (b) partial acknowledgement of the abuse of rights of the migrants and exploitation of labour on the basis of the build up of this reserve army of labour, (c) placing the onus of management of these "challenges" on governments, states, and the international system of governance, (d) and avoiding root causes and the system of gross discrimination and abuse (such as detention camps, sinking migrants' boats, etc.). There is of course need for concern at the way sovereign power is being invoked in order to set up camps all across Europe to keep the migrants and shelter-seekers at bay by way of interning them.

One of the recent reports brings out the nature of these detention centres and camps:

> …They are in railroad depots. They are in old grain stores and recycled factories. Some are brand new; others are in adjuncts of prisons. One is on a ship anchored in the Dutch port of Rotterdam. From Ireland to Bulgaria, from Finland to Spain, detention camps for foreigners have mushroomed across the European Union. They have emerged mostly over the past decade, as the region has grown less and less welcoming to migrants. There are now 224 detention camps scattered across the European Union; altogether they can house more than 30,000 people - asylum-seekers and illegal immigrants awaiting deportation - who are often held in administrative detention for as long as 18 months. In a number of EU countries, there is no upper limit on detention length…
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> The smallest centres hold a few dozen people; the biggest, more than 1,000. A network of them has quietly taken form with little scrutiny and few established norms, sometimes reusing old sites, like Rivesaltes in the south of France, which was one of the biggest French internment camps for Jews during World War II. And they have spread outside of Europe to places like Libya, where Italy builds and pays for detention centres to house migrants it deports.
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> Governments contend that they are trying to manage a bureaucratic nightmare and contain a security risk: the rise of migration by stealth, in which people deliberately hide their identities when it suits their cause and clog up strained asylum systems with dubious claims. The result is a patchwork of standards. Even the best centres are strung with cameras and coils of barbed wire; the worst are infested with vermin, lack medical care and, according to a 300-page study commissioned by the European Parliament, are subject to riots, arson attacks and suicides…
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> Dimitris Vouros, the lone court of appeal lawyer employed to assist refugees on the Greek island of Samos, was among those relieved to see its old detention centre finally closed. Inside it, a year ago, protesting Iranian inmates sewed up their lips with wire.
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> "The new building is like a small hotel inside, but on the outside, half the community of Samos call it 'Guantánamo,'," Vouros said..
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> The psychological impact of incarceration can be severe, particularly for the young. In Denmark from 2001 to 2006 the rate of suicide attempts among inmates was six times that of the Danish population, according to the Danish Asylum Seekers Advice Bureau.
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> Governments are reluctant to admit to their existence, let alone permit entry to the camps… The camps are concentrated along Europe's eastern and southern borders, while a large swathe of them runs east-west through Poland, Slovakia, the Czech Republic and Germany, according to Migreurop, a network of researchers

and lawyers that has mapped the phenomenon. Some of the largest ones are close to Europe's migration pressure points. The biggest is in the southern Italian town of Crotone, with 1,100 places, according to Migreurop; next, says Camilleri, are two in Malta with room for 800 each. The total known capacity for all the "closed" EU camps is 30,871, according to the European Parliament study. When "open" camps, to which asylum-seekers are obliged to return at night, are included, the total rises to 40,979…

The establishment of these centres has failed to stanch the flow of migrants, and Europe is now looking for help beyond its borders. Bilateral agreements, raising concerns about dubious alliances and human rights violations, have given rise to camps in peripheral states like Morocco, Tunisia, Ukraine, Libya and Turkey.

Italy has nonetheless struck a secret accord with Libya, where it has built at least one detention camp and is funding two more…

Now, all over Europe, makeshift measures are becoming permanent by default and under the weight of numbers. A former barracks on Lampedusa, which has neither a secondary school nor a maternity hospital of its own, has been replaced by a giant new center built for migrants rescued in their thousands at sea.

The Netherlands is planning to shift some of its detainees to two floating platforms in 2008. The Rivesaltes camp in France was relocated close to the Perpignan airport in November while in April, Greece opened a new, 374-place centrr at Filakio, a remote village on its northern border with Turkey, that was meant to replace two others, at Vresika and Peplo, that the office of the United Nations High Commissioner for Refugees had requested be closed. But in December Vresika, a windowless grain store in a desolate farming hamlet near the Evros River, contained 140 men to whom a reporter was denied access... With little outside observation, conditions in the camps often fall far below international norms.

Residents of Samos are still reeling from the exposure of conditions in their old detention centre, a former tobacco factory where arrivals were assailed by the stench of vomit, urine and sweat, where sewage seeped into the dormitories and severe overcrowding meant people slept in rows on the floor. It was there that a group of Iranians, frustrated at the length of their detention, staged a hunger strike in 2006. They fashioned needles with a lighter and the rolled-up ring-pulls of Coke cans, and sewed their lips together with wire extracted from an electrical plug…

The average length of detention in camps around the European Union is 12 to 18 months, Rodier said. In France it is 32 days; in Spain, 40; in Italy, 60; and in Greece, three months. Germany has no upper limit for asylum seekers, while a visit to Malta by members of the European Parliament in March 2006 found that some foreigners had been in detention for more than five years…

"They don't send interpreters, doctors, people who can assess the needs of the people entering - there are refugees and people needing international protection… (one expert says), they just think these people are numbers."[12]

The concern has not been of the ICRC alone. The office of the UNHCR (United Nations High Commissioner for Refugees) similarly has come out in recent time with "A 10 Point Plan of Action for Refugee Protection and Mixed Migration". The action plan towards protection of refugees in situations of mixed migration includes issues of cooperation among key partners, data collection and analysis, building protection-sensitive entry systems, reception arrangements, mechanisms for profiling and referral, differentiated processes and procedures, addressing secondary movements, return arrangements for non-refugees and alternative migration options, and finally an appropriate information strategy.[13] Yet strangely the plan begins by saying,

While refugees and asylum seekers account for a relatively small portion of the global movement of people, they increasingly move from one country or continent to another alongside other people whose reasons for moving are different and not protection-related. More often than not such movements are irregular, in the sense that they take place without the requisite documentation and frequently involve human smugglers and traffickers. The people who move in this manner often place their lives at risk, are obliged to travel in inhumane conditions and may be exposed to exploitation and abuse. States regard such movements as a threat to their sovereignty and security. It has become imperative for the international community to address this phenomenon in a more coherent and comprehensive manner. States have assumed protection responsibilities for refugees under international instruments, which it is in their collective interest to honour.[14]

Why are issues of migrants who move from continent to continent not *protection related* as this plan of action thinks, particularly when we know how many of these migrants finally die – in the belly of the containers, on rocked and drowning boats, or perishing on snowfields, or in confinement camps? But more important, why are these movements considered as irregular? Again, here the onus is on the migrant. The humanitarian agencies do not ask if the movements are *irregular* - in view of the fact that these population movements do have *regular* patterns – or they are so only because they lack requisite documentation, and falls short of rules of the official regime of documentation, which decides what is *regular* and not. Flows are mixed not only because moving persons of various categories (refugee, immigrant, asylum seeker, illegal immigrant, trafficked person, escapee of various types) are mixed up in the eyes of an inadequate protection regime, but also because, and this is increasingly so, causes of moving are mixed up. I demonstrated this in regard to trans-border flows from Bangladesh to West Bengal, namely that reasons (violence, pervasive differentiation, gender

persecution, economic motives, gradual climate deterioration, resource wars, etc.) and motives often cannot be differentiated, and therefore the test of law was bound to fail in setting standards for differentiation and judgements.

The reason of governmentality takes the logic of administration further. We have seen that the proposal calls for a new architecture of superintendence over moving populations by way of suggesting, "Effective approaches to the dilemmas of mixed movements will inevitably depend upon full cooperation amongst the key actors concerned: affected states, governmental bodies, regional and international organizations with relevant mandates (e.g. UNHCR, OHCHR, UNICEF and IOM) as well as local and international NGOs. Hence, a first step is to identify and convene such actors in an appropriate forum so that they can exchange information and establish terms and conditions for cooperation and coordination. The convenor of such a forum would preferably be one or more of the affected states but an international organisation can also play a 'good offices' role in this respect" (Article 1). The plan also suggests data collection and analysis, and such data "Such data should typically include information relating to conditions in countries of origin, motivations for movement, and modes of transport, transit routes and entry points. An international or regional organization may be well placed to offer support for this function" (Article 2). With this being once again an inter-governmental body, such a migration-watch tower can be only another name for intelligence gathering. The nature of the suggested architecture of security (in name, "human security") gets clearer when the plan calls for mechanisms for "profiling and referral" (Article 5). In name it can be for profiling vulnerability and vulnerable groups, groups deprived of the rights enshrined under the two International Covenants on the Civil and Political, and the Social and Economic Rights move from one place to another, but the data will be of enormous importance to state parties, organised inter-governmental policing bodies, and the cordon-regimes of the first world. Likewise the plan calls for an "information strategy" (Article 10), and once again calls for "expeditious return" of "non-refugees" and "alternative migration options". As we all know from our own experiences in South Asia and elsewhere that in name of "expeditious return" we have *forcible return*, or in cases where the escapees or thrown out population groups want to return, they have no "right to return", enshrined under the UDHR (the Universal Declaration of Human Rights). Thus partition refugees could not return, the South Bhutanese refugees in Nepal cannot return to Bhutan, the escapees of violence in Gujarat in 2001 could not return to their villages, and thus *return* remains the most arbitrary subject in national and international governance of population flows.

The Inadequacy of Earlier Definitions and the Changing Nature of Humanitarian Response

I believe we have to devote little more time to see why the "unruly" phenomenon of migration flows and the specific nature of governmental responses at national and international levels to population flows are integrally connected to each other. But it is not only that. This is a situation where governments and international humanitarian administration find old concepts unworkable and old definitions inadequate. It is not that governments do not want population injected into the national societies from outside. Each year, western governments declare quotas for the skilled (in particular ways) labour that they will accept. Scientific personnel, programmers and other software people, teachers, nurses, construction workers, baby care specialists, and various other kinds of immigrants are in demand. But how would the governments get them? People come in all ways – and not the least that when specialists from the South find no other way to get in, they opt for asylum seekers' status. Climate change and environmental disasters again mix up many situations, and as the CRG study on the pattern of care in India after the Tsunami struck in 2004 showed,[15] vulnerability once created persists for long, and in such situation pre-existing vulnerabilities get deeper. Thus, in such situation, issues such as, the distinctive status of the refugees and asylum seekers, protection mandate of various agencies, comprehensive approaches, balancing individual rights and national interests, etc. make increasingly little sense. The situations are those of mixed nature, overlap of primary movements and secondary or onward movements, human trafficking in labour and sex, smuggling of bodies, migrations defying durable solutions – and all these are characteristic of not only trans-border population movements, but movements within countries also; similarly they are characteristic of the mixed nature of the responses, often ambiguous, desperate, and enveloped in the ideas and language of security. Thus, while the 10 point plan of action earlier mentioned says that non-refugee migrants do not need refugee status, the UNHCR in its discussion paper not only admits such need, but admits that a refugee movement can transform to mixed movement also (Section 4, paragraphs 41-43).[16] Where is the scope for making neat categories and commensurate governmental policies and decisions?

In fact we can see how mixed population flows create unmanageable semantic confusion for policy makers and planners. Who are refugees and who are the IDPs? Likewise, who are the refugees and who are economic migrants? And if these two are not enough, who are refugees and who are persons displaced as a consequence of natural disasters? Finally, who are refugees and who are illegal immigrants and trafficked persons? Would the principle of *non-refoulement* be enough to satisfy the humanitarian criteria? And what shall we say about the paradox of breaking the law in order to meet the criterion of the legal status of a refugee? Clearly the ethics

of asylum politics tells us little on these dilemmas for policy makers.[17] Jurist Patrick Hoenig speaks of four dilemmas in this context –

    (a) The dilemma of defining who is a refugee;

    (b) Te dilemma of legal protection versus material assistance;

    (c) The dilemma of shared responsibilities;

    (d) And finally, the dilemma of what he calls the "unravelling consensus" by which he means the limits of the ability of international law to do much in situations of mixed migration till it is backed by consensus.[18]

With regard to the first dilemma Jurist Hoenig notes that whatever may have been the efforts in the international field in terms of widening the scope of protection under the 1951 Refugee Protection Convention Regime through subsequent efforts such as the OAU Refugee Convention (1969) and the African Charter of Human Rights or the Cartagena Declaration (1984), these efforts are now of limited relevance in the present context of massive flux. In his words, "A more realist inspired school of thought argues that individual refugee determination procedures are impractical in mass influx situations resulting from conflict. They say the conferring of refugee status should be replaced by summarily granting temporary protection to civilians affected by the outbreak of large-scale violence. But how do policies of limited commitment translate into strategies of community-building?"

With regard to the second dilemma he says, "In an apparent attempt to undermine the protection afforded by the Torture Convention, hardliners in Europe argue that government assistance for housing, clothing and food should be cut to those excluded from refugee protection (Art. 12-34 of the 1951 Convention provide for juridical status, access to gainful employment, welfare, freedom of movement), but protected from *refoulement* under the Torture Convention to force them to leave the country of refuge. But is such an approach reconcilable with the safeguarding of human dignity?"

With regard to the third dilemma he comments, "The fact remains that nations with per capita incomes of less than US $ 2,000 host more than two-thirds (71%) of all refugees, while nations with per capita incomes of more than US $ 10,000 are hosting just 5% of the world's refugees. What do such figures say about the prospects of international solidarity as solidarity as a guiding principle for human coexistence?"

With regard to the last dilemma his incisive observation is, "International law rests on consensus, constituting a system of collective security. It works on the assumption that almost all states follow almost all norms of international law almost all the time.

Compliance with international law and reliance on compliance are mutually reinforcing. Now what you have in asylum and refugee policy in northern countries is characterized by a kind of organized hypocrisy. For many northern countries the standard for judging performance on responses to forced migration is not the protection of the rights guaranteed under the 1951 Convention, but the achievements of immigration officials in driving down the numbers of applications, resulting in the fencing of borders, interdiction and detention of migrants, restrictions of visa and use of biometric data for border control purposes. By the end of 2004, the top ten receiving states of refugees, in terms of proportion to the population, were (1) Armenia, (2) Chad, (3) Serbia and Montenegro, (4) Djibouti, (5) Democratic Republic of Congo (DRC), (6) Tanzania, (7) Iran, (8) Zambia, (9) Guinea and (10) Denmark. Arguably only two out of the ten were developed states. The drawing down of standards enshrined in the 1951 Convention by northern countries bodes ill for the acceptance of international protection regimes in countries of the Global South which host much larger numbers of forced migrants. How will the erosion of international human rights standards affect the discussion about the universality of post-colonial international law?"

At the bottom of the absence of any answer to any of these four posers, or the confusion and directionless responses - which of course whatever it is will never forego considerations of what they think to be the issue of "security" - is the question of what we have decided to be the norm. In the concluding chapter of the first volume of *The Materiality of Politics* (*The Technologies of Rule*), referred to at the beginning of this essay, I showed how the figure of the migrant was built up as that of the abnormal in the Northeast through century long discursive and institutional practices, and how that figure congealed the histories of enmity, hatred, violence, colonisation of land, militarization, and extremely physical accounts of bodies enmeshed in bloodshed. But, it also means, that in each of these discursive and institutional acts to pose the migrant as the abnormal, a norm had been laid down, norm that the migrant was violating. Moving about is pathological; settling down was normal. To have national, ethnic, religious, clan, village, identity articulated in fixed territorial terms is the normal, which population groups must not violate. Likewise and this is more important in this age of globalisation, labour flows must not be directionless, they must conform to the ways the ruling regime of division of labour has laid down. That is normal. The reserve army or the army of surplus labour must conform to the institutional rules of the labour market. All these explain the incredulity with which the national and international governments hear of ever new waves of population entries braving the seas, lands, and skies, into the Northern hemisphere and other regions. These massive flows are rocking social sciences, which were all built on a certain idea of the *social*

space, and which have no clue as to how to comprehend this figure of the migrant knocking, and now banging the heavy doors of settled states, formations, villas, forts, castles, and camps. At the end of the colonial era, people have begun to ask the West, what rights it has based on its culture, politics, economy, or law, to refuse them entry? Is it because the West is more enlightened, more civilised, and thus all that the ex-colonial people can get is humanitarian protection? Why cannot they have access to the fruits of Enlightenment, its actual possibilities and freedoms, and most of all, why cannot they question this limit?

To understand the genesis of the "normal" that has produced the abnormal figure of the migrant it is not enough as I attempted earlier to write the history of the emergence of the figure of the migrant, we have to note three things in this history: (a) the theme of discontinuity in our way of thinking; thus discontinuity in the way we thought of settlement, state, government, space, etc; (b) it is necessary to understand that histories of enmity are real, the "contradictions among people" - to use a phrase from Mao – negate any mythical account of a truthful discourse of a region or a group; and finally (c) all histories, particularly histories of living beings, have their internal constitution based on concepts, norms, internal regulations, cellular structures, environment, perversities, and monstrosities. This is as Foucault learnt from Georges Canguilhem, the secret of the normal and the pathological. Indeed, this is how Canguilhem ended his celebrated book,
Our sketch of pathology is obviously a fiction. The analyses for which it substitutes can be rapidly reconstituted with Plato's help:

> "Yet that we say literally – we say that the physician erred, and the calculator, and the schoolmaster. But the truth, I take it, is that each of these in so far as he is that which we entitle him never errs; so that speaking precisely, since you are such a stickler for precision, no craftsman errs. For it is when his knowledge abandons him that he who goes wrong goes wrong – when he is not a craftsman."
> Let us apply what is said above of the doctor to his client. We shall say that the healthy man does not become sick in so far as he is healthy. No healthy man becomes sick, for he is sick only so far as his health abandons him and in this he is not healthy. This so called healthy man thus is *not* healthy. His health is an equilibrium, which he redeems on incentive ruptures. The menace of disease is one of the components of health.[19]

This is how the society of the settled with its pre-ordained division of labour wants to return to equilibrium, when the patient has been cured of the problem. Normalcy has regained. The abnormal figure of the migrant is today upsetting all rational ways of ordering life and economy – managing a normal society. Governing the migrant has become today a task of attending to pathology. Here we must understand that the governmental technologies we see today throughout the modern world to control immigration would not have emerged had it not been possible for the state to treat the immigrant, particularly the illegal immigrant as abnormal. But this was not

merely a discursive achievement for the state. The discourse of abnormality was produced in fact from real life events, as we find in India also today. But I want to refer to an event recorded meticulously by a historian of immigration in France, who showed how the following event in Paris produced the figure of the migrant as abnormal,

> The hesitation of progressive politicians ended in late 1923. At 4:30 p.m. on November 7, an unemployed, homeless man, a Kabyle from Algeria, entered a grocery store at number 43 on rue Fondary in the fifteenth arrondissement. Khemili Mohamed Sulimane grabbed the grocer's wife - a thirty-year-old Parisian-born woman named Jeanne Billard, and dragged her out into the crowded street where he threw her to the ground. Brandishing an enormous kitchen knife he had stolen hours earlier, he kneeled over her, tore off her right cheek, and slit her throat, severing her left carotid artery. Covered in blood, he turned next to Louise Fougere, who was waling her eight-year-old grandson, Emile, home from school. Sulimane stabbed her. She collapsed, dying on the spot, and it took a quick thinking neighbour to save little Emile by pulling him through her ground-floor window to safety. Sulimane ran across the street and slashed two more people: a young mother, who dropped to the ground, clutching her child, and a thirty-two-year-old shoemaker from Romania. Finally, while Sulimane stood menacing a group of schoolchildren, a construction worker entered the fracas and heaved a paving stone, distracting the madman until a pair of police officers arrived on bicycles and shot him. By the end of the sanguinary episode, two women had died and two more were taken to a nearby hospital for treatment. The Algerian was also taken to the hospital and treated for gunshot wounds to his hands and stomach.
>
> The double murder dominated newspaper headlines and set off a series of popular disturbances. Shortly after the murders, an unruly crowd tried to lynch an unsuspecting Algerian who happened upon them. Petitions circulated demanding that "undesirable" elements be "expelled" from the neighbourhood. Long articles recounted the lives of the young Billard couple. Recently married and struggling to make ends meet, they had moved into the diverse Grenelle neighborhood from the suburbs about a year before. Camille Billard, the grocer husband, had taken a second job at a nearby brasserie to earn extra money. Reporters tracked down witnesses who claimed that Sulimane took advantage of Camille Billard's absence to woo his wife, frequently stopping by the store to profess his love for her. According to the newspapers, Jeanne Billard treated Sulimane generously, sometimes giving him leftovers from her table, but she consistently rejected his advances.
>
> The theme of the invading, libidinous colonial subject laying waste to "la douce France" could not be more stereotypical. The whole story sounds too farfetched to be true. The press undoubtedly

garbled some of the details, and vulgar prejudice distorted a number of articles. Prurient editors, however, cannot be blamed with dreaming up the entire episode, for much of the story never became public. The precinct report included the testimony of a woman who told the police that she had been present in the Billards' store a few days earlier when Sulimane entered and unleashed a torrent of profanity. Moreover, the building's concierge corroborated published reports that Sulimane had been pursuing Mme. Billard for some six months, loitering in the street and hanging around the store. When the police asked Sulimane what could have motivated such a horrific crime, he replied simply, unrequited love. One reporter quoted Sulimane as saying:

> My lover for Mme. Billard completely changed my life. I could no longer work, eat, or sleep; my existence without her became impossible. I told her over and over again, but, each time, she burst out laughing and threw me out. Yesterday, I went again to beg her to come with me: she brutally rejected me. So I struck.

Whatever the true nature of the killer's feelings for Jeanne Billard, news that an Algerian man had murdered two French women and wounded two others in broad daylight outraged popular opinion and inspired a tremendous response from authorities.

The Foundary murders dominated newspaper headlines as the Moroccan rebel leader Abd el-Krim inflicted a series of stunning blows to the Spanish army in the Rif war, leading to a putsch and the rise of General Miguel Primo de Rivera's authoritarian regime in Spain. The French Communist Party (PCF) only became a mass party at the time of the Popular Front, but it exerted a powerful influence much earlier, especially on colonial matters. The newly formed party energetically supported Abd el-Karim's rebels, especially as it became clear that they would soon attack French positions. Against the "bankers' and capitalists war," they demanded "recognition of the independent Rif Republic." Soon after the rebel leader had demanded complete independence on 10 September 1924, Jacques Dorior and Pierre Semard wrote a telegram encouraging Abd el-Karim in the name of the French Communist Party, and Dorior toured the Hexagon in an effort to stir up hostility to the war.

Communist protests outraged Socialists such as Mouter, making them increasingly willing to work with their erstwhile enemies on the right in supporting coercive measures. That willingness only increased with the formal establishment in 1926 of Messali Hadj's Etoile Nord Africaine, an Algerian nationalist movement with close ties to the PCF; nationalist uprising in Indochina, leading up to the revolt at Yen Bey in 1930; the emergence of independence

movements in Tunisia, Egypt, India, and elsewhere; and the advent of the Turkish Republic.

Authorities feared that Communists and nationalist revolutionaries would exploit the freedoms of the metropole to prey on Paris's growing colonial proletariat, and then export revolution overeas. A latter report explained: "Without Paris, Muslim agitation in the three North African territories could be easily contained."

Shortly after the murders, in March 1924, the Radical minister of the interior, Camille Chautemps, created a special commission to prevent any sequels to the bloody episode, and especially to keep order in Paris. He called together representatives from his own Department of Algerian Affairs as well as others from the Ministries of Colonies and Labor, and the Municipal Council of Paris to devise a strategy to restrict Algerian immigration and to provide assistance to those who, inevitably, would come anyway.

Fearing that a complete ban on North African immigration would incite rebellion in the French colonies and drive immigrants into the arms of the Communist and nationalist opposition in the metropole, the Chautemps commission took advantage of France's colonial authority to impose a series of administrative hurdles that significantly limited freedoms guaranteed by existing legislation. The assembled officials, of various ideological orientations, voted unanimously to require all passengers travelling from Algeria to the metropole in third or fourth class to obtain a contract, approved by the Ministry of Labour; undergo a physical examination from a government doctor before departing, in order to rule out tuberculosis; and to prove their identity by presenting specially created identity cards with photographs.[20]

Clifford Rosenberg, the historian, went on to show in his account how events like this were used by colonial authorities to give shape to their immigration policies, precisely when part of the colonial political class voiced humanitarian concerns also in order to institute some protection measures for the immigrants. Humanitarianism developed as part of this scenario. As a clinical task classical humanitarianism wanted to change the soul of the "abnormal", therefore there were educationists, pedagogues, missionaries, administrators, and thinkers how to reform the abnormal societies. Modern humanitarianism has to combine the old techniques with new ones of care, protection, information gathering, interference, intervention, and invention of a skewed theory of sovereignty, a one-sided theory of responsibility, and the gigantic humanitarian machines which work like trans-national corporations (TNCs). In practical terms this means managing societies that produce the obdurate refugees and migrants to stop them from leaving the shores, to keep them within the national territorial confines, and eventually to manage societies in "an enlightened way". On the conventional humanitarian way the West treats Africa, Binyavanga Wainaina recently wrote on "How to Write about Africa",

In your text, treat Africa as if it were one country. It is hot and dusty with rolling grasslands and huge herds of animals, and tall thin people who are starving. Or it is hot and steamy with very short people who eat primates…

Make sure how Africans have music and rhythm deep within their souls…

Among your characters you must always include The Starving African, who wanders the refugee camp nearly naked, and waits for the benevolence of the West. Her children have flies on their eyelids and potbellies, and her breasts are flat and empty. She must look utterly helpless. She can have no past, no history; such diversions ruin the dramatic moment. Moans are good…

Describe, in detail, naked breasts (young, old, conservative, recently raped, big, small), or mutilated genitals, or enhanced genitals. Or any kind of genitals. And dead bodies. Or, better, naked dead bodies. And especially rotting naked dead bodies…

You will also need a nightclub called Tropicana, where mercenaries, evil nouveau riche Africans and prostitutes and guerrillas and expats hang out…

Always end with Nelson Mandela saying something about rainbow or renaissances. *Because you care*.[21] (Italics mine)

These representations have gone hand in hand with law-makings, regulations, directives, new manuals about care, camps, shelter, food, water, and medicine, while even more initiatives have been taken to *anticipate* the arrival of migrants in order to keep them at bay, and therefore to build up specially trained forces to prevent the latter's entry. One recent report prepared by the European Council on Refugees and Exiles (ECRE), "Defending Refugees' Access to Protection in Europe" has pointed out facts about how Europe's external borders are managed, and how a special agency (FRONTEX) has been raised to preserve these borders; likewise the report points out inconsistencies between the Schengen Borders Code, the EU Asylum Procedures Directive, and the International Human Rights Laws including the International Refugee Law. It also tells in details new techniques of pre-frontier controls (visas, carrier sanctions, posting immigration liaison officers at airports, biometric methods and information databases, and measures to "control trafficking and smuggling"). There are now developed methods for interception at sea in the name of rescue, border monitoring to thwart the immigrants, and managing land, sea, and air borders to keep away the people come as stowaways, or through tunnels, or in the bellies of ships…[22]

A careful look into the post-war history of humanitarianism will tell us that the problem of the "dark sides of virtue" has been there from the beginning when the international inter-governmental community and humanitarian lawyers and administrators had first started taking steps for instituting measures of protection of refugees and asylum seekers. David Kennedy shows us, how the ethico-political problem of taking care of the

forced migrants was from the beginning disaggregated through the creation of several categories so that governing the work of protection became easier.[23] Thus we got the distinct categories such as refugee, asylum seeker, displaced, unwanted and illegal immigrant, individual status determination, national law, international convention, protection, rehabilitation, resettlement, permanent solution, repatriation, convention refugee, mandate refugee, temporary status, humanitarian emergency, the office of the High Commissioner, the Convention, etc. And while these distinctions were often difficult to substantiate, lawyers versed in international law or different national legal systems crowded the UNHCR office rooms to prove the distinctions, craft strategies on that basis, but only to succumb to political imperatives in finally deciding what strategy to adopt, for instance repatriation, return or third party resettlement? Where did remain the place of human rights and humanitarian ethic in a choice as this? We should not be surprised therefore that ethical calls and legal profession merged in the post-Second World War situation in creating the structure of humanitarian administration where many of the tasks had to designed anew. But this ethico-legal complex could not stop the discriminate use of humanitarian standards in protecting refugees. In a series of detailed studies on use of refugees as resources in war, the use and abuse of refugees in a country like Zaire, the legal and normative dimensions of the manipulation of refugees, the geopolitical orientation of the response of the international community and the Pakistani state towards the influx of the Afghan refugees in Iran and Pakistan, a group of authors show how a well established international institution, the refugee protection regime, which has tried to provide safety through the years to victims of violence, war, aggression, and persecution has been cynically used by states, warring parties, big powers, and the international community to further specific interests in ways that have exacerbated suffering and the victims' vulnerabilities.[24]

In view of the emergence today of this pattern of mixed flows of various population groups, we are not only witnessing the return of a pattern that was normal in the nineteenth century and almost half of the twentieth, that is before the advent of the well ordered and neatly grouped flows of the victims of forced migration, we also witness a return of humanitarianism though the mark of time is present on the body of the new humanitarian ethic. For instance, destitute, unwanted, wretched, and impoverished Englishmen and women in ship and ship would reach after long harrowing journeys the shores of South Australia, where for many survivors the "Destitute Asylums" would be waiting; and the survivors, particularly girl and elderly female survivors knew that this was a world they could enter but never come out of. The destitute asylums set up by charity institutions and sometimes by the government were among the late Victorian and Edwardian prison-like houses, which would include other asylums such as mental asylums, pubs, correctional homes, and ghettos. Hosted and housed there, the destitute immigrants including gold and coal miners would shape the destiny of the new world for nearly one century. In this arrangement we

have not only the story of forced migration in the nineteenth century, but also the story of humanitarianism, which led to the establishment of countless destitute asylums all over the world.[25] As I have said, the humanitarian institutions have changed their style and organisation; the ruthless realism (which would induce a charity house to inscribe on the front wall, "Forget your past, this is a closed wall"), which was the mark of the humanitarianism of the nineteenth century professing to rescue the soul of the damned, is no more displayed. The victim of forced migration is now an active body, whose soul no longer needs to be saved as the destitute, wretched body would soon and inevitably die, but this is now an unruly body requiring management and control. This is the point where the migrant emerges as the subject.

The Migrant as the Subject

What has this unruly subject in the figure of the migrant done to the forces of the settled and the civilised world to invite wild cries of threats to security and thus these acts of preventive aggression? I have said that s/he bangs, or at least knocks at the door of civility, tranquillity, prosperity, and the ordered world of markets (including labour market). I have also said that s/he represents the abnormal in our societies. But this is not enough; there are more to this figure, as we shall see soon. One of the biggest problems the figure represents is the way s/he interferes and disturbs the ordered circulation of labour, capital, and bodies. It is not that the modern global economy does not want "free" circulation of commodities including the commodity called the human body and the human labour power. Yet, it is free only in the sense in which the market wants these circulations, and not unruly circulations, which disturb *economy*. Freedom is thus a space of negotiation only under a regime condition, and that is where the insecurities haunt those who call for freedom: what would happen if there are too many mouths to feed, if there are too many claimants for the bread and water, and more anxiously, what if bodies mix too much resulting in mixing of blood, networks, communities, hamlets, houses, order of descents, and genealogies? Care as *ideology* has thus always been accompanied by racism, xenophobia, and control techniques.

This figure also threatens the institution of border and along with it the boundary-making exercise, one of the eminent control techniques. By itself boundary making is nothing new, nor feared; it is like difference – a practical thing of life to be negotiated by practice, in practice. But border is a theological institution, it defines territorialized landscapes, epistemic perspectives, and sets up the regime under which mutations of capital and labour go on. It sets up the parameters of the organisation of power, which will then determine points of reinforcement and crossing or transgression. Borders are crucial for capitalist development – possibly more so today, *when capital needs global mobility, but the reserve army of labour building up on a global scale*

must be retained in harness in a national form. Borders thus shape labour markets. What will then happen to the moving bodies?

It is here where we are entering a completely new terrain. In a situation, where the entry of a mass of human bodies as labour is not enough for capital because the capitalist reorganisation of labour market does not have endless freedom and this reorganisation has to operate along certain lines (which are not economic only), and the limits are evident in the form of control of migration, labour is the link between the bare body and the sovereign power. The critical point here however is that this body as the repository of labour power must be reproduced as the free juridical subject, known as citizen. Even though the production of the labouring subject has its dark and illegal side, often representing what we have come to call the primitive mode of accumulation, and this complicates the scenario, yet by and large the reorganisation of labour market must happen with a free juridical space, and that is where space as *territory* becomes critical to capitalism. It helps in the multiplication of labour, at the same time retains the heterogeneity of the global space of capital without which global domination of capital is impossible. What all these imply in simpler terms is that labour flows, which migration flows are ultimately are, must be controlled and regulated with laws and governmental techniques, though these techniques have to be underwritten by a capitalist rationality, which must be housed and sourced back therefore to a sort of sovereign power. Consider this report, which is typical and hence exemplifies the problematic we are discussing here:

> Nowhere is the pressure on the European Union's borders mounting as insistently as in this northernmost corner of the Aegean Sea across the river from Turkey.
>
> With the help of smugglers, dozens of migrants breach this frontier daily on foot, in plastic boats, by swimming, or crouched inside empty oil tankers or secret compartments of trucks.
>
> In its zeal to secure the border, Greece is being accused of serious lapses in human rights and ignoring treaty pledges that bind it to give haven to refugees claiming protection - rights established under international conventions….
>
> Would-be immigrants - Iraqis, Palestinians, Afghanis and others - are arriving here in numbers bigger than ever before. Their ranks are swollen by a "huge and very sudden influx" that began in September, according to Pangiotis Papadimitriou, the border monitoring officer for the Office of the United Nations High Commissioner for Refugees.
>
> Waiting for the new arrivals are the police. Refugees' lawyers say many migrants are secretly forced back, without being given the chance to request asylum. "It is illegal, illegal, illegal," said Evgenia Papanastasiou, a refugees' lawyer in the northern Greek city of Kavala who has 19 years of experience in criminal law. In October, two private groups, Pro Asyl, based in Germany, and the Group of

Lawyers for the Rights of Refugees and Migrants, based in Athens, made a similar accusation, adding in a joint report that the Greek Coast Guard was pushing back migrants' boats at sea.

The police and the coast guard vehemently deny the allegations and say that those who require asylum can request it. Under Greek law, it is a crime for public servants to expel forcibly any person needing international protection.

The land border between Greece and Turkey, two historically antagonistic nations, extends for 182 kilometers, or 114 miles, tracking the Evros River, which the Turks call the Meric, down to the Aegean Sea. For 11 kilometers, where the river temporarily parts with the frontier, the soil is studded with land mines - a legacy of old enmity. That does not deter migrants, who travel from as far away as Myanmar and Bangladesh and whose bodies are occasionally found in the minefields...

Tens of thousands of migrants try to cross the EU borders every year. But while the numbers of arrivals have plunged in the Canary Islands this year and stabilized in Malta and the Italian island of Lampedusa, along the Greek-Turkish border they are on the rise.

In the district guarding the southern half of the Evros border with Turkey, the border police headquartered in Alexandroupolis arrested more than 15,000 migrants in 2006, and 13,869 through Oct. 30 this year, about four times as many as in 2005, when 3,706 were arrested...

"This is the EU border, and our job is to help the rest of the countries that are behind," Anestis Argyriadis, chief of the border police in Alexandroupolis, said in an interview this month. "The problem we face as Greek police is the problem of the entire EU."

The influx of displaced civilians is putting Greece's humanitarian resolve to the test. In many ways the nation is ill-equipped to handle the challenge. Its coastline is dotted with thousands of islands that are impossible to patrol, while its asylum procedures are rudimentary…

"The job of the police, the foremost goal, is to safeguard our border so migrants don't enter illegally, and as a consequence, to arrest them," Argyriadis said.

Undocumented migrants are held in administrative detention for three months. Members of the European Parliament who visited one such center on Samos in June described its conditions as deplorable; it stayed open for another six months. The Greek Interior Ministry would not allow a reporter access to detention centers there or elsewhere. A number of lawyers for refugees say that the Greek police and army are secretly and illegally expelling migrants, some of whom are not even registered or given the opportunity to request protection. They say that these deportations take place at night, in small plastic boats, across the Evros River...

> Mariana Tzeferakou, a refugees' lawyer in Athens, said that illicit deportations along the Evros were an open secret and had been going on for a decade…
> In April, the European Commission sued Greece in the European Court of Justice over its asylum processes. Greece lost.
> Spindler, the spokesman for the UN High Commissioner for Refugees in Geneva, said the agency did not want Greece to lose sight of the need to offer protection.
> "We understand the need to police the borders and combat illegal immigration, but you have to bear in mind that sometimes people cross borders without documents for very valid reasons," he said. "You have to leave the doors open for those people."[26]

Thus managing Europe's external frontiers or Australia's "Pacific Solution" style camps, and the combination of humanitarian protection and border controls by police-military methods in the frame of policy are not symbols of pure governmentality, nor pure economic techniques. They form the terrain of the merger of the governmental and the sovereign power, and specifically they represent a technique of power, namely differential inclusion of labour in world market, hence a differential global migration regime. This logic operates within the national economic space also. Here too labour is incorporated differentially – hence we have internal displacement at a massive rate, special economic zones, at the same time the contestation of the borders and boundaries practised daily by subjects in transit. The migrant as the subject thus epitomises the conflicts and challenges around the border, which functions as a terrain of differential inclusion. This was in brief my study of the flows on the Bangladesh-West Bengal border, though I could not adequately theorise my empirical findings then; I could not do so in my subsequent study also when I concentrated my research into the emergence of the figure of the migrant as the abnormal. This figure demonstrates, the border is not a mere object of analysis, rather a strategic method by which social relationships are being continuously reconstituted in a world guided by economic rationality. Of course this economic rationality produces its other, the figure of the migrant worker, often *the illegal migrant*, the incomplete juridical other of economics. Therefore reports like the one produced below have much to offer in terms of analysis:

> Twenty-four Indian men, two of them too young to shave, were sitting under the fake palm trees in the transit zone at the Dubai airport, dressed in track suits like a sports team - but one dejected by loss. The 24 were making the last leg of a journey home to the farmlands of Punjab. They had not meant to return so soon. Most had left six or nine months ago on a desperate voyage along the newest route of migration from Asia to Europe, going by plane to the Middle East, then across Africa and by sea up the west coast toward Europe.

But the voyage ended in disaster, leaving them stranded in a dismal warehouse in Mauritania. Now they were being escorted home. As they headed home they told the painful tale of their failed migration, just a few stories from the vast global saga of people in motion. Some spoke of horrors at the hands of people-smugglers - drug injections, beatings and knife-fights in the dark hull of an ailing ship. Yet, for all the fear and privation, there was scant relief in their return to their villages and farms. Ahead of them lay shame, vanished livelihoods and insurmountable debt…

Farmers, shopkeepers and taxi drivers, these men are all victims of a criminal network that profited from their need to survive. Misled wholesale by gang members who recruited them where they lived, they were promised a quick and safe passage to Europe, with no mention of Africa or any journey by sea.

With the active support of their families, the Indians borrowed against everything they owned to raise the average $7,000 fee for a trip to Europe in the hope of few years' work abroad. Now the individuals were returning with just $500 each from an aid agency.

Smugglers "gave us a visa to go by airplane, not by ship," said Davinda, who claimed to be 18 but looked younger. "They said it would take three days and it took six to nine months, and they behaved like Ali Baba."

The 24 were reluctant to give any details about the smugglers. Nervous after facing so many threats, they also asked that their full names not be given…

Although affectionate among themselves, the men were mistrustful about the world they were negotiating after their ordeal. Fearful of being robbed on the way, the men time and again sought assurance that they would be accompanied, as planned, right through the New Delhi airport by Khaled Qadir, a representative of the International Organization of Migration...

The migrants left India on separate journeys and landed in Africa, where they were among nearly 400 men rounded up by smugglers and ushered onto a boat. Their decrepit shrimp trawler, the Marine I, meandered at sea for 11 miserable weeks until it was rescued in international waters between West Africa and the Canary Islands of Spain, and towed to safety on the coast of Mauritania.

After first withholding their names and nationalities, most of the larger group began to identify themselves and volunteered to go home. Issued temporary travel documents, the 24 are among 161 Indians whom the International Organization of Migration has now repatriated...

Ajay said he was on one of the last boats to reach the Marine I. He estimated that 330 men - Sri Lankans, Bangladeshis, Indians and Pakistanis - were already huddled in the hold. The heat grew stifling.

There were no sanitary provisions and with the men below deck forbidden to come up for air, tensions quickly arose…

After weeks at sea the ship was buzzed by surveillance aircraft and at that point the captain took off, ostensibly to bring back food. The passengers never saw him again.

A Spanish rescue vessel towed the ship to port, where the migrants spent weeks playing cards and doing aerobics classes run by the Red Cross. Time and again the men expressed their gratitude to Spain. 'The Spanish saved our lives," Naresh said.

But in the shelter, it slowly dawned on them that they would never make it to Europe. …The roots of their tragedy in Africa developed in India, where for most of them their families had bought into their dreams of a passage to Europe. The men borrowed against their houses, their shops or the farms passed down the generations…Deepa, 24, a taxi driver who wound up trapped in a house in Conakry, the capital of Guinea, for 18 months, had earned 2,500 rupees, or $60, in Punjab. Lured by the promise of earning $800 a month as a driver in Europe, he pawned his taxi and his home. Ajay was sold a promise made by an agent he met "through a friend." The man told him that European immigration would never grant him a visa, whereas the agent could get him to Italy "in two or three days."…

Ajay… is an experienced migrant, having worked for two years in a fast-food chain in Kuala Lumpur before returning to be married in Punjab. In Malaysia he made $200 a month and sent most of it to his family. He had counted on earning more in Europe…[27]

Since this method does not remain unchallenged, hence in real world we find a number of associated concepts such as frontier, borderland, boundary, etc. because bodies are continuously trying to displace borders. Bodies and borders characterise today's the two interdependent but opposite poles of global mobilities.[28] These mobilities not only signify the changing relation between labour and power in a global frame; they also signify the contest in a terse way. They show that while the administration of migratory flows seeks to control these population movements in a way so that they remain congruent with the ruling pattern of differential zones of mobility, the mobile subjects refuse to be governed in such a way.[29] They refuse to be the docile subject, who can be called as the disciplined labour. The mobilities are characterized by interruptions, discontinuities, hiding, disappearance, turning back, long stopovers, layovers, frequent shuffles, shuttling back and forth, and sudden emergence in a labour market, which can be termed only in terms of its discrete nature marked by the borders of the states and boundaries of metropolis-periphery relations. This is how the migrant as the labouring subject is inserting herself but only as a thorn in the flesh into the global organization of power.

The response as we know now is ideologically in form of a humanitarianism, which differs from its classical form in the sense

that it now presents a certain form of ethics as a universal model for discipline, care, and segmented existence. This new form of ethics did not arrive suddenly. It will be easier to understand the backdrop of new humanitarianism if we keep in mind the evolution of a variety of immigration control practices of the modern capitalist world. Long back in 1973 Stephen Castles and Godula Kosack in their famous and pioneering study on the relation of immigration to the European capitalist economy commented, "In Britain immigration has come to virtually synonymous with black person in popular usage. In France, the term 'immigrant' is used even for temporary foreign worker, for they are all regarded as potential settlers. In Germany and Switzerland immigrants are officially referred to as foreign employees or foreign labour…'alien worker'. In Germany this term was used generally until 1945. It has since become disreputable, because of the way it was used by Nazi propagandists…as 'sub-human'. The term, 'guest-worker'…sounds more hospitable. However even this expression is not without ideological overtones. Guests are not normally invited to do the jobs, which nobody else wants. Moreover calling a person a guest implies that he is expected to stay only for a while, and not to settle permanently".[30] Castles and Kosack demonstrated how migration was linked to segmentation in labour market and the solidification of a quartered city with housing localities reflecting the segmented nature of the labour market. They discussed education, training for adults, housing, and problems of adaptation. And, this is how they summarised their study,

If today some of the workers of the underdeveloped countries are brought in Western Europe because it is more convenient for capitalism to exploit the here than at home… The immigration of manual workers to Western Europe has been described as colonisation in reverse. The immigrants are given the jobs that no one else will do. . Immigration helps to give large sections of the indigenous working class the consciousness of a 'labour aristocracy.'…

The change in the class consciousness of the indigenous workers has gone further than the changes in the actual conditions would justify… Indeed as we have seen many workers have lost through immigration… But by bringing in workers from outside and compelling them to accept social and economic conditions inferior to those of other workers, it has become possible for the ruling class to promote the feeling of being in a privileged position among the majority of the working class….

Workers who regard immigrants as inferior to themselves and who tacitly support their exploitation are victims of a false consciousness…[31]

Immigration studies have developed further in these years. We have now a clearer idea of the development of the immigration policies in Western Europe – the discriminatory controls and the policies to reorganise the labour market from time to time on the basis of segmentation along lines of region, religion, colour, gender, etc. Thus Irish migrants in Britain (1840-1922) were necessary for industrial production, military and para-military work, constabulary etc., but they symbolised the religious threat. Poles in Germany (1870-1940) were a threat to the nation. Italians in France (1870-1940) were a threat to native workers (the years are only symbolic reminding us of important political events; they do not indicate any sharp mark of the beginning of a different condition). But seen in today's perspective these were old threats. The differences were soon ethnicised and racialised. German elite thought that the Poles were a Slavic people racially different from the liberal West Europeans. Likewise the Irish were often pictured as a wild Celtic tribe whose morals and values differed fundamentally from the British, and many doubted if these innate traits would ever change over time. Italians were "macaronis", considered to be rough, brutal, and violent, they were all "Neapolitans", permanent nomads. "In this stereotype cultural, biologistic, and religious elements were inextricably bound."[32] New migrants with the dawn of post-war democracy faced no different situation. Caribbean migrants in Britain, first arriving there as group in 1948, suffered for long what the immigration specialist Leo Lucassen calls the "discomfort of colour". He more graphically describes the situation of Turks in Germany, who suddenly found their position as "immigrants" transformed to that of "foreigners within". But the greatest segmentation in Europe has occurred in recent time with the reappearance of the religious legacy in the composition of the labour market, symbolised first with the Algerians in France. They not only represent Islam and the colonial legacy, they represent the threat of terror, anti-liberalism, counter-sovereignty, and challenge to the white Christian identity of nations of Europe, and Europe as the new federal nation itself. Immigration laws not only underwrote the demand for labour and difference in wage level, they also, one can say, distorted the pure economic functioning of these two factors.[33]

However, apart from these sociological factors, politics too has played a hard part in deciding whom to allow in, where to let the immigrant settle, how to keep a watch over him/her, the degree of surveillance, etc. Clifford Rosenberg in his fascinating account of policing Paris in pre-war years, which I have cited earlier in this essay, shows how fear of the Red Flag unions led by the French Communist Party was a critical factor in formulating the immigration policy of modern France. Once again Algerians were crucial; but significantly in the formulation of an open door asylum

policy labour recruitment was a necessary factor. Yet as Rosenberg shows, this labour had to be superintended and kept under surveillance. And it was the filing system in the immigration department developed for keeping watch over the refugees and other immigrants in Paris that the infamous tracking techniques developed, so efficiently used later by Nazi occupiers to single out the Jews and send them to deportation camps. These, we must make a point to remember, grew less out of specific laws, but more out of administrative practices and governmental regulations.[34]   These governmental and administrative practices still remain the basis of modern immigration control system in today's world. Vast amount of paper and now electronic files, folders, boxes, and cartons of information variously classified, gigantic number of inspection procedures, authorities, and systems, reporting protocols, profiling through various methods such as photographs to today's biometric techniques, anticipation and thwarting potential immigrants in high seas, innumerable amount of security personnel in the guise of immigration official scouring the earth, centralised storage of data for verification – all these form a kind of abstract dystopia that Michel Foucault had first presented in *Discipline and Punish* (1975) and subsequently in his College de France lectures in 1977-78, titled as *Security, Territory, Population* (2004). Exactly as in the 1920s, immigration officials would keep in their files photographs and sketches of "immigrant types" (Polish Jews, bearded Russians, fanatic Muslims of Algeria, etc.),[35] today too types are cast as to who can be an would-be immigrant and hence must be watched, guarded, and warded off when needed. This of course has always bred racism and neo-racism, which again democratic governments have to control while keeping immigration policies in place. We have this unforgettable description of such a situation around a black man from Martinique in France:

"Look a Negro". It was an external stimulus that flicked over me as I passed by. I made a tight smile.

"Look a Negro". It was true. It amused me.

"Look a Negro". The circle was drawing a bit tighter. I made no secret of my amusement.

"Mama, see the Negro, I am frightened". ..I made up my mind to laugh myself to tears, but laughter had become impossible.

I subjected myself to an objective examination, I discovered my blackness, my ethnic characteristics, and I was battered down by tom-toms, cannibalism, intellectual deficiency, fetishism, racial defects, slave ships…

What was it? Colour prejudice.[36]

In fact racialisation has almost without fail occurred whenever labour belonging to minority population (in the host countries) groups have immigrated. Race as politics and social norm has always

helped the host countries to control labour flows. These facts not only alert us to the genealogy of today's control system, the necessary thing about all these facts is to remember that it is against this backdrop of the history of the modern immigration control system and a security state that humanitarianism in its latest incarnation has appeared. If immigration control coupled with differential and segmented absorption of immigrants and asylum seekers in the labour market is one side of the response to unruly migration, the other side of the response is modern humanitarianism.

The link between the two requires to be understood in all its complexity. Precisely because the labour market absorbs labour in a differentiated and segmented way, the entry of the much sought after high tech professionals has as its counterpart the entry of the equally sought after cook, maid, restaurant employee, dish washer, the trafficked sex worker or the sex slave, the low paid sales person, the ushers of all types, the clerk, nurse, and other routine job performers. Many of these jobs have no legal profile in the labour market; hence extra-economic coercion is a marked feature of the underside of the labour market and of the institutionalised form of wage determination. But were it to be only so, this would have been an old story of capitalism. The fact is that many of these jobs require today the violation of the boundaries of the national market, the territorial borders of the states. Deprived of *de jure* identity of citizenship in which labour must appear to effect free circulation of labour as commodity, the underground market emerges as the other of this legal universe of labour and the accompanying institutionalised form of wage settlement. The system thus calls, more than ever, for the humanitarian care of illegal wage labour – in both places wherefrom it originates, and where it settles.[37] We must understand in this context the severity of this reality, because this reality, known as forced migration, is marked with a mix of trafficking of labour and of sex.[38]

All these provide the backdrop in which the political-economic-administrative form of this response has become densely oriented toward a protective strategy, which means protection of a reserve army of labour, whose lives must not be catastrophically lost in high seas or in the fire of conflicts. Hence intervention and preservation form part of this humanitarian strategy, which must treat borders then not as absolute, but as an institution subject to the constraints of a global labour market. We can all see how in the context of globalisation a policy shift has occurred in the developed capitalist countries that are now opening up their economies to labour migrants of particular categories to meet the needs of their economies at the expense of principles of asylum, human rights and social justice.[39] Therefore the great question which modern

humanitarianism cannot answer: Is it fair to divide the world in 'good' and 'bad' migrants? What about then the ethical dimension of protection? What about the principle of minimal justice according to the principles of which, there has to be a "basic social minimum" towards the "enabling of basic human capabilities" based on the marriage of the principles of justice, dignity, individual role, and societal productivity?

We can now see what our answers can be to the three questions with which we had begun reflecting on unruly population flows, namely, (a) the implications of the mixed nature of today's flows in terms of governmental responses at various levels to these untidy and unruly flows, (b) the inadequacy of the related earlier definitions and concepts, and finally (c) the bio-political basis of the emergence of the migrant as the subject.

The answers we have suggested here are to be found in the deadly combat between capital and mobile labour, in the persistence of labour to emerge in form of physical bodies, because it is finally the fact that police and the border security forces will have to guard against the invading bodies. Hence the obsessive concern with the mass of bodies spoiling, polluting, clamouring, and crowding the imperial spaces; hence is the concern to find out ways to keep these bodies at bay, yet maintaining them though often at a bare level and without work, with a fearful proximity to death. In this deadly game on one hand several evasive strategies are adopted by the migrants to escape the cordons and eventually to arrive – among these strategies every possible technique is adopted including grabbing citizenship, learning the European languages, and successfully passing the test of being an American or British – and on the other hand military-police-financial methods, deadly ethnic moves, and sanitising techniques to keep both the Euro-American world and the world wherefrom migrants generate clean of the stains of any rough method. The second group of techniques collectively called humanitarianism may include pity, care, protection, temporary supply of provisions of shelter, periodic atonements, display of grace, visits by high officers, strict prohibition to display pomp in front of the victims and their camps, and finally the modification of the behaviour of both – the caregivers and the objects of care – in the interest of a protection regime. Life in a civil form must be given minimally in these simulated sites of protection – therefore there have to be programmes of education, baby care, self-help training, etc. But this does mean that the caregivers must renounce wealth. It is neither religious asceticism nor Stoicism; it is a technique of sharing a little, prudent wealth management, and most importantly, modifying the behaviour of the collective, the multitude, as distinct from modifying individual behaviour, which was the goal of the ancient regimes of spiritual training. The stakes are high or both sides; we must understand that there is no moral principle involved here, no rules of war. The bodies must emerge where they cannot be allowed to appear; hence the evasions by the bodies on move, and the brutal and the intense response of the

praetorian guards to occupy the bodies and the minds of the immigrant labour.

Do the tactics always succeed? In this ongoing game, as long as capitalism reigns, there is no final victory or defeat on any side. The author of a detailed study of South Asian immigrants engaged in labour in the United States titled her work as *Unruly Migrants* (2006), wherein she showed how immigrants involved in several organisations, labour movements, women's organisations, and various queer organisations behaved unpredictably in the eyes of the system of the host country, and the immigrant behaviour made a mess of orderly multiculturalism.[40] In November 2005 the suburbs of Paris erupted with immigrants' riots, the suburbs were in flames, and well-versed persons too ruminated if this was the return of the political subject.[41] The riots have stopped, France now has a right-wing President who is bent upon teaching unruly migrants a lesson in between the times he spends on romance, and the *sans papiers* are fuming, angrier than ever. Some others think, this is not the way labour erupts as the political subject. Riots will not work; France has to work for more democracy and widen the meaning of citizenship, though this is no guarantee that the immigrant labour will remain committed to bourgeois civility – a precondition for the advance of capital. No body knows however how the multitude will behave, neither the forces of order, nor those who swear by the capacity of the multitude.

In any case, we should note that to the emergence of the migrant as the subject, the response is also mixed as the phenomenon of migration is: there are laws as parts of a juridical system to control and regulate migration; there are orders and regulations as part of an administrative and police system; there are humanitarian principles also as part of an ideological reinforcement of the entire labour regulatory regime. Only, and the only problem is that these technologies cannot bring back the old order of segmented population flows – refugees, migrants, asylum seekers, economic opportunity seekers, technically competent immigrants, poor destitute escapees, for which administrations would have respective appropriate policies of management…They all disturb uncluttered national histories, so essential for the modern organisation of power. They all appear in the chiaroscuro of bourgeois civility as mass of invading bodies.

The limits to the sovereign power are then set by bodies as much as governmental power wants to retain domination over society by inventing newer methods of control over bodies. While bourgeois civility and democracy are proud that they did away with the myth of the sanctity of the body of the king, they in turn invented the myth of the body polity. And, when that too proved insufficient for untrammelled exercise of power, they conjured up the myth of a social body constituted by the universality of wills. Yet we can see, as I have tried to demonstrate within the scope of a brief essay, that even though the materiality of power is constituted by its operation on the very bodies of the individuals, it is this mass of invading

bodies, unruly bodies, which circumscribe the power of the sovereign and the government.

Notes

[1] On the Guiding principles and their relevance to the South Asian situation, see, Paula Banerjee, Sabyasachi Basu Ray Chaudhury, and Samir Kr. Das (eds.), Internal Displacement in South Asia – The Relevance of UN Guiding Principles (New Delhi: Sage, 2005); on a summary of the ad hoc nature of the national administrative practices, see the report, "The Responsibility to Protect – The National and State Human Rights Commissions and the Internally Displaced Persons in India", A CRG Report, Kolkata, 2007; also Walter Fernandes et al, "A Critique of the National Resettlement Policy, 2006", CRG Research Paper Series, Policies and Practices 15, Kolkata, 2007

[2] On this now there is host of writings. One of the first comprehensive critiques to come out was, Walter Fernandes and Vijay Paranjpye (eds.), Rehabilitation Policy and Law in India (Delhi: Indian Social Institute, 1997)

[3] On the latest situation of displacement in Chattisgarh, see the CRG report, "Conflict, War, and Displacement in Chhattisgarh and Batticaloa" by Subhash Mohapatra and Chaturi Jayasooriya, Policies and Practices, 15, Kolkata, 2007; see also "Death, Displacement and Deprivation", A Report by Human Rights Forum, December 2006

[4] In view of the invisibility of the subjects of migration, some writers therefore and not surprisingly have to emphasise, that "migration matters", even though they have to invoke arguments based on rational calculations. See for instance the essay by Sanjay Barbora, Susan Thieme, Karin Astrid Stegmann, Vineetha Menon, and Ganesh Gurung, " Migration Matters in South Asia – Commonalities and Critiques", Economic and Political Weekly, 14 June, 2008.

[5] On the Indian National Rehabilitation Policy for the internally displaced, see the exhaustive discussion and critique by Walter Fernandes et al, "Indian National Rehabilitation Policy", Policies and Practices, 16, Kolkata: Calcutta Research Group, 2007

[6] For a detailed discussion on the inadequacy of the present legal regime of protection of the IDPs, see for instance Simon Bogshaw, Developing a Normative Framework for the Protection of Internally Displaced Persons (Ardsley, NY: Transnational Publishers, 2005)

[7] See the Report on Conditions of Work and Promotion of Livelihoods in the Unorganised Sector by the National Commission For Enterprises in the Unorganised Sector, Government of India, August 2007; see in particular section 6.

[8] On the strategy of making the uprooted invisible – beyond the public sphere – see the introduction to the CRG report, "Voices of the Internally Displaced in South Asia", ed. R. Samaddar et al, Kolkata, Calcutta Research Group, 2006

[9] Refer to the Government of India Policy of 2006, see also on this, Walter Fernandes et al, "A Critique of the National Resettlement Policy, 2006", CRG Research Paper Series, Policies and Practices 15, Kolkata, 2007.
The Objectives of the Draft Policy of 2006 mention the need for "prior informed consent". In a note explaining this phrase, the Policy says, "Wherever the term consent is used, this will mean that the consent of Gram Sabhas of project affected villages will be sought. But, in instances where some of the Gram Sabhas affected do not give consent because their demands are in excess of the provisions of this

policy, the project implementation authority (PIA) may go ahead with the project only where the PAPs in such dissenting Gram Sabhas constitute less than 50% of the total number of PAPs. However, the PAPs of these dissenting Gram Sabhas would continue to be entitled to the same rehabilitation benefits as being given to all other PAPs of the same category.. In all such cases, detailed written orders will be passed by the PIA, incorporating in full the views of the Gram Sabha, and reasons why these were not accepted. The procedure for doing so has been detailed at annexure 5, which describes the prescribed procedure for Scheduled Areas. It will be made applicable to all areas."

[10] I have in mind here Max Weber's celebrated essay, "The Vocation of Politics" in The Essential Weber – A Reader, ed. Sam Whimster (London: Routledge, 2004), pp. 257-69

[11] "Declaration Together for Humanity", Geneva, 26-30 November 2007, 30IC/07/Declaration; See http://www.icrc.org/web/eng/siteeng0.nsf/htmlall/30-international-conference-resolutions-061207/$File/30IC_Resolution1Declaration_ENG_ADOPTED.pdf

[12] Report by Carolyn Brothers, "Obscurity and Confinement for Migrants in Europe", International Herald Tribune, 31 December 2007

[13] http://www.unhcr.org/protect/473db6522.html

[14] Ibid, opening paragraph

[15] http://mcrg.ac.in/idp/idptsunami.htm

[16] UNHCR/DPC/2007/Doc. 02, dated 19 November 2007; see also the two policy statements published in the context of the General Assembly's September 2006 High Level Dialogue on International Migration and Development – "UNHCR, Refugee Protection, and International Migration" and "The High Level Dialogue on International Migration and Development – UNHCR's Observations and Recommendations" – both documents to be accessed at the "Protecting Refugees" page of www.unhcr.org

[17] See for instance, Matthew J. Gibney, The Ethics and Politics of Asylum – Liberal Democracy and the Response to Refugees (Cambridge: Cambridge University Press, 2004)

[18] Note by Patrick Hoenig for the Workshop on the "Inadequacy of the 1951 Convention", Report on the Fifth Winter Course on Forced Migration, Kolkata, 2007 (mimeo, CRG documentation Centre)

[19] Georges Canguilhem, On the Normal and the Pathological, trans. Carolyn R. Fawcett (London: D. Reidel Publishing Co., 1978), p. 179; the translated edition has an introduction by Michel Foucault, who comments in course of his introductory remarks on how modern scientific inquiry has shown us the genesis of the *pathological*, "Two centuries later the Enlightenment returns: but…as a way to question the limits and powers it has abused. Reason – the despotic Enlightenment"; p. xii

[20] Clifford Rosenberg, Policing Paris – The Origins of Modern Immigration Control between the Wars (Ithaca: Cornell University Press, 2006), pp. 141-44

[21] Binyavanga Wainaina, "How to Write about Africa", Granta, 52, Winter 2005, pp. 92-95

[22] Sonia Sirtori and Patricia Coelho, "Defending Refugees' Access to Protection in Europe", ECRE, December 2007 – http://www.ecre.org/resources/policy_papers/988

[23] David Kennedy, The Dark Sides of Virtue- Reassessing International Humanitarianism (Princeton, N.J.: Princeton University Press, 2004), Chapter 7,

"The International Protection of Refugees", pp. 199-234; Kennedy concluded the chapter with these words, "So long as policy makers continue to act as if separate realms of international law and national politics exist and imagine the work of humanitarian policy to be their reconciliation, an institution like asylum can come to be seen as the perfect liminal space, available not for refugees, but for the deployment of policy-making expertise." (p. 233)

[24] Stephen John Stedman and Fred Tanner (eds.), Refugee Manipulation – War, Politics, and the Abuse of Human Suffering (Washington D.C.: Brookings Institution Press, 2003)

[25] Classic is the story of Adelaide's Destitute Asylum (1852-1915), now a part of the Migration Museum, Adelaide. Visit – www.historysa.gov.au; also Mary Geyer, Behind the Wall – The Women of the Destitute Asylum, Adelaide, 1852-1918, published on the occasion of Women's Suffrage Centenary, South Australia, 1894-1994 (Adelaide: Axiom Publishers and Migration Museum, 1994)

[26] Report by Carolyn Brothers, "Waves of migrants increase pressure on Greece", International Herald Tribune, 27 December 2007

[27] Report by Carolyn Brothers, "Lies, Grief, and A Ticket Home for Illegal Indian Immigrants", International Herald Tribune, 4 April 2007

[28] On this see, Hamida Hossain, "Boundaries, Borders, and Bodies", and Flavia Agnes, "The Bar Dancer and the Trafficked Migrant – Globalisation and Sub-altern Existence" – both published in Refugee Watch (30), December 2007

[29] One of the relevant studies on the congruence between the needs of capital and policies to ensure controlled labour flows is by Pei-Chia Lan, "Legal Servitude and Free Illegality – Migrant 'Guest' Workers in Taiwan" in Rhacel S. Parrenas and Lok C.D. Siu, Asian Diasporas – New Formations, New Conceptions (Stanford, California: Stanford University Press, 2007), pp. 253-278; for more classical references, Stephen Castles, "The Guest Worker in Western Europe: An Obituary" (1986) and then written twenty years later, ""Guest Workers in Europe – A Resurrection?" – both in International Migration Review, former in Volume 20 (4), pp. 761-778; and the second one in Volume 40 (4), pp. 741-766; also by Michael Burawoy, "The Functions and Reproduction of Migrant Labour – Comparative Material from Southern Africa and the United States", American Journal of Sociology, Volume 81 (5), 1976, pp. 1050-1087

[30] Stephen Castles and Godula Kosack, Immigrant Workers and Class Structure in Western Europe (London: Institute for Race Relations and Oxford University Press, 1973), PP. 12-13

[31] Immigrant Workers and Class Structure in Western Europe, p. 481

[32] Leo Lucassen, The Immigrant Threat – The Integration of Old and New Migrants in Western Europe Since 1850s (Chicago: University of Illinois Press, 2005), p. 104-05

[33] The Immigrant Threat, pp. 206-07

[34] Clifford Rosenberg, Policing Paris – The Origins of Modern Immigration Control between the Wars, see in particular, pp. 109-167; Rosenberg writes, "The colonial consensus held firm until the Popular Front. Socialists, Radicals, and nationalists worked together to support the empire, which they all saw as crucial to France's standing as a great power. For a decade, only the voices of protest came from the Communist party, colonial nationalists, and the odd renegade socialist." – p. 152

[35] For such sketches of "immigrant types", Policing Paris, pp. 78-79

[36] Excerpted from Frantz Fanon, Black Skin, White Masks, trans. Charles Markmann (New York: Grove Press, 1967), pp. 111-18

[37] "Trafficking in Forced Labour in the UK" – A Report by Briget Anderson and Ben Rogaly, Refugee Watch, Special Issue, 24-26; also www.mcrg.ac.in/rw%20files/RW24.doc

[38] This is in fact a significant point on which we need a separate essay. On the South Asian scenario we can at least refer here to one of the pioneering work – Paula Banerjee, "Trafficking, and Statelessness of Women in South Asia", Refugee Watch, 28, 2006, www.mcrg.ac.in/pb.htm

[39] Or, as the willingness on the part of few Western countries to accommodate and resettle some of the South Bhutanese refugees shows, reorganisation of labour market can take place on selective application of the principles of asylum and humanitarian ethics also. On this and the entire controversy around the plan to resettle part of the South Bhutanese refugees in few western countries - http://refugeewatchonline.blogspot.com/2007/02/census-citizenship-and-statelessness-in.html

and other entries in - http://refugeewatchonline.blogspot.com/

[40] Monisha Das Gupta, Unruly Immigrants – Rights, Activism, and Trans-national South Asian Politics in the United States (Durham: Duke University Press, 2006), in particular pp. 208-54

[41] Rada Ivekovic, "French Suburbia, 2005", Refugee Watch, (27), June 2006