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Biographical Notes

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## **Inverted Exception. Ideas for Thinking about the New Disappearances through Two Case Studies**

**Abstract:** The concept of state of exception has been key for explaining the spaces of enforced disappearances in the 1970s and 1980s in the Southern Cone, to the point that it has become a trope. This article takes up that concept, but revisits and alters it. It turns it around, proposing for what we call the ‘new disappearances’ the concept of ‘inverted exception.’ It does so through the examination of two concrete empirical situations—migrant houses in Mexico and the sanctuary movement in the United States—applying the same ethnographical observation approach to both and using the analysis of those situations to inform the theoretical reflection proposed here. The conclusion is that, while these ‘new disappearances’ have, like enforced disappearances, a direct and close relationship with ‘spaces of exception’, that relationship now operates inversely: the space of exception is today sometimes the space of appearance, while the norm is widespread disappearance.

**Keywords:** disappearance; enforced disappearance of persons; spaces of exception; migrant houses; sanctuary movements

### 1 The Canon and the Jumble

When addressing the category of disappearance, researchers are often trapped by obligations and tropes; fenced in by set formulas. This is the result of the success of a category that has been crystallized institutionally and academically across several fields: the legal and forensic fields, the field of psychological assistance, the field of cultural

studies, among anthropologists who work on ‘the social life of death’, and sociologists and political scientists who study forms of violence and transitions. The obligations are of a moral nature; the tropes, that interest us here, are more conceptual. And there are many: disappearance as absence and void; disappearance as a rupturing of the name-body relationship; disappearance as demolishing the foundations of our identity; disappearance as precluding mourning; disappearance as characterized by the concealment of the body and the uncertain fate of the subject. In line with other recent works, without discarding the category of disappearance or proposing to leave it behind, this text understands that it is time to think about how to work with that category in a world that is starting to overflow it (Anstett, 2017; Dulitzky, 2019; Gatti, 2017; Gatti, Peris, Robles, Rodríguez Maeso, Sáez, 2019; Irazuzta, Martínez, Schindel, 2017; Martínez, Robles, Ruiz Estramil, 2019). We try to do so by thinking critically about one of those tropes, the one that says that the spaces of disappearance are governed by the logic of exception.

The text is supported by research—still ongoing at the time of writing this article<sup>1</sup>—on what we have termed ‘new disappearances’ and on how they exceed what many of us assumed characterized all forms of disappearance when we thought we were done thinking about this phenomenon. This was something that happened to many of us who devoted time to researching the phenomenon in its first manifestations. We closed the field and as of then we associated ‘disappearance’ with ‘enforced disappearance’, that is,

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<sup>1</sup> This research is conducted by us under the project *Desapariciones. Estudio en perspectiva transnacional de una categoría para gestionar, habitar y analizar la catástrofe social y la pérdida* (Disappearances. A Transnational Approach to the Study of a Category for Managing, Inhabiting, and Analyzing Social Catastrophe and Loss) (CSO2015-66318-P). The text is informed by the findings of that research, as well as by the intense discussions that made the New Disappearances, New Spaces seminar held in Bilbao in January 2019 memorable. Like the disappearance of persons in its most contemporary modalities, the fieldwork is multi-situated: spanning Mexico, the United States, Melilla, Montevideo, Cúcuta, Bogotá, Santo Domingo, and São Paulo, among others. We have approached all of those sites through ‘express ethnographies’, which we consider ideal for a fragmented and scattered object, not very systematic but regular, agile, and highly mobile. In this text, we examine the findings of the work conducted in Mexico between June 2017 and September 2018, and in Los Angeles and Arizona between September 2017 and February 2018.

a form of violence primarily targeting political enemies, perpetrated by the state, or parastatal forces, against a specific part of its own citizens, whom it removes from the protection of the law. We did not realize that this characterization corresponds to what we could call ‘original disappearance’ (Gatti, 2017), which was born in Latin America’s Southern Cone in the 1970s. More significantly, we failed to realize that as the category of ‘enforced disappearance of persons’ was strengthened by its elevation to international humanitarian law status through the 2006 International Convention for the Protection of All Persons from Enforced Disappearance, adopted by the United Nations, the name was used more and more to refer to other situations, even some that were very different and far removed from the original disappearances.

It is these situations we are interested in. They are similar to the original in many aspects: in both, the ordinary mechanisms for the construction of meaning are broken; the apparatuses for managing them, including the conceptual apparatuses,<sup>2</sup> are also broken; the same tropes seem to operate in both. But can the systematic and selective plan to disappear a political enemy and, for example, the massive and indiscriminate disappearance of African migrants in the Mediterranean or of Central American migrants in Mexico be thought of in the same way? Can the programmed abduction of activists, their confinement in an ad hoc space, and the concealment of the whereabouts of their remains be considered the same as the disappearances of subjects we see in Brazilian or Colombian cities, who may be alive but were never considered citizens to begin with and will not be after they die? The name ‘disappeared’ applies to all and they all respond to

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<sup>2</sup> That disappearance fractures meaning and signifiers is perhaps most evident in the emergence of what since the early years of the twenty-first century has been termed the ‘spectral turn’ (Blanco and Peeren, 2013), that is, an effort to provide a conceptual body for explaining the presence of the absent when the rational resources of the social sciences collapse in the face of that absence. Gordon (2008) has done this in analyzing the disappearances we call original—those of the 1970s Argentine dictatorship—and, also, among the vast array of current cultural products that deal with zombies and ghosts (Peris Blanes, 2018) we find works that use these figures to explain the great proliferation of social exclusions, including what we term ‘new disappearances’ (Peeren, 2014; Irazuzta, Martínez, Schindel, 2019).

many of the disappearance tropes. But does the experience of the new disappearances not call for a rethinking of what that category evokes?

That is what we propose in this text by focusing on the spaces of disappearance. In developing our argument, we contrast the dominant canon regarding such spaces with the empirical observation of certain spaces connected with the new disappearances. According to the canon, disappearance is a practice that occurs in contexts of prevailing normality, where for common people the rule applies and makes life take its ordinary course (Calveiro, 1998; Gatti, 2008; Schindel, 2012). The rule itself determines exceptions to the norm, which in spatial terms occur in rigorously closed scenarios, spaces strictly separated from the rest and exempted from that general rule. In them, forsaken citizens are destroyed and torn apart, individuals who are no longer protected by the rule that applies to ordinary people. Those spaces where the rule authorizes exemptions to itself are called Clandestine Detention, Torture, and Extermination Centers in Argentina and they operated during the 1976-1983 dictatorship, not just but especially in that context (Colombo, 2018). Does this canon work with the new disappearances? Our observation of two spaces very directly associated with these—migrant houses (Casas de migrantes) in Mexico and refuge spaces connected with the sanctuary movement in the United States, both very closely linked to the mass migratory movement to the United States and to the countless disappearances related to it<sup>3</sup>—tells us it does not.

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<sup>3</sup> According to the Missing Migrants Project of the International Organization for Migrations (IOM), from 2014 to 2018, 30,510 individuals have lost their lives worldwide attempting to migrate irregularly, with 2,959 of those deaths recorded in the Americas, of which 1,871 occurred on the U.S.-Mexico border. The IOM notes, however, that ‘due to the lack of official sources of information on deaths during migration, and the corresponding lack of detail on most of those who die during migration, these figures are best understood as a minimum estimate’ (<https://www.iom.int/news/30000-irregular-migration-deaths-disappearances-between-2014-2018-iom-report>). The figure that circulates in the press for Mexico is provided by the Mesoamerican Migrant Movement, which puts the number of disappeared migrants at 70,000 (see, for example: <https://www.animalpolitico.com/2018/10/caravana-madres-migrantes-dejan-todo/>). More detailed reports, however, such as the 2018 report by the Justice and Democratic Rule of Law Foundation (Fundación para la Justicia y el Estado Democrático de Derecho) on the situation of migrants in their passage through Mexico recognizes ‘the lack of accurate figures’ for the disappearance of migrants in the country. See Mexico’s report to the Committee on Enforced Disappearance in the follow-up dialogue

The canon does not, in fact, work with the new disappearances. Or maybe it would be more apt to say that it does work, but in a *jumbled up* way. This is because it is not clear to the observer what the rule is and what the exception to that rule is, nor which of the two provides the standard for understanding the existence of ordinary citizens, of common people, nor how to think about the spaces in that muddle. The fieldwork suggests that for many—especially for subjects who never even attained the citizenship status—disappearance is not a concrete break in a continuum but the continuum itself. It also suggests that on that continuum the migrant houses and the refuge spaces provided by the sanctuary movement emerge—for those who devised them and those who use them—as spaces where one ‘appears’, where one’s ‘humanity is recovered’, where one ‘escapes from hell’, that is, from the rule, from the place where disappearance governs.<sup>4</sup> As occurred in the Clandestine Detention Centers of the original disappearances, these settings are rigorously closed, strictly separated from the rest; they thus break the rule, they exempt themselves from it. But the exception here does not destroy, nor does it tear apart or leave unprotected; quite the opposite. It does not make anyone disappear; instead, it is in those spaces where they appear. Exception, yes, but inverted with respect to a norm that is disappearance. Mexico encapsulates that inversion of the norm; there, disappearance inundates everything today (Gatti and Irazuzta, 2019): people who disappear at the hands of the state or civilians, or through the complicity of both, and a large number of human beings who have never even attained the status of subjects

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at the Committee’s fifteenth session (November 2018). Available at: <https://www.fundacionjusticia.org/wp-content/uploads/2018/11/Alternative-report-FJEDD-TRIAL-2018.pdf>.

<sup>4</sup> The quotation marks indicate that those statements are fragments from accounts, conversations, or interviews from our fieldwork, which in Mexico consisted in interviews and systematic observation of the migrant houses in Saltillo, Monterrey, Guadalajara, Tenosique, and Palenque. In the United States, it consisted in interviews with over thirty members of four churches/sanctuaries, all of them Christian, one in Arizona and the other three in Los Angeles, and in participation in two meetings in which the incorporation to the movement was discussed. In addition, a woman who was in a sanctuary for three years was interviewed.

because they were never registered, they were never counted, nor did they ever count. They have always been disappeared. But Mexico is not the only place. Wherever our fieldwork took us—Melilla, the Spanish enclave in northern Africa; the Dominican Republic, where a Haitian population erased from citizenship; among migrants that cross Europe on their way north; in the transnational networks where women are trafficked...—we found that the norm was inverted. Disappearance cuts across the contemporary world; it is a fact that touches majorities in this world plunged in a ‘global state of precarity’ (Tsing, 2015: 6).

The work conducted in Mexico’s migrant houses and the sanctuary movement in the United States prompted us to think about the spaces of the new disappearances through the idea of ‘inverted exception.’ We realize that it is a counterintuitive idea, even absurd. We understand that it is a monster riddled with logical traps. But our reaction to this apparent nonsense should not be to freeze. Rather, we should take it seriously, even literally. The spaces from which we infer the concept of ‘inverted exception’ present a paradox that is impossible to untangle, a true and unsolvable contradiction in meaning: namely, that for many people existence occurs in settings that exempt themselves from the norm, which is now to disappear. Is it not nonsensical that appearance is the exception and disappearance the rule? Is it not almost impossible to conceive, with the tools currently available to us, that for many people life and existence are what is exceptional and that the norm is to disappear, or to have never even appeared? Is that not, however, what seems to be happening? ‘Inverted exception’ is a bastard concept, born of an empirical observation—still very incomplete—of a jumbled up world. Like that world, it is nonsensical, and perhaps that is what makes it so apt for thinking about that world.



## 2 Exception and Disappearance. Original Equations and Contemporary Deviations

The concept of exception—an old concept—gained renewed vigor in the late twentieth century through the work of Giorgio Agamben (1998, 2002, 2004). All sorts of things were analyzed with that concept: the Lager of the Holocaust; the whole modernity (Bauman, 2008); airport waiting rooms (Schindel, 2018); the spaces of reclusion formed as a result of the Patriot Act under the George W. Bush administration (Guantanamo is the most widely known, but by no means the only one) (Butler, 2011); some settings typical of the most contemporary humanitarian universe, such as refugee camps (Agier, 2011) or the holding centers for foreigners in Spain’s southern border (Ferrer-Gallardo and Gabrielli, 2017), or the very current detention centers deployed by ICE for Mexican and Mesoamerican migrants on the U.S.-Mexico border, with ‘dog-pound cages’ as their most aberrant expression (Washington, 2020).<sup>5</sup> And, of course, the Clandestine Detention, Torture, and Extermination Centers, the central part of the workings of the disappearance machinery of Argentina’s 1976-1983 dictatorship.

Deftly combining an old Roman law figure with the Nazi genocide policy, the Foucaultian *dispositifs*, and Carl Schmitt, Agamben succeeded in turning that category into a tool with a double function. On the one hand, it served to identify and name the paradox of sovereign power, something that was translated into powerful, even beautiful statements: ‘[Exception is] the legal form of what cannot have legal form’ (Agamben, 2004: 24); the exception is the *rule* that is formed where the rule is suspended. Having emerged from the act through which the sovereign annuls its own legality, it produces a paralegal

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<sup>5</sup> There is still very little academic literature on these, but they are powerfully reflected in some products of popular culture, such as the seventh season of the series *Orange is the New Black* (Kohan, 2013) or the miniseries *Stateless* (Ayres, Blanchett & McCredie, 2020).

universe where order exists but as absence of order. There, in that ‘legal vacuum’ (Agamben, 1998: 95), the sovereign puts the law that legitimizes it in a position of clandestinity with respect to itself, and it is in that gesture that its power resides (Schmitt, 2009), in that the exception does not deny but rather confirms; that is its very condition of possibility. Agamben’s work also helped identify where that power materialized, a power that was most fully realized in the concentration camp as ‘the materialization of the state of exception’ (Agamben, 1998: 221). The camp is a time and a space strictly severed, limited, rigorously separated from the normal legal and regulatory order. There is no ambiguity in it. There, the norm is suspended, it removes itself so categorically so as to be a mirror of itself but inverted: ‘the state of exception coincides perfectly with the rule and [in it] the extreme situation becomes the very paradigm of everyday life’ (Agamben, 2002: 50).

Many have criticized the rigidity of Agamben’s work on this notion.<sup>6</sup> But it is precisely the sharpness of the picture he proposes that has made his revision of this category a successful analytical instrument and a detector of some of the most complex empirical expressions of violence: on one side, the norm; on the other, the exception.

The Clandestine Detention Centers of the Argentine dictatorship or the Lager of Nazi Germany—the archetypal spaces of exception and, in the first case, of disappearance—fit that picture. With these as reference, a sort of equation was formulated for the disappearing spaces of the original disappearances. This was furthered not only by the readings of Agamben, but also by vivid accounts from survivors of those spaces, who described parallel worlds where the norm did not apply and nothing was the same, not

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<sup>6</sup> Sandro Mezzadra and Brett Neilson (2017) argue that Agamben traces extremes that are too polarized and that he is not sensitive to the fact that, in a situation of exception, rather than the law being suspended, a new law is created. Aihwa Ong suggests expanding the notion, noting that exception is ‘an extraordinary departure in policy that can be deployed to include as well as to exclude’ (2006: 5).

even language or the body; survivors who spoke of it in terms of ‘a real unreality where other logics apply’ (Calveiro, 1998; *apud* Vezzetti, 2002: 16), of spaces dominated by an absurd logic, in which everyday life continued in ‘the most underground confines of cruelty and madness’ (CONADEP, 1987: 59). Other worlds. The movie *Garage Olimpo*, produced by Marco Bechis (1999), provides a glimpse of that grim imaginary. In that film, 1976 Buenos Aires is depicted in two planes: in one, the spectacular normality of civilization and progress, which remains unaltered; in the other, a different logic, the opposite of ordinary logic. The first is the appeared, the other, its opposite. One world is visible, the other is detained-disappeared. They are not communicating worlds. There are no grey areas. They coexist, but they have different chronotopes, just as they have different logics. The film reflects precisely how, in the spaces of disappearance, exception came into play in a categorical and concrete way. Outside was the everyday, the ordinary, where law governed. Inside were the disappeared.

Does that equation work now? Do the new disappearances respond well to the canon? A priori, they do, because in what we now call ‘disappearance’ there is also an identity that is broken, a representation that cracks, a meaning that collapses. It could also be said that it does because the spaces of the norm and of its exception continue to be constructed as mirrors of each other. But some things change: first, the disappeared change, because today’s disappeared—such as those expelled from the dominant system of production or the undocumented immigrants—are *masses* and *they are not citizens* who are badly dead, but are rather badly alive. Second, their space changes. The space of the norm is now the disappearing space and the exception is the refuge where their appearing happens. It is hard to conceive that disappearing is the standard and appearing the exception, that the spaces of exception protect and humanize because in them a sense of recognizable existence and life is attained. So hard that if we were to repeat the question ‘does that

equation work today?', we would only be able to respond, 'yes, but jumbled up and inverted.'

We work in a context in which disappearance is a general fact, a structuring element of the ordinary. In that framework, we approach two spaces in the field associated with the phenomenon of undocumented migrants (who are affected in an especially virulent way by disappearance): the migrant houses in Mexico and the refuge spaces provided by the sanctuary movement in the United States. Based on our observation, we posit four inversions of the equation of these spaces in the context of the new disappearances. The first shows that while those are spaces of exception to the norm, they are no longer clandestine, like those of the original disappearance. The second indicates that, in contrast to the clandestine centers, these spaces are characterized by the acknowledgement of identity, not its fracturing and breaking up. The third helps us see that in these spaces the mandate is to give refuge and protection, not like in the original disappearances, where they were spaces devised for forsakenness and disappearance. The fourth and last inversion shows that the spaces we are referring to are exceptional because they are spaces of appearance, and not of disappearance, which is now the norm. A brief presentation of each case will be followed by a description of how they respond to these four inversions.

### 3 Migrant Houses in Mexico. Places of Appearance in a Territory of Disappearance

'Migrant houses' are places managed by civil society organizations or NGOs that provide assistance to migrants in their passage through Mexico, offering them temporary shelter to rest and regain their strength, but also legal aid and psychological and medical assistance, depending on their needs. Such places exist since the 1980s on the northern

border (for example, the one in Tijuana), and since the early 1990s on the southern border (three in Chiapas and one in Tabasco). But they have grown steadily since then and by 2018 they were estimated at thirty. This surge is certainly not fortuitous. It accompanies the rise in human mobility across the territory and the changing nature of that mobility, marked by violence in the northern triangle of Central America in recent years, which has led to an increase in the number of asylum seekers, prompting these houses to weave collaborations with international agencies such as the Office of the United Nations High Commissioner for Refugees (UNHCR).

But the characteristics of this transitory refuge are also explained by the prevailing violent conditions in Mexico. Cartels, the war on drugs, Maras, human trafficking, the money charged to allow passage through a fragmented territory, and, amidst it all, the disappearance of persons, especially migrants, throughout the country—all of this has gradually shaped a *sui generis* form of protection for migrants. The influence of the Catholic Church's long-standing tradition of sanctuaries in Mexico has led legislators to contemplate these houses in the May 2011 Migration Act. The law does not regulate them, though. It does not even name them. It assumes they exist, referring to them in merely generic terms, as 'places of shelter for migrants.' But it establishes around them an 'institution-free' perimeter that precludes any action by official migration control bodies. Section 76 of this law stipulates that the National Migration Institute 'shall not conduct any migration inspections in places where migrants are sheltered by civil society organizations or individuals engaged in humanitarian acts or migrant assistance or protection activities.' There is an evasive authorization of humanitarian assistance that corresponds proportionally to the limitation the law establishes for actions by the regular institutions legally mandated to deal with migratory issues. Therefore, taken as a whole, these houses could be said to be ultimately institutionalized as a group of institution-free

islands, an ‘archipelago of extra-territoriality’ that is ‘pre-modern,’ where there is an overlapping of sovereign powers that coexist in a disruptive, if not disordered, way with respect to the legal order of the rule of law (Johnson and Jones, 2017); a religious tradition of sanctuary embedded in a regime of state sovereignty (Doering-White, 2018).

It is in that lack of logical and historical correspondence where the exceptional character of these houses lies. They have something of what the spaces of the original disappearance had: they are spaces of exception with respect to ordinary social life and, while not illegal, they are exempted from and by the very law that institutes them. A crucial difference with the Clandestine Detention Centers is that the migrant houses are not clandestine places. While not characterized by their visibility and accessibility to most citizens (they are generally located in the outskirts of cities, in low-income settlements, sometimes near churches in such neighborhoods, and almost always close to railway tracks), they are not hidden. Their existence must be communicated in some way, they must be made visible in order to trigger the kind of values activated by the logic of the sanctuary: hospitality, charity, compassion, the desire to help others and its translation into volunteer actions, donations, or visits from researchers, which are welcome because they are seen as a way of contributing to give visibility to the issue. At any rate, in the houses, the notion of space can be felt strongly, even before visiting them. We know we are going to a confined setting, to a house. And this notion is reaffirmed in all cases because it is felt physically. There are walls, often topped with barbed wire or interrupted by prison-like gates. As such, these walls separate an exterior from an interior and institute the ‘inversion.’ The separation between the inside and the outside is clear, blunt, even aggressive, but it is visible. *First inversion: if the spaces of the old disappearances were clandestine, those of the new disappearances are not concealed.*<sup>7</sup>

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<sup>7</sup> Which is why here, contravening the convention that requires that ethnographers or sociologists conceal

### **Image 1. Saltillo migrant house**

They are not concealed nor illegal, but from the outside, and even from the inside, these houses look like something we have a hard time calling by its name: prisons. It is hard because it goes against the good intentions and the pride evident in our hosts as they show us the houses. And it is also hard because these are spaces that are intended to be the opposite of those other spaces, and are indeed precisely their inversion. But the rituals for entering them—serious, effective, unavoidable—recall those other spaces whose name is so hard to utter, those of the original disappearance: being interviewed, handing over one's belongings for inspection, being identified. One of the houses we visited—the FM4, in Guadalajara, Jalisco—changed our perspective of the previous ones. This one is not run by members of any church. Everything is more secular here, even the design is different, cooler. The entrance is just as tall and has spikes on the top (although with ironwork details), it is painted black and covered with logos of international organizations, such as UNHCR, Amnesty International, and Doctors Without Borders. We are greeted by Fausto, its director, who explains the security measures in place. They interview anyone who comes in. In fact, outside the office where we conduct our interview there is a front courtyard and when we come out we see that it is filled with young men waiting for something, most likely their turn to be interviewed. Or hand over their belongings, which Fausto says they are asked to do before going in. They have to stow their things away in lockers until they leave the place, after a three-day stay.

### **Image 2. Inside the Guadalajara migrant house**

Upon entering, everyone receives a sort of badge, what in Mexico is known as a *gafete*: a piece of cardboard inside a plastic jacket, which the person wears on a string around

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or mask their informants or places of work, we provide the names of the migrant houses where we conducted our observations.

their neck. It bears their house ID and has a number of sections with different services the person can make use of—meals, clothes, medical attention—which are cut out as the person uses each service. The house—that space of exception—must be protected from bad people, so there are internal controls in all these houses, rules that are always present, either written or ‘imagined,’ but rigorously enforced through surveillance devices. Cameras are a common feature of every shelter. Whether they are acknowledged or not, they are visible and no attempt is made to hide them. They can be seen inside, or near the thin perimeter that separates the shelter from the threatening outside world.

For those waiting outside to stay in the houses, the entry process is like a supplication (Bagelman, 2016). For those inside who grant or deny entry, it is a control, a necessary filter to keep the interior free of all the bad that is outside. Only the good pass that filter and there is no norm that determines who is, in fact, good. Intuition comes into play in that decision, instinct; perhaps some signs, such as the clothes they wear or how much the exhaustion shows in their faces, can serve as clues to determine that they are not human traffickers. That control is very visible in the fortress-like Saltillo shelter: high walls topped with barbed wire and a gate with a spy hole. In front of that gate, a man is peering in and trying to sound convincing to the very young guards—almost boys—who interrogate him. They are not convinced. ‘You have to help me,’ the man says. The guards go inside to ask what they should do, and when they return he is gone. Either he is not a migrant, or he is not a foreigner, or he is what he should not be: a hit man, a coyote. You shall not pass! The center is a fortress protecting against evil, a sanctuary.

The subjects at the spaces of exception are the object of a ‘pure de facto rule,’ Agamben says (2004: 29). They lose their civil identity there. In the migrant houses, that situation is inverted: in them, they have to identify themselves, even if they give a provisional identity, or even a false name. In them, the body has to have a name, even if that name



changes in the next shelter or if it is of no use for those who come looking for them as disappeared. The houses assume the role of restoring the civility that disappeared outside, they strive to record identities. And, in gathering that data, they work on a ‘good faith’ basis, accepting at face value the information provided by the migrants, in a world—the world of transients—where the only proof of existence is the body of those moving. The names associated with those bodies are thus unstable data: there are no official documents (or they are not usually furnished) and those gathering the data are not fooled with respect to how those bodies can use those names. Giving any name they choose upon entering a shelter is one of the few strategies migrants have to protect themselves from traffickers, from the actions of coyotes, who, as we are told in every house we visit, are always lurking. ‘Impossible subjects’ (Ngai, 2005), ‘erased’ subjects (Tassin, 2017), ‘dispossessed’ (Butler and Athanasiou, 2017) of that fundamental property of identity that determines the civil nature of individuals; ‘disappeared’ in the sense that the correspondence between body and name is broken (Gatti, 2008). Disappearance would seem to be played out here in the intervening spaces between shelters, which are the black segments of these subjects’ existence. *Second inversion: If in the spaces of the original disappearance the subjects who entered them were stripped of their identity, lost their names, and became a mere number, in the spaces typical of the new disappearances, subjects instead seem to recover their identity, even if it is only a provisional one, even if it is not their true identity, their official identity.*

### **Image 3. Supplication in the Saltillo migrant house**

The outside is the side of the loss of identity and of disappearance, a legal vacuum, a war territory that in Mexico is referred to officially as ‘the War on Drugs,’ but which, while motivated by that enemy, has extended to civilians and those who are not but who pass through the space of civilians: migrants. The 2010 San Fernando massacre in Tamaulipas,

in northern Mexico, congealed an imaginary of disappearance in the minds of that population. It was a turning point in the migrant houses' protection policies and it serves as a reference to characterize the outside they seek to protect migrants from. They are very clear about this at the Tenosique house, in the state of Tabasco, the first house migrants take shelter in when they come into Mexico. They call it 'The 72' evoking the seventy-two migrants who were disappeared and later found in a mass grave in that place in Tamaulipas. That name ushers them in to begin their passage through the territory of disappearance that is Mexico, as if that first entryway announced what is to come, from the south to the north. When you step into The 72, you find all of that represented in the chapel, as if that suffering sanctified the migrant, as if it instituted their vulnerability and enabled the exceptional care provided by the houses. That episode is also evoked in the Saltillo Migrant House, where the number seventy-two is painted on the floor of the main courtyard. When we go in, we are welcomed by Father Luis Jurado, the house's director, who shows us around and refers to the massacre as 'hell', using a word from his religious universe. It was 'a watershed moment for us,' he says. They realized they stood together with the migrants 'as *compañeros* in risk and threats.' At that point, a maelstrom that confounds migrant disappearances with civil society disappearances occurs. The years 2009 through 2011 were the height of the cartels, their kingdom. Violence has since eased, but it has been replaced with a state of defenselessness; that danger is still lurking, which is why they continue with their activity, and for that reason the house run by Jurado, like most houses we visited, is under construction, expanding its facilities.

The vulnerability of the migrants, their defenselessness, and the risk of disappearance they face have settled firmly in the imaginary that underpins the protective practice of the migrant houses. And the facts do not contradict that sensation: disappearance, human trafficking, and other forms of violence are sown along the migrant trail, and these houses

rise along the way to offer refuge. The danger is outside; inside there is refuge. Outside is hell; inside, salvation. Outside is defenselessness; inside, protection. *Third inversion: in the new disappearances the exception is to provide protection, not for repression or extermination like in the spaces of the original disappearance.*

There is no protection possible for these migrants in transit except in intermittent spaces, such as the shelters, and the goodwill of those who run them. In the segments in between these houses, the possibility of disappearance is an almost certain fate. Disappearance is out there, throughout the territory of Mexico, taking on multiple forms: enforced disappearance, disappearances perpetrated by civilians, disappearance in the form of invisible individuals who are unseen, unregistered, and unprotected by the state. And it is colossal in its numbers and even normal insofar as it is instituted as a real possibility (Gatti and Irazuzta, 2019). The migrant houses emerge as the exception of that reality, and more than spaces of disappearance they are spaces set up to avoid disappearance. More than that, it is as if those who take shelter there appear, as if these were spaces that sprout up intermittently in the migrant trail to save migrants from falling victim to disappearance in their journey across the country. Thus, the migrant houses are also spaces of exception, but they operate inversely to those of the original disappearance: in them, subjects are reborn, they reunite with their names; there, individuals are safe from the disappearance that lurks outside; they find protection, refuge, and identity there. They appear, although that appearance cannot be thought of in the terms of a subject of liberal citizenship (Butler, 2017); their appearance there is framed in the terms of human rights. Inversely to the original spaces of exception—and this is the *fourth and last inversion of the spaces of the new disappearances—more than spaces of disappearance, they seem to be spaces of appearance, even if that appearance is provisional, not fully civil, but humanitarian.*

## 4 Refuge spaces of the sanctuary movement in the United States

### South: Public Appearances, Civil Disappearances

The ‘sanctuary movement’ emerged in the 1980s as the United States government denied refugee status to migrants coming from Central America, primarily from El Salvador, fleeing armed conflicts. The movement carried out various actions in favor of migrant rights, but ‘offering sanctuary’ became its hallmark. Around 2007, after years of low activity, the movement saw a revival in what a Los Angeles priest dubbed the ‘2.0’ movement. This new sanctuary movement differs from the original mainly in two aspects. First, the movement no longer offers sanctuary to migrants who are not granted refugee status, but rather a safe haven for others who are already living in the United States and are facing deportation. Second, the movement has incorporated actors other than churches, including the vast network of human rights activism and migratory reform advocacy in the United States, universities, cities, and even the State of California.<sup>8</sup> This responds to a policy that only aggravates the violence and defenselessness to which refugees, migrants, and persons of color have always been exposed, succumbing to an ‘epidemic of white nationalist anti-immigrant politics and rhetoric swelling across global North countries’ (Fregoso, 2020: 737), and, at the same time, to the need for other actors to give them refuge in a world, today’s world, that ‘is full of refugees, human or not, without refuge’ (Haraway, 2016: 100).

Offering sanctuary remains, in fact, the hallmark of the new sanctuary movement. It connects this movement with the medieval European church tradition of hospice and protection (Bagelman, 2016; Lippert and Rehaag, 2013; Marfleet, 2011; Shoemaker,

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<sup>8</sup> In the United States, the actions of these other actors (universities, cities, states) generally take the form of not collaborating with the federal government in the identification of undocumented individuals, something which has increased in recent years in reaction to a policy that targets migrants, refugees, and racialized persons, and leaves them unprotected.

2013). But in the United States the movement is interreligious, not just Catholic, reflecting the country's complex tapestry of religions and faiths. And also, despite the multiplication of actors in the current movement, churches are still the leading actors and the ones that operate as spaces of refuge. For that reason, the fieldwork was conducted among churches of the sanctuary movement and, specifically, with a woman who was given sanctuary in a North Los Angeles church.

As noted, today, sanctuary is given to migrants who are facing imminent expulsion while efforts are made to overturn the deportation order. Liliana is one such migrant. For three years she was given sanctuary in the United Church of Christ in Simi Valley, a town on the northeastern edge of Los Angeles. Liliana was born in Mexico, but just after turning 18 she crossed the border to join her family, already living in California. She was stopped at the border for trying to use false papers, but it was a different time, she says, and they eventually let her through. A year after she crossed into the United States she married the man who is still her husband today, a Mexican like her, but who had a green card and has since become a U.S. citizen. Her husband's new status meant that Liliana could apply for a green card. So she began the paperwork, but the process came to a halt when she was interviewed by immigration officers after they found she had come into the country with false papers. Luck (or a miracle, she says) crossed her path and she was neither arrested nor deported, just given a warning by the immigration officer: 'Disappear from my sight,' he told her. If she wanted to remain in the United States, it would have to be without papers, without applying for residency; she had to exist without going through everything that gives a subject existence under a liberal regime: civil registry, identity documents, permits—'papers' in general. *She disappears*, becomes invisible. She is an 'undocumented'; one of the most widespread forms of the new disappearances. In 2007, two months after giving birth to her third child, without prior warning U.S. Immigration

and Custom Enforcement (ICE) agents show up at Liliana's house early one morning. They are there to arrest and deport her. A miracle, she says, again crosses her path, as she is given three days to put her personal affairs in order. That gives her time to consult a lawyer who puts her in contact with the sanctuary movement. That marks the beginning of Liliana's and her family's time in the Simi Valley church.

The church has two buildings: the main one, a place of worship that to Europeans looks more like a house or an event venue than a church; and another one in the back, a house much like any other in the neighborhood and district, which was originally meant for the pastor's lodgings and was the place Liliana and her family called home throughout her sanctuary (the congregation has since rented it to another family to raise funds). Neither building is a place one would associate with a shelter for vulnerable persons.

#### **Image 4. Main building of the Simi Valley United Church of Christ**

#### **Image 5. Living quarters of the Simi Valley United Church of Christ**

In many, or perhaps most cases, churches lack a specific space in which to provide sanctuary, and congregations must 'fix up' the church's own spaces to harbor individuals or families in need of sanctuary. A reverend in Tucson, Arizona, tells us how his church provided sanctuary for a migrant who stayed for almost two years and a group of parishioners had to help install a shower for her, as the facilities lacked a proper bathroom. 'Fortunately there was already a kitchen in the church,' he adds. A striking aspect of the sanctuary spaces is how ordinary, even banal, they are, in contrast to the extraordinary, even incongruous, nature of the spaces of the original disappearances, the Clandestine Detention, Torture, and Extermination Centers. The sanctuaries are normal in their context, familiar, comfortable, visible, not hidden or clandestine, not dirty or aberrant. As in Mexico's migrant houses, in the sanctuaries on the other side of the border the *first inversion* is confirmed: *if the spaces of the old disappearances were clandestine, those of*

*the new disappearances are not hidden* and they even seem like spaces typical of ordinary life.

Each church or congregation usually provides sanctuary to a single migrant, and if necessary their family; only rarely do they harbor more than one, and that is due to the resources required, which they lack. Providing sanctuary to someone entails looking after, being concerned about, and taking care of them. In Liliana's case, the parishioners volunteered in shifts, so that someone would be there around the clock with her. That way, if immigration agents came to arrest her, there 'would be witnesses.' In every case we hear about, we are told that the congregation provides not only shelter but also everything the person needs for their maintenance, both financially and logistically (grocery shopping, for example). In contrast to Mexico's migrant houses, the sanctuary movement is not directed at an indistinguishable population, although its beneficiaries are found among the thousands or millions of undocumented migrants with active or potential deportation orders.

Sanctuary is granted to only a handful of migrants and it is done individually, on a one-person basis. Liliana was one of those persons. The movement holds up her case and that of other migrants granted sanctuary as examples, making them widely known through actions in which the beneficiaries participate openly, showing their faces, and becoming visible figures of the movement, 'spokespersons,' as Father Javier in Los Angeles says. By telling their personal story, they put the U.S. migration issue on the public agenda. Their stories are not just theirs; they are the stories of many nameless others. These men and women now have names, they gain an identity (Liliana and Juan in California; Amanda in New York; Sandra, Ingrid, Jeanette, and Arturo in Colorado; Eliseo in North

Carolina—these are some of the names, the real names, of the sanctuary migrants).<sup>9</sup> However, that identity, even if it is with the individual’s own name, is not entirely theirs; they speak using their own name but in order to give voice to a mass movement (that of the sanctuaries and of the millions of undocumented migrants). *Second inversion, and in line with what happens in Mexico’s migrant houses: if in the spaces of the original disappearances the body was separated from the name, the subject from their identity, the spaces of the new disappearances seem to restore a certain identity to the migrants, even though that identity does not yet enable them to have a full civil life.*

Look after, be concerned about, take care of—that is what the congregations do with respect to the migrants they grant sanctuary to. In short, they protect them. Protection is one of the core elements of the sanctuary movement. The shelter offered by the sanctuary is the clearest form of protection, but it is not the only one this movement provides; its repertoires of action are much vaster. During a meeting in a Los Angeles congregation, convened to decide whether or not to join the movement, participants discuss the level of commitment that should be adopted. There are four possible levels, they say: the first three range from a symbolic affiliation—declaring that they are part of the sanctuary movement, which is what many congregations and, especially, other actors such as cities or universities do—to giving moral support to migrants and/or accompanying them in their dealings with immigration bodies; only in the fourth level there is a commitment to provide physical shelter in the church for a migrant facing deportation. ‘Offering sanctuary’ is part of a broad set of actions whose common denominator is the protection of migrants.

Not all migrants, however, merit protection in the form of sanctuary. As in the medieval

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<sup>9</sup> And we use their real names here because making their identity public is one of the characteristics of the movement, so we choose not to hide them, like with the migrant houses in Mexico.



sanctuary tradition, there is what we call ‘supplication rituals’, in Bagelman’s terms (2016). Migrants have to prove they merit such protection, that they are in a situation of vulnerability, exposed to violence. The main criteria that must be met are: being at risk of deportation; having a child who is a U.S. citizen; having an employment record; having good moral standing; and that the case can be pursued in court. Those are the formal criteria. However, when it comes to granting sanctuary to a specific individual the decision is up to each church, and in making that decision what is particularly valued is the family situation: separating a family is considered immoral, especially if that family contributes to the community. In Liliana’s file, the family ties are highlighted (her husband and children are citizens), and the family is praised for being a hard-working and ‘loving’ family.<sup>10</sup>

They are protected because they merit protection, but also because they have been exposed to the random and discretionary application of immigration laws. Activating or failing to activate a deportation order does not appear to respond to any specific criteria or plan; rather, as we saw with Liliana, it is random. In any case, protection is given in the face of a state that instead of ‘protecting the weakest’, withdraws its protection, deporting them to their places of origin where they may be exposed to different forms of violence. The sanctuary movement also provides protection against the defenselessness that comes with living without papers, the exposure and dehumanization, as a Tucson reverend and a Los Angeles priest tell us, which such an administrative status entails.<sup>11</sup>

For Javier, the Los Angeles priest, protecting is thus a matter of human dignity; the

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<sup>10</sup> There is, in fact, a ‘familist’ tendency that governs the eligibility criteria for sanctuary protection candidates, most likely determined by the sanctuary movement’s religious roots. However, in a more general consideration of who merits protection in the migration context of North America, there is also a significant presence of LGBTQ demands (Ríos Infante, 2020; Balaguera, 2018), and this is very frequently a constitutive element of the ‘supplication rituals’ that enable protection (Fobear, 2015).

<sup>11</sup> Both insist that this situation of increasing dehumanization, exposure, and defenselessness of ‘the weakest’ is not unique to undocumented migrants, but that the current administration is causing it to spread to other ‘communities’: women, LGBTQ people, the poor...

sanctuary protects, ‘its purpose is to recover the humanity of those who have been dehumanized.’ And that protection that allows a person to recover their humanity—a humanitarian protection—justifies the existence of the sanctuaries that respond to a superior law: the law of God, natural law or human law (Lippert and Rehaag, 2013); a human law that is claimed must be translated into civil law (Czajka, 2013).

For migrants, however, protection has a flip side. And it is that living in a sanctuary entails giving up (civil) life: they cannot leave the church or place of worship because if they did they would be arrested, especially because they have become well-known public figures (at least for the local police force). This is why the sanctuary that protects them is experienced as a prison. That is what the documentation we reviewed in the Simi Valley church tells us (‘Liliana has essentially been a voluntary prisoner, confined to the space of the church’). And that is how Liliana herself describes it: ‘It was tough being there; whenever I spoke on the phone with my dad and he asked me how things were, I would tell him that everything was fine, that the house was big and I could go out into the yard. But my dad would always tell me: ‘Remember that even if the cage is gilded, it’s still a prison.’ And I would tell him that it was true, but that it was a cage that protected me.’ *As in Mexico’s migrant houses, the third inversion is confirmed here: the spaces of the new disappearances are places of protection, not like in the original disappearances, which were spaces of defenselessness and even extermination.*

The migrants facing deportation whom the sanctuary movement protects, and undocumented migrants in the United States in general, can be thought of as what Etienne Tassin (2017) calls ‘disappeared under a liberal regime.’ Drawing on two of the types Tassin proposes, we could say that they are *hidden* (‘individuals condemned to a clandestine life because of they entered illegally into the territory’ (*ibid*: 107)) and *erased* (‘beings deprived of their political existence because they have been deprived of their

political rights or have been erased from the citizen registries' (*ibid*: 106)): they have come into the country illegally; they are not always included in citizen registries; they live a disappeared existence in civil life and especially in public life; they have no political existence—except that which they acquire as spokespersons of the movement.<sup>12</sup> The sanctuary movement is what makes them *appear*. But it is a paradoxical appearance; neither total nor permanent. We could say it is an intermittent, even failed, appearance. And that is because the sanctuary is not the solution to their irregular migratory status<sup>13</sup>—they usually leave the sanctuary, although not always, with the guarantee that the deportation order will not be enforced, but will remain pending—so that they must continue living in a situation of disappearance (under a liberal regime), even *disappear* again if the order is reactivated or if they are deported following a new arrest. They appear, but not as subjects of liberal regimes (Butler, 2017), they must exclude themselves from civil society, refrain from participating in public life, in collective life. Thus, the appearance enabled by the sanctuary is not civil but humanitarian. It falls under the moral foundations of the 'law of God, natural or human' but not civil law. *Fourth and final inversion, which again replicates what happens in Mexico's migrant houses: the spaces of the new disappearances are not spaces of disappearance; they are spaces of appearance, however incomplete, provisional, non-civil, or humanitarian.*

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<sup>12</sup> This puts migrants in a paradoxical and complex position, as they have to be invisible to the authorities, but at the same time act as 'figures of the movement.' In this sense, Lippert and Rehaag speak of a play between 'exposure' and 'concealment' in the sanctuary movement (2013).

<sup>13</sup> In fact, if they were to have to stay in a sanctuary until their situation is resolved, this temporary solution would turn into a 'permanent limbo.' That is how Bagelman explains it, when he warns that 'the very practices of sanctuary that are supposedly temporary, protective, and mitigatory can end up functioning as a condition of liminality that entrap asylum seekers in a permanent state of suspense. (...) sanctuary actually risks operating as a permanent limbo.' (2016: 34).

## 5 Exception in Areas of Confusing Sovereignties. By Way of (Near)

### Conclusion

The terrible coupling of the Clandestine Detention Centers of the Argentine dictatorship with spaces of exception and the practice of enforced disappearance of persons formed an apparently irrefutable and universal equation: that of the disappearing spaces. The more current disappearances, however, deviate from and contravene that rule, they even invert it: appearance is now the exception, while the norm is widespread disappearance. With the aim of making this twist intelligible, in this text we have examined the migrant houses in Mexico and the refuge spaces of the sanctuary movement in the United States as examples of these deviations from the model of the spaces of exception of the original disappearances, the Clandestine Detention Centers. Our reflection has centered on the concept of ‘inverted exception.’

The concept is suggestive, because it is paradoxical and counterintuitive, and also because it shows us a jumbled up world, a world of disappeared majorities, of confusing sovereignties. However, it confronts us with a complex category—that of exception—and in order to approach it with a minimum of empirical rigor two questions need to be answered: the question of how it is structured and what happens in the chronotopes of exception, in the spaces and moments in which the norm does not apply, when it is suspended, when it steps outside itself; and the question of in whom resides the act of sovereignty that dictates that a part of what is under the authority of the sovereign be left outside that authority. In this text, based on the observation of Mexico’s migrant houses and the U.S. sanctuary movement, we have partially answered the first question, by interpreting that in the spaces and moments that each enables a sort of inversion of what we commonly understood by spaces of exception occurs. In the context in which we work,

the population sheltered by the two institutions—the houses and the sanctuary movement—in fact lives in an ordinary, everyday way with a structural sense of disappearance: it is subjected to a risk of death, but above all it profoundly suffers a *risk of inexistence*. The life of this population is thus a *life that does not matter*, as the formula—now a trope—reveals.

In that context, that of a time, our time, full of miserable existences and lives without refuge, where *disappearing* is never having appeared in the sense of what we understand by life, where disappearing is living a bad life (Butler, 2017), living on the edges of life (Irazuzta, Martínez, and Schindel, 2019), living a social death (Patterson, 1982), the migrant houses and the sanctuary movement break with the dominant logic: they shelter, they harbor, they bring these populations in from the cold. They protect them. They bring them into existence. They are exceptional with respect to a norm that today tends to be general and which works in the opposite direction, not protecting. These spaces thus invert the sense of what we have called the ‘equation of the disappearing spaces’ of the original disappearances: if the original spaces were spaces in which individuals were subjected to helplessness, to a radical defenselessness, to a death in life, after the disappearing machinery had removed them from a context where they had reached the full meaning of their existence, the current spaces of exception instead give a certain existence to individuals who ordinarily do not have it, protecting them while at the same time making them appear.

The protection of the outlaw, the persecuted, the needy is not new in the history of humanity, and there is certainly a long history of spaces that the law decrees as falling outside it. A quick glance reveals some spaces in the scope of diplomacy, by virtue of which they acquire a unique statute (embassies, for example, fragments of a state in the territory of another); spaces that lead us to consider other rationalities, different from

those in which only the law of the sovereign rules (universities, for example, whose spaces are governed by their own authorities, or the Church, naturally, or even ships or planes, where the captain is in command); and also other spaces used for leisure (the brothels of seventeenth century Spain) or production (free trade zones). In many of them, the added value and the ultimate purpose of that very particular space is protection; its explicit mission is to give shelter to those who have no protection outside that space, because they would succumb to the force of another power were they not inside that place. If we focus on this point, we can certainly find a path to advance our thinking on what interests us in this text, which would tie it to institutions that in many cases predate the modern order (the order of states). The Church is one of those institutions, present in both cases examined in this text. There is a possible genealogy of the Church, under various denominations, that can be traced, as an institution that has the capacity to give refuge to individuals who contravene the law, and in the delimited spaces and times in which it exercises that capacity, it governs: it protects, yes, but it also imposes rules, curtails certain rights, grants others, it forms and deforms. It evangelizes by sheltering, or the other way around, which is ultimately the same.

Can the migrant houses and the sanctuary movement be considered part of that genealogy? In appearance, yes: the authority in them lies in the rationality of these churches; similarly, their mission is to protect; that role is likewise performed in delimited, strictly regulated spaces that are different from those of their surroundings. But that genealogy becomes less evident if we try to think of it under the idea of *exception*. This idea does not work in the old spaces of protection, the pre-modern spaces: the necessary condition for exception is to be so with respect to a dominant norm, which in those cases did not exist. In pre-Westphalian Europe, multiple sovereignties ruled over the same territory (with the Church and its structures being just one them), 'existing as

metaphorical islands independent from the secular authorities of the surrounding fiefdom' (Johnson and Jones, 2017: 60). Rather than a general norm and its exceptions, the territory was studded with 'islands that had their own set of laws and constituted refuges and tax havens physically and legally separate from their surroundings' (*ibid*); for that reason, for centuries the same sanctuaries were able to operate within the law (something unthinkable in the Agambian state of exception), they were governed by canon law (Shoemaker, 2013). There is no exception when there is no norm; there are therefore no spaces of exception either. Thus considered, no kinship can be established between those spaces of protection and the ones we have observed, although it is true that something of those spaces—so old that they are pre-modern—can be seen in these spaces—so new that to them modernity is old. If that is so, it is because the ways of understanding the norm and what contravenes it have altered their logics.

With the modern sovereign—the rule of law—the Norm is imposed, the sole and imperial letter of the rule of law, the monovalent ruler; it rules to such an extent that it does so also over that which denies it. Thus the Lager, or the free trade zones, the detention camps or migrant holding centers on the U.S. border, or other closed and minority spaces, contraventions of the law ordered by the law itself, the Law with a capital 'L'. There, the law is not complied with, the law says. It is complied with everywhere else, throughout the world. In those contexts, it makes absolute sense to think about the Clandestine Detention Centers of Argentina, or of Chile, Brazil, or Uruguay, or any disappearing dictatorships as spaces of exception, and their equations also make sense, including the space equation: in the case of disappearance, the space is that of exception. That is how it was and none of it shatters the logical principles of exception: a sovereign's mandate rules, determining that there, in that clearly delineated space and time (the Lager or the Clandestine Detention Center, for example) within its dominions, one is outside its

dominions. The law is suspended, the normal is broken and, therefore, because the law is that there is no law, extermination is possible.

Today, however, when in many territories, disappearance is not only enforced disappearance but a general assumption, when disappearance is widespread, is even the norm, when that state is not the only one that determines the suspension of *its* norm given that the potential disappearing agents have multiplied, what is the exception? Where lies the sovereignty that the (exception to the) norm establishes? Protection appears to be the exception and sovereignty takes on strange forms, pre-Westphalians in appearance (coexisting rationalities, spaces under the dominion and rule of multiple powers: the state, drug traffickers, the Church), post-Westphalians in fact: what we see is what happens in the ruins of the single norm. In this jumbled up context, even exception is inverted.

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