RE-THINKING CRISIS AND CRITIQUE IN THE DISCOURSE ON "REFUGEE CRISIS" IN POSTCOLONIAL EUROPE

REPENSANDO A CRISE E A CRÍTICA NO DISCURSO SOBRE "CRISE DE REFUGIADOS" NA EUROPA PÓS-COLONIAL

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ABSTRACT

Objective: this essay aims at re-thinking crisis and critique in the discourse on "refugee crisis" viewed through the context of migration and European borders, by investigating the role of critique and critical thought in this debate.



Methodology: the methodology is based on a postcolonial approach of Europe, in which "post" does not simply deal with a temporary issue. Rather it refers to the way colonialism has shaped the European territory itself, leading to asymmetrical relationships between this continent and ex-colonies that still exist. The methodology used is hypothetical-deductive, by reviewing the literature contained in books, scientific articles and international treaties.

Results: the paper, as results, show that is fundamental to re-think the discourse on "refugee crises".

Contribution: re-think the discourse on "refugee crisis" viewed through the context of migration and European borders.

Keywords: Refugees; Migration; Refugee Crisis

RESUMO

Objetivo: este artigo visa repensar a crise e a crítica no discurso sobre "crise de refugiados", visto no contexto da migração e das fronteiras europeias, investigando o papel da crítica e do pensamento crítico neste debate.

Metodologia: a metodologia é baseada em uma abordagem pós-colonial da Europa, na qual o "pós" não trata simplesmente de um problema temporário. Pelo contrário, refere-se à forma como o colonialismo moldou o próprio território europeu, levando a relações assimétricas entre este continente e ex-colônias que ainda existem. A metodologia utilizada é hipotético-dedutiva, mediante a revisão de literatura contida em obras, artigos científicos e em tratados internacionais.

Resultados: o trabalho mostra que é fundamental repensar o discurso sobre "crise de refugiados".

Contribuição: repensar o discurso sobre "crise de refugiados" visto através do contexto da migração e das fronteiras européias.

Palavras-chave: refugiados; migração; crise de refugiados



1 INTRODUCTION

Thinking crisis and critique together results in a normative statement, in the sense of mobilizing defining categories of historical situations, past, and present (Roitman 2013). When people say "refugee crisis" they already express a value judgment, in the sense that the term crisis usually implies that something negative is taking place.

This term has been constantly referred to in media discourses as well as in political and academic debates. Consequently, people take the existence of a crisis for granted. Nevertheless, a critical analysis of current migration policies requires the separation of crisis from the framework of critique.

This essay aims at re-thinking crisis and critique in the discourse on "refugee crisis" viewed through the context of migration and European borders, by investigating the role of critique and critical thought in this debate.

The methodology is based on a postcolonial approach of Europe, in which "post" does not simply deal with a temporary issue. Rather it refers to the way colonialism has shaped the European territory itself, leading to asymmetrical relationships between this continent and ex-colonies that still exist.

The first part of this paper presents a conceptual framework of crisis and critique, defining each of these terms in two separate subtopics. The second part explores the idea behind the term postcolonial Europe, drawing attention to power relationships between European countries and ex-colonies, and especially to their relation to the "European border crisis". Lastly, the fallacious discourse on "refugee crisis" is questioned through an exercise of critique, especially in relation to representations of migrants and refugees as a threat in the media.

In this sense, this essay offers a critical reflection on the very idea that we are being confronted with a "refugee crisis", pointing out the challenges of critique in



postcolonial Europe. By questioning the discourse on this "crisis", this work seeks to contribute to a critical understanding of the current European policies of migration.

2 CRISIS AND CRITIQUE: A CONCEPTUAL FRAMEWORK

2.1 WHAT IS CRITIQUE ABOUT?

Critique is commonly described as the limits of knowledge or the ability to judge something, in the sense of pointing out its failures. However, the concept of critique adopted here is that stated by Foucault, i.e., who defined critique as "the art of not being governed quite so much" (FOUCAULT, 1997, p. 45).

This definition is quite different from the common one since it is about a political attitude instead of a simple judgment. For Foucault (1997), people are not just governed by the state, but by distinct mechanisms of power. These power relations, *per se,* are not necessarily bad nor good and do not mean domination itself. Actually, this is related to how people relate to others, in the sense that relationships can be always altered, in a good or bad way.

According to him, since the 15th and 16th century our society has been characterized by the expansion of the theme regarding the art of governing and its methods. He points out that this phenomenon has proliferated into a multiplicity of areas - "how to govern children, how to govern the poor and beggars, how to govern a family, a house, how to govern armies, different groups, cities, States and also how to govern one's own body and mind" (FOUCAULT, 1997, p. 44).

Considering all these kinds of power relationships, Foucault (1997) argues that critique takes place when people question the way they are governed, in order to evaluate if they wish to accept or change this situation. Through this approach, he stresses the fact that truth is one of the ways in which these power relations function,



by stating that "critique is the movement by which the subject gives himself the right to question truth on its effects of power and question power on its discourses of truth" (FOUCAULT, 1997, p. 47).

In other words, critique here is about questioning the relationship between power and truth, since one does not exist without the other. That is to say, what people normally assume as truth belongs actually to a specific power relationship. In this sense, the idea regarding critique stated by Foucault (1997) consists of realizing that what people normally take for granted is not outside power relations. Instead, it is produced in the relationships themselves.

Hence, critique will be the art of voluntary insubordination (FOUCAULT, 1997, p. 47), since it requires the will not to be governed, through a practice of reflexivity in the form of a critical attitude. For this, people have to put themselves in an uncomfortable position in which they challenge normative systems and structures of daily life.

This is also the idea supported by Joan Scott (2007), in her article entitled *History-writing as critique*¹, in which she uses Foucault's text to criticize the normative approach of critique in social sciences. That is to say, many scholars in this field of study conceive critique in a normative sense, by simply selecting what is true and what is false.

Nevertheless, critique for her is about questioning the assumptions in which our historical knowledge is produced. It does not mean rejecting historical facts, rather questioning the information produced in the history (SCOTT, 2007). By doing so, categories upon which our knowledge is structured shall be not rejected, but investigated, in order to be able to understand the power relations connected to it. In Scott's words:

¹ See: SCOTT, 2007, p. 19–38.



[...] critique ought to make us uncomfortable by asking what the sources of those values are, how they come into being, what relationships they have constituted, what power they have secured. This is not the kind of negativity that leads to denying the Holocaust or justifying slavery or the oppression of women. It is not at that level that interrogation takes place. Rather, the attempt is to make visible the premises upon which the organizing categories of our identities (personal, social, national) are based and to give them a history, so placing them in time and subject to review (2007, p. 34).

Therefore, the objectivity produced in social sciences shall be questioned all the time, since it is nothing more than the outcome of a narrative. As a result of this practice, political spaces for changes are opened up, as it makes those blind spots visible and creates possibilities to act and to think in a different way (SCOTT, 2007, p. 23).

In this debate, migration appears as a category for critique analysis, since the use of terms like "refugee crisis" demonstrates the attempt by the EU and European nation-states to govern this phenomenon, composed by transnational and intercontinental movements (GENOVA; TAZZIOLI, 2016, p. 20). But what is exactly meant by "crisis"?

2.2 THE IDEA BEHIND "CRISIS"

Using the term crisis suggests an ongoing state of affairs (ROITMAN, 2013), it means that something negative is taking place. Media discourses, as well as political and academic debates, have been constantly referring to a crisis when talking about the phenomenon of Migration in Europe.

Consequently, people take the existence of a crisis for granted, without investigating the reasons behind the "crisis". However, this is a complex term that requires critical judgment. Based on Reinhart Kosellek's Critique and Crisis², Isenberg

² See: Reinhart Koselleck, 1988.



(2012, p. 2) states that "the historical origin of critique can be found in the crisis, and both the historical answer to this crisis and crisis itself are the outcomes of critique".

In this sense, he stresses that both critique and crisis can be regarded as essentially historical categories. This is strongly intertwined with the idea supported by Roitman (2013), in which crisis creates narrative constructions that establish "moments of truth". This means its understanding requires an access to historical truth, in order to think "history" itself, which she defines as turning points in history (2013, p. 4). The turning point here indicates the time when important decisions have to be made.

Furthermore, it is important to highlight that the act of evoking crisis demands a comparative state for judgment. This creates an axiological problem, or the questioning of epistemological or ethical reasons for specific domains in our life and thinking (ROITMAN, 2013). That is to say, people implicitly refer to the certain state of normality when saying "crisis", i.e., how things should be compared to how things are now.

All this suggests that the use of the terms "migrant crisis" or "refugee crisis" represents a diagnostic of the present. On the one hand, it indicates the presence of the migrants or refugees as a problem for the European States. On the other hand, it reflects the conditions faced by the migrants (especially refugees) themselves, in the sense that many of them are prevented from completing their long journey to a safer place.

Viewing the issue of crisis and critique in relation to migration and European border control raises one important question: What is the "refugee crisis" about? The increase of migratory flows and applications for asylum worldwide over the past few years highlights social and geopolitical differences around the world that should be not ignored but questioned in a critical way.



2.3 THE "BORDER CRISIS" IN POSTCOLONIAL EUROPE

The exercise of critique calls for re-thinking the discursive categories related to borders, migration, and asylum - topics that are related to the normally unquestioned reality of a set of "crises" that exist together with the "migration" or "refugee crisis" in (and of) "Europe" (GENOVA; TAZZIOLI 2016).

In this sense, the "crisis" here can be identified not just in "European" institutions as the Schengen zone, as long as it "has reconfigured the borders of "Europe" by sustaining an "internal" space of [relatively, albeit differentially] free mobility" (2016, p. 3). More than that, the "crisis" is located in Europe itself at an institutional, political and economic level.

This debate is supported by Étienne Balibar (2004), who claims that the "crisis" is mainly related to the idea of "Europe", in the sense of questioning who the Europeans are and what Europe is. Not because Europe is not the same as before, but because the European Union project was born from very exclusionary criteria since its very beginning:

[...] drawing "political" borders in the European sphere, which considered itself and attempted to appoint itself the center of the world, was also originally and principally a way to divide up the earth; thus, it was a way at once to organize the world's exploitation and to export the "border form" to the periphery, in an attempt to transform the whole universe into an extension of Europe, later into "another Europe" built on the same political model (BALIBAR, 2004, p. 7).

This means much more than the common definition of borders in the sense of the edge or boundary of something. The borders mentioned by Balibar (2004) are regarded as external limits of democracy, where citizens identify a barrier to protect their rights and lives, in a social and political sense. Considering this, the author (2004, p. 109) stresses that these borders create difficulties in the heart of the public space, where conflicts, hopes, and frustrations are constantly produced.



In this regard, the "European border crisis" corresponds in particular to a constant instability "within the governance of transnational human mobility, which itself relies on the exercise of a power overclassifying, naming, and partitioning migrants/refugees" (GENOVA, 2017, p. 9). To put it another way, borders are the form of essential institutions to constitute social conditions on a global scale where the passport or identity card emerges as a systematic criterion (BALIBAR, 2004, p. 113).

The root causes of this have been commonly attributed to troubles elsewhere, normally in other chaotic places "outside" of Europe (GENOVA, 2017, p. 18). However, these root causes are not that far away. Europe has actually contributed to the multiplication of this set of "crises" and is part of it, in the sense that the stories of those unstable places are also part of the European history.

This is the idea behind the postcolonial approach regarding the "European border crisis" debate, where a critical analysis is based on the fact that the history of Europe cannot be written without taking into account the crises of others that constituted the European history itself. In this regard, the prefix "post" in the expression postcolonial does not simply refer to a temporal issue, rather it draws attention to diverse situations of oppression defined at the level of gender, ethnic, or racial boundaries (COSTA, 2007).

In other words, the "deconstruction" of the polarity West/Rest of the world is historically constituted within the context of the colonial relationship (2007, p. 4). In this sense, asymmetrical relationships between Europe and ex-colonies have been perpetuated over time, causing a kind of dependence at an economic and political level for those countries.

By considering that colonialism has shaped Europe itself, Genova & Tazzioli (2016, p. 21) highlights that "the migrant struggle slogan, *We are here, because you were there!* continues to afford a resounding understanding of this phenomenon called "crisis" inasmuch as it invites us – indeed, requires us – to recognize Europe's role in the very production of this 'crisis'".



Thus, the postcolonial approach to the borders of "Europe" draws our attention to the fact that the present European economic power could not exist without its colonial past. This reflection is also supported by Gurminder Bhambra (2015), who emphasizes that the difficulties faced by Europe to address its colonial history is part of the reasons why Europe and European politicians seem to be unable to tackle their postcolonial present, or at least to identify it as something other than an external invasion disturbing an otherwise stable European policy.

This interpretation of the "crisis" as a foreign invasion has led to several inequalities of human mobility, especially taking into consideration that the debate on European borders involves global postcolonial politics of race that reinforces European-ness as a racial formation of whiteness (GENOVA, 2017, p. 21). By analyzing the discourse on this "crisis", questions of race and racism can be easily identified.

2.4 THE DISCOURSE ON "REFUGEE CRISIS"

The term refugee has an internationally recognized legal definition, which was set out in the United Nations Convention Relating to the Status of Refugees of 1951 and its Protocol from 1967:

A person who owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it (UN General Assembly 1951).

The main idea here is that refugees are not voluntary migrants; rather they are forced to leave, which means that the term "being persecuted" is central to this definition. However, the concept of "persecution" suffers from indeterminacy in several



significant aspects, exposing it to limited interpretations, or even to manipulation (Maiani 2010).

That is to say, the legal definition of refugee has no longer been sufficient to address the multiplication of causes for people's displacement (e.g. natural disasters, environmental changes, and poverty). Therefore, in many cases in which the concept of persecution is not clear, people tend to refer generically to the phenomenon "migration".

The word "migrant" is commonly used as a neutral term, which "refers to crossing the boundary and borders of an administrative or political unit for a specific period of time" (Garcia-Zamor 2017, p. 582). However, there is no legal accepted text in international law explaining who is a migrant. Consequently, the term is susceptible to different interpretations.

According to Holmes & Catañeda (2016), the above definitions raise distinctions between political and economic as well as involuntary and voluntary that should be questioned. Over the past few years, the mass media and political discourse have demarcated the "deserving" refugee from the "undeserving" migrant, by shifting blame from historical, political-economic structures to the migrants themselves. As a result of this demarcation, a source of fear of cultural, religious, and ethnic difference has been created (Holmes & Castañeda 2016, p. 18).

According to Zetter (1991, p. 59), "labeling matters so fundamentally because it is an inescapable part of public policy making and its language: a non-labeled way out cannot exist". In this way, the author stresses that the use of labels provides some understanding with which to perceive the way legal procedures and practices affect the representation of refugee's identity.

In the construction of these representations, metaphors have been used as a common linguistic tool by the mass media and in political discourses. According to Biria (2012), through metaphors, people can understand the topic in terms of the



vehicle. To clarify this statement, the author supplies the following metaphor as a common example: *immigration is a flood*.

In this case, the source domain consists of a *natural disaster* and "it makes certain characteristics of flood more salient which consequently structures our experience of the target domain *immigration* in terms of flood's destructive qualities" (Biria 2012, p. 10). These kinds of metaphors have been also investigated by Parker (2015) who examined the way in which asylum seekers and refugees have been discursively represented by the print media in both the UK and Australia.

By analyzing forty articles between 2001 and 2010, two from each year for each newspapers, Parker (2015, p. 16) found that the main repertoire used in the articles was that of the "unwanted invader"; active "deviants or "criminals" whose arrival has been creating problems for the majority in those countries.

All this shows that the media discourse on "refugee crisis" cannot be considered as a simple representation of reality. Instead, it is a discourse that actively constructs reality (Parker 2015), by selecting categories of people considered worthy or not, of being welcome. Regarding this influence, Holmes & Catañeda (2016) pointed out that the current representations of refugees from the media and political discourses worldwide present simultaneously symbolic, social, political and legal categories of inclusion and exclusion with potentially fatal consequences.

These consequences are mainly related to the outcome of the exclusionary migration policies, since the "crisis" here is "in fact producing an enormous expansion of the rejected refugee population in Europe, and thus recomposing their "migrant" / (rejected) "refugee" "illegality" in relation to new formations of class and race inequalities" (GENOVA; TAZZIOLI, 2016, p. 16).

Hence, the governing of migration in postcolonial Europe has been generating deadly effects due to migration policies. Rethinking critique in this context requires a critical attitude to question border controls as a response to migrants' movements,



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and to investigate the fallacious discourse on a "refugee crisis" as a problem coming from elsewhere.

3 FINAL CONSIDERATIONS

This paper summarized the conceptual framework of crisis and critique, pointing out the nexus between the latter - as critical knowledge – and "refugee crisis", through a postcolonial approach. In this sense, a critical attitude and a critical analysis of this debate were developed.

Rethinking critique in postcolonial Europe draws attention to the necessity of questioning the discourse on borders, migrants, and refugees - narrative constructions that should be not taken for granted since they are results of power relations between European countries and the "others" who are seen to be the cause of their problems.

The attempt by the European nation-states and the mass media to govern the migration phenomenon as a "crisis" requires from us a practice of voluntary insubordination in Foucault's (1978) sense. This insubordinate position consists of a critical attitude of challenging normative systems in which European borders are seen.

Therefore, it is fundamental to have a critical look at the current political, popular and media discourse on the phenomenon of human displacements. The language used in this debate represents a set of meanings that manipulates and constantly reinforces a symbolic violence, in the sense of legitimating what is a threat and what is not, who or who not deserves acceptance.

As a result of this practice, political spaces for changes should be opened, making visible what is commonly overshadowed in the discourse on "refugee crisis" and creating possibilities to act and to think about this in a different way.



REFERENCES

BALIBAR, Étienne. **We, the People of Europe?** Reflections on Transnational Citizenship. Princeton, NJ: Princeton University. 2004.

BHAMBRA, Gurminder K. Whither Europe? Postcolonial versus Neocolonial Cosmopolitanism. In **Interventions:** Journal of Postcolonial Studies. 2015.

BIRIA, Ensieh. **Figurative Language in the Immigration Debate:** Comparing Early 20th Century and Current U.S. Debate with the Contemporary European Debate. (Thesis). 2012. Available online at http://pdxscholar.library.pdx.edu/.

COSTA, S. "Deprovincializing" sociology: the post-colonial contribution. In *Revista Brasileira de Ciências Sociais* (vol.3 no.se), 2007. p. 117. Available online at http://socialsciences.scielo.org/scielo.php?script=sci arttext&pid=S0102-69092007000100009.

FOUCAULT, M. "What Is Critique?" In **The Politics of Truth:** S. Lotringer. New York: Semiotext(e). 1997.

GARCIA-ZAMOR, JC. The Global Wave of Refugees and Migrants: Complex Challenges for European Policy Makers. In **Public Organiz Review** (V. 17, Issue 4), 2017. pp. 581–594. Available online at https://doi.org/10.1007/s11115-016-0371-1.

GENOVA, N. P. de The Borders of 'Europe' ... and the 'European' Question.In N. De Genova (Ed.), The Borders of "Europe": Autonomy of Migration, Tactics of Bordering. In **Duke University Press.** 2017.

______; TAZZIOLI, M.(eds) Europe/Crisis: New keywords of the "crisis" in and of Europe. In **Near Futures Online** (Zone Books). 2016.

HOLMES, S. M.; CASTAÑEDA, H. Representing the European Refugee Crisis in Germany and Beyond: Deservingness and Difference, Life and Death. In **American Ethnologist** (43(1)), 2016. pp. 12–24.

ISENBERG, B. Critique and crisis. Reinhart Koselleck's thesis of the genesis of modernity. In **Eurozine** – Network of European cultural journals. 2012.

MAIANI, F. The concept of "persecution" in refugee law: Indeterminacy, context-sensitivity, and the quest for a principled approach. In **Les Dossiers du Grihl.** 2010. Available online at http://dossiersgrihl.revues.org/3896.



PARKER, S. 'Unwanted invaders': The representation of refugees and asylum seekers in the UK and Australian print media. In **eSharp 23, Myth and Nation**, 2015. pp. 1–21.

ROITMAN, J. Anti-Crisis: Duke University Press. 2013.

SCOTT, J. History-Writing as Critique", in Jenkins, K., Morgan, S., and Munslow, A. (eds.). In **Manifestos for History**, *Abingdon: Routledge*. 2007.

UN GENERAL ASSEMBLY. Convention Relating to the Status of Refugees, revised UNITED NATIONS, **Treaty Series**, vol. 189, p. 137. 1951. Available online at http://www.unhcr.org/3b66c2aa10.

ZETTER, R. Labelling Refugees: Forming and Transforming a Bureaucratic Identity. In **Journal of Refugee Studies** (V. 4, Issue 1), 1991. pp. 39–62.

