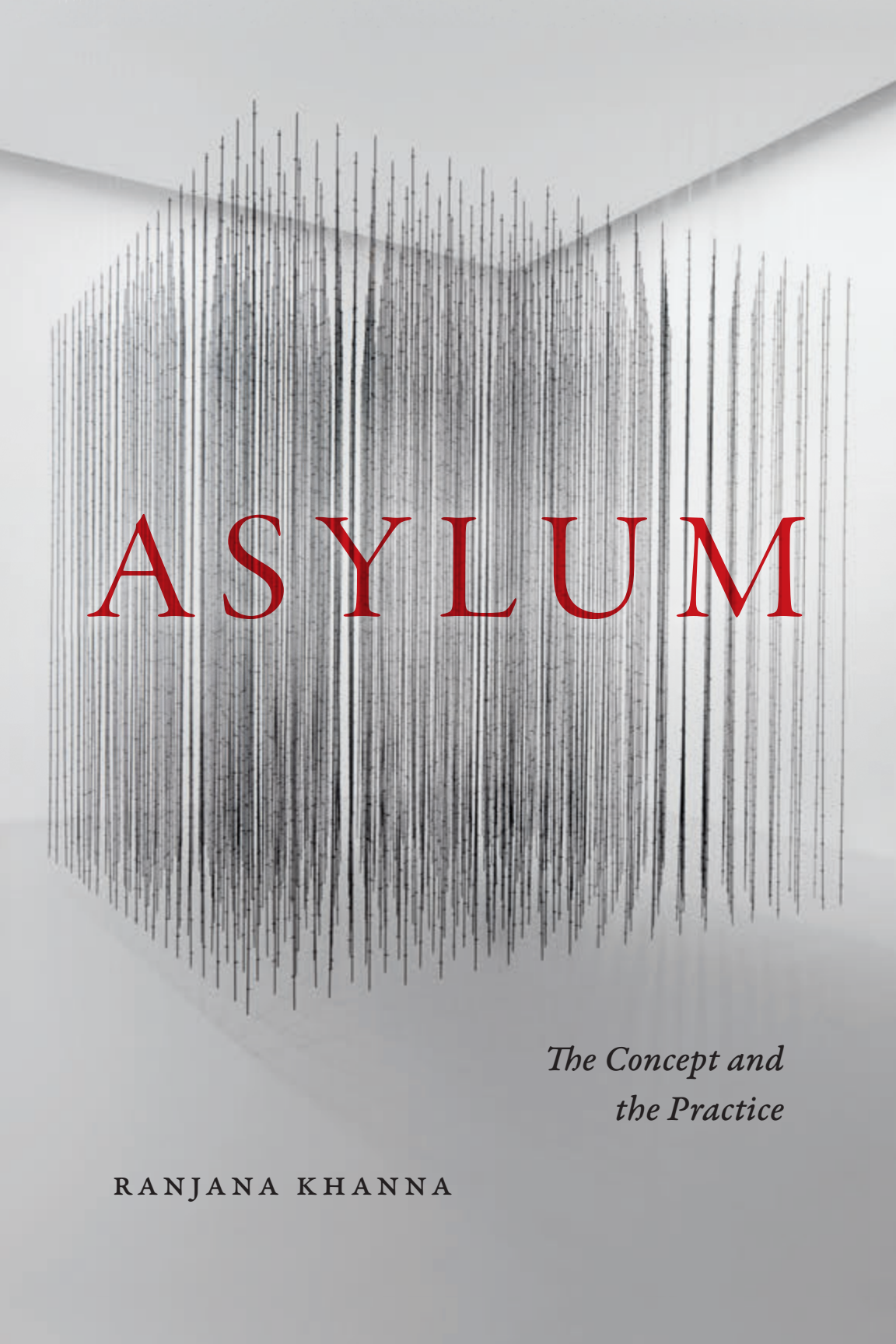




ASYLUM

*The Concept and
the Practice*

RANJANA KHANNA

A S Y L U M



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A S Y L U M

The Concept and the Practice

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R A N J A N A K H A N N A

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Preface

The knot that this book addresses emerges from an interest I developed in colonial mental asylums but never discussed as I worked on *Dark Continents: Psychoanalysis and Colonialism*. In that book, I analyzed how psychoanalysis emerged, alongside fields such as archaeology and anthropology, as a colonial discipline. I proposed that the colonial encounter of Europe with the world contributed to the formation of Sigmund Freud's notion of the psyche. His own home under threat from anti-Semitism, Freud, I claimed, developed theories that also provided for an understanding of loss—of people, of homes, and of ideals. Specifically, melancholia, a concept and condition only provisionally developed by Freud, included a loss of footing and sense of place. I began to suggest—and I extend this argument here—that psychoanalysis thus taught us something about the impossibility of home and human in a world that continues to demand that we have a home, and that we fulfill the criteria that endow us with the state of being human, if we are to be protected by the law and provided for as citizens. I developed a concept of postcolonial melancholia shaped by the insight that psychoanalysis gives us, precisely because of its colonial origins and understanding of the profound unhappiness in civilization that comes with it—insight into the postcolonial late-capitalist world in which we reside.¹

There are at this point many wonderful works that have been written on some of those colonial mental asylums—those structures that, in principle, house and sometimes incarcerate those who cannot function in the world outside that home because of the unfitness of patient and world for each other.² Rather than pursuing that interest in the sites of care for, and control of, those of us deemed unfit for worldly inhabitation, I became focused on the concepts that undergird those institutions, such as hospitality, dignity, and value. The cruelty of such institutions, exemplified in their production of the political through the decisions

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to admit or not admit, to treat or to incarcerate, necessitated analyzing all that inheres in hospitality, dignity, and value—including hostility, shame, and disposability and, through those, the inhuman. Asylum's philosophical basis carries all these terms and does not necessarily move from one (the wretched, the ashamed, the homeless) to another (the valued, the dignified, the propertied and thus homed). To progress from one state of being to another (from indignity to dignity, from disposability to value, from homelessness to being embraced in the comfort and care of home) suggests a generalized desire for well-being within the already existing parameters that come to define that human form. It is hard—perhaps, indeed, epistemically impossible—not to want such a state. Yet in this book I show how hospitality and hostility, dignity and indignity, value and disposability are bound together and interdependent in the concept of asylum.

Reading the asylum as hospital, as hospitable, and as hostile has enabled the perception of a framework that was writ large through another side interest that emerged as I worked on *Algeria Cuts: Woman and Representation, 1830 to the Present*. That book traced the production of the figure of woman in Franco-Algerian art, literature, film, and political discourse. I wanted to understand why, in the 1990s, the once avant-garde Third World nation—a kernel of postcoloniality—had started attacking and killing feminists who were becoming objects of suspicion for the state, represented by the Front de Libération Nationale (FLN), as well as by those opposed to the state, including the Islamic Salvation Front (FIS) and other armed militants who fought against corruption and the canceling of elections when the system of one-party rule in Algeria was to change. Algeria as a political unit suggested all the paradoxes of the postcolonial world. It was the state that canceled elections in 1992 in the name of democracy. It was also a state that, through civil war, allowed for an understanding of postcolonial sovereignty rendered as sovereign decisionism. Violence toward them became the material consequence for women who struggled for women as they saw the diminishing of their rights in the name of state and of religion.

As I was writing that book in August 2005 in New Zealand, I met a former member of the FIS, Ahmed Zaoui, who at the time was being housed in a church in Auckland.³ A highly controversial figure, he was becoming something of a cause célèbre in New Zealand, where he had arrived in December 2002. As he was deemed a security risk, he was initially denied refugee status, but it was acknowledged that he had a well-founded fear of persecution in Algeria and therefore would not be sent back under the laws of non-refoulement, as recognized in the 1951 refugee convention and in international law. After spending time in prison and becoming a figure of dispute among political parties, Zaoui was being

housed, when I met him, in a Dominican priory. My sense of the situation was fraught and unresolved as I was confronted viscerally with the complexity of the principle, the mandate—perhaps even the divine law—that protects strangers and gives them a home even when their political and moral decisions may be odious, illegal, or terrifying and may be emerging in an impossible situation in which banishment, incarceration, and election do not seem viable.

I never wrote about Zaoui's case, nor about my own vexed encounter with him, but I was fascinated by this asylum and sanctuary—the Dominican priory where he lived for years awaiting a decision by the state. The knot of hospitality and hostility, dignity and indignity, and disposability and value was highlighted for me once again, viscerally, in the practice evident in situ and on the level of the concept.

In *Asylum: The Concept and the Practice*, I propose that the post–World War II order is most exemplified in such knots of non-belonging and, most critically, in the new nation-states that were achieving independence from foreign rule. The massive global shift that occurred in the wake of the Holocaust and the world-threatening event of the United States' dropping bombs in Hiroshima and Nagasaki had also engendered postcolonial states. The threat of non-belonging in the colonies emerged in literature by colonizer and colonized alike in the early twentieth century. One might think of E. M. Forster's *A Passage to India* alongside Rabindranath Tagore's *Gora*. Alienation, its own form of non-belonging and estrangement, is the bread and butter of European modernism—Virginia Woolf, Franz Kafka, James Joyce, Albert Camus, Jean-Paul Sartre, Joseph Conrad, Thomas Mann, Freud. Each of them implicitly and explicitly renders this estrangement from labor, self, or environment as a psychic foreignness. As writers such as Mann and critics such as Erich Auerbach escaped from Nazis, this estrangement or loss of home was rendered as exile. For Theodor Adorno, it was rendered as bearing the trace of “damaged life.” Herbert Marcuse would resist the “purveyors of death” and “repressive tolerance.”⁴ Modernism is bound to estrangement, alienation, and exile conceptually, thematically, aesthetically, materially, and formally. It is also bound by melancholia, or the inability to mourn or to identify what, in loss, is unmournable, as we can surmise from Freud's modernist project.

Postcoloniality reveals something profound about the modern projects and concepts of nationhood and belonging, and the ideas of the human that emerge with them, as they adopt and refine structures of statehood that have engendered both colonialism and its aftermath. Rather than loss of home, the concept and practice of asylum pivots on the hostility and hospitality of the host; on the disposability of citizen and sovereignty; and on the term that defines and binds

human right—that is, dignity beyond value. If we understand world order in postcoloniality as functioning under the nomos of asylum rather than of exile, we see that the knots are in fact cuts, wounds, and scars in the fabric of belonging. They are most evident among lives that are rendered nonhuman and disposable, present to us, in practice, only by virtue of sovereign decision.

This conceptual exploration is not a plea for a practice of building more homes and making more humans. It is, rather, about how, in the postcolonial order, the principle and concept of hospitality carries within it that which is exemplified in the practice: hostility, which is expressed only as one is pushed away from or broken by the arms that beckon. The postcolonial foregrounds the problem of belonging and any concept of the in/human that arises with it. It is, of course, also the case that postcoloniality is all about borders and their arbitrariness, the need for building worlds and finding no space in which that might happen. We live in the age of asylum.

The book, then, considers the concepts that emerge from my investment in postcolonial asylum—the spaces of hospitality and hostility that, writ large, come to render us and divide us as human or not and as with or without value. Part I is concerned with the emergence of theories of hospitality. Part II engages the concept of the human as having dignity through the figure of the dog, because it is in relation to the dog that the stakes of being human are clarified in the literary examples explored. Dogs present themselves in the sites of war and postwar homelessness best exemplified in the mass migration, displacement, and killing during the partition of India in 1947 and the creation of Israel in 1948. The madness of the state comes as a response to that, as man becomes as undignified as the dog, and the dog becomes the mark through which we understand the madness of the figuration of man. The final part of the book considers how we might more appropriately understand life, not in terms of dignity, but in terms of disposability and our relation to and as the disposable.

While I did not set out to write a book of feminist political theory, I believe that one has emerged here.

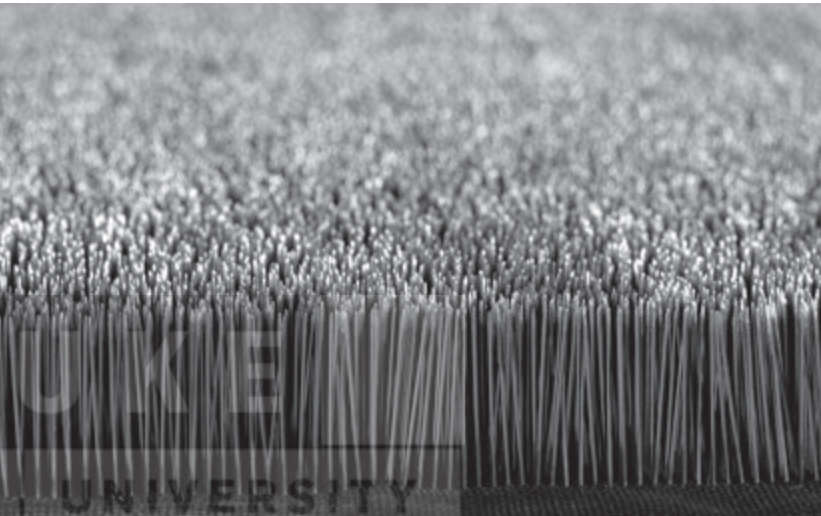
EACH PART OF THIS book is spliced with an image of a sculpture or installation work by the artist Mona Hatoum. The artworks are not illustrative of the argument of *Asylum*; neither are they examples of the topic of this book. They are, however, exemplary in the sense in which that term cannot be reduced to a generality, yet emerges from generality to express a singularity that appears at once as a knot of meaning and the absence of any possibility of meaning. The meaning making out of nothing is the sovereign act, unbound by the confines

of the law, yet it is nonetheless a displacement of it. Hatoum's work that begins this book, *Doormat II* (see figure I.1), evokes not a place to wipe our feet as we are welcomed into a home. Rather, it evokes a deterrent, as it is made of stainless-steel and nickel-plated pins. While Edward Said, the great postcolonial critic of exile, comparative literature, and the question of Palestine, wrote about Hatoum in terms of his exilic model, her form of disidentification seems to place the emphasis more on asylum and the problems of arrival than with any identification with or naturalization of a space one could call home.⁵ The age of globalization is, I would assert, also the age of asylum, as opposed to the exilic moment of modernist nationalisms. And asylum suggests not only the exilic's estrangement from a potential home of real or projected origin, but also an estrangement from the concept of sovereignty itself. It is in Hatoum's practice of art making that sovereignty—or the making of something out of nothing—becomes refigured, reimagined, and affirmed in the least likely site of affirmation.

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INTRODUCTION



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FIGURE I.1. Mona Hatoum, *Doormat II*, 2000–2001. Stainless-steel pins, nickel-plated pins, glue, and canvas, $3 \times 72.5 \times 42$ cm. © Mona Hatoum. Courtesy of Alexander and Bonin, New York. Photo: Oren Slor.

FIGURE I.2. Mona Hatoum, in collaboration with The Fabric Workshop and Museum, Philadelphia, *Pin Carpet* (detail), 1995. Stainless-steel pins, cotton needlepoint fabric, and adhesive, $1 \times 98 \times 48$ in. ($2.54 \times 248.92 \times 121.92$ cm). Collection of The Fabric Workshop and Museum. Photo: Will Brown.

ASYLUM

- ~ A site of sanctuary offering apparently unconditional hospitality, even though determined by ecclesiastical, “divine,” and sometimes royal parameters
- ~ An institution and building for the mentally unstable, or those labeled thus
- ~ The right of a state to grant refugee status, residency, or citizenship to a persecuted foreigner
- ~ The right neither to deport nor to extradite
- ~ What kind of a concept is it? Religious, medical, political, juridical, local, global, androcentric or anthropomorphic, philosophical, or antiphilosophical? And if the latter, is it a concept at all?

Not all new arrivals are received as guests if they don’t have the benefit of the right to hospitality or the right of asylum, etc. Without this right, a new arrival can only be introduced “in my home,” in the host’s “at home,” as a parasite, a guest who is wrong, illegitimate, clandestine, liable to expulsion or arrest.—JACQUES DERRIDA, “Foreigner Question,” in Jacques Derrida and Anne Dufourmantelle, *Of Hospitality*

As you approach Mona Hatoum’s sculpture *Doormat II* (2000–2001), reproduced in figure I.1, it appears familiar, even pedestrian. You see something like it at many thresholds. A welcome mat provides a way to perform an old custom—washing the feet of weary visitors or providing the means for them to do so as a ritual of hospitality. As you wipe your feet on a welcome mat, you cross a threshold, entering the space signaled by that term *Welcome*, and you are bound in mutuality. There is a sign of hospitality, with all the promise and limitlessness its law evokes, from Ancient India to Greece, from the Vedas and Upanishads to the Bible and Homer. Zeus was the “protector of strangers,” as Homer tells us frequently in the epithet *xenios*, through the practice of ritual; Aryaman in the Rig Veda is understood similarly as the god of hospitality.¹ When we approach to look more closely at Hatoum’s series of mats and carpets (including welcome mats, prayers mats, and other domestic rugs), however, they are not so familiar (figure I.2). Made with sharp steel pins, the mats evoke, in fact, all that one fears

on a threshold but often fails to see. The Palestinian and British artist's *Doormat II* signals simultaneously the threat of arrival for the visitor and the host's fear of the foreigner. It foregrounds not an apparently benign idea of the "ingathering of exiles" but, rather, the potential hostility of a state and a home at the moment in which it seems to offer protective hospitality.² Hatoum's work frequently evokes the violence of the domestic sphere and the antinomies of hospitality—protection and the possibility of expulsion, the binding together of host and guest in obligation and fear, and the resulting sense in which that very possibility of expulsion makes home a dangerous place to be. If the figure who newly arrives can be subjected to the rejection of a welcome, then perhaps the family, the familiar, and the citizenry themselves are at risk.

Hatoum's installations frequently beckon the viewer into reorganized space and then repel. The hydraulics of pushing out and pulling in of the mobile onlooker yields not only separation between the object and its audience but also a less likely sublation: the perception of home and protection as a scar. Is this created by the pins that cause one to recoil from touch or from a recognition among the viewers of mutual non-belonging? Installation art such as Hatoum's interrupts a conceptual or temporal progression in which one might move from a state of wandering to a state of being welcomed, from homelessness to belonging. Instead, such works are forms that present us with a spatial reorganization of the world in which boundaries might be not thresholds to be crossed but borders to repel, where feet might be washed and touched in welcome or harmed, hurt, wounded, maimed, or scarred. It is because of the spatial reorganization of the world and the psycho-political consequences of that restructuring that the category of asylum is of fundamental importance for understanding the international today.

Hatoum's domestic mats shift the emphasis from modernism's focus on exile to a focus on asylum.³ Even as asylum evokes protection and hospitality as represented in the welcome mat, it is laced with all the aggressions associated with being brought into the intimate sphere as well as the violence of being left on the threshold. The mass migrations of the first half of the twentieth century associated with displacement, loss, and an idea of departure and possible return are rendered as homelessness and spatial precarity in the new spatial order of the second half of the twentieth century. Modernism's focus on exile or departure as the primary category for the conceptualization of the international was evident in much literature, art, and criticism of the pre- and interwar periods. But in the second half of the twentieth century, the emphasis shifted to the category of asylum: mechanisms of arrival and the difficulties of belonging. This indicates a different optic on the domestic and the international and shifts the focus from a

prior point of departure and return to a future point of arrival into a hospitality to come.

Auerbach—one of the modernist critics understood, with Leo Spitzer, as an architect of the discipline of comparative literature as it developed in the United States in the 1950s—was in exile himself from Nazi Germany and residing in Istanbul when he wrote his monumental book *Mimesis: The Representation of Reality in Western Literature*. He was developing a spatial organization of the literary world that effectively represented a societal shift, as well as an idea of historical change in literary texts as he traced the division of styles within epochs that engendered something new. Writing in 1942–45, Auerbach began and ended *Mimesis* with odysseys: a discussion of Homer’s high style in *The Odyssey* and the low style of the Bible in the first chapter, with brief interludes on James Joyce’s *Ulysses* in his final chapter on Virginia Woolf and Marcel Proust. The broad sweep of his Odyssean argument as it traverses Romance languages and “Western literature” to date is about how we come to understand reality in “Western” (by which he means European) literature. *Mimesis* is thus bookended by a consciousness (one might add, from the position of the youth Odysseus and the child Isaac) of the instability of home and the molding and acquisition of space shaped by how these are represented in literary forms over time. It is as if Auerbach was contemplating his own possible return (through analysis of *The Odyssey*) and his own possible proxy survival in the face of another’s death (through his reading of the Old Testament narrative when a ram is substituted for Abraham’s child, Isaac, who is about to be sacrificed to demonstrate Abraham’s loyalty to God). He reads a moment late in *The Odyssey* when Odysseus has returned to Ithaca disguised and, as a visitor, has his feet washed, “which, in all old stories, is the first duty of hospitality toward a tired traveler.”⁴ Specifically, Odysseus’s feet are washed by Euryclea, Odysseus’s “nurse,” as Auerbach calls her (she is, of course, enslaved). It becomes clear to Odysseus that Euryclea will recognize him, that she will read the surface of his body through touch. And, indeed, as soon as Odysseus has this thought, we are told that Euryclea knows who he is when she touches his scar.

Auerbach famously analyzes this formal moment as one in which, paradoxically, no suspense is created. There is no interiority of Euryclea’s memories of the moment when Odysseus was wounded and no sense of the memory of Odysseus’s first encounter with his grandfather, who named Odysseus as Euryclea put him in his arms. As with Homeric epithets, there is “an externalization of phenomena in terms perceptible to the senses,” according to Auerbach.⁵ Everything is explained through juxtaposition. There is no sense of a complex temporality, and in this form of writing, everything is on the surface, on the same plane, with no foreground and background, and it needs no interpretation. While the epic is

ostensibly about the exilic travels of Odysseus as he returns from the Trojan War, Auerbach reminds us that another temporal framework is represented, not as memory but, nonetheless, in distinction from the main narrative. Odysseus's scar takes us to another moment when the youth was harmed by a boar while under the care of his grandfather. This story is not provided as background, because in Homeric epic, Auerbach argues, everything exists on the same foregrounded plane. Odysseus becomes more typical and, at the same time, more specifically individuated with the narration of tales about his and others' pasts, which take us through circuitous routes and distinct time frames.

For Auerbach, Joyce's *Ulysses* is difficult because of what it shares with, and how it departs from, *The Odyssey*. *Ulysses* is replete with the wandering minds of many different narrative voices, exiled not only from themselves temporally by the intrusion of memories, but also from one another by the marked separation of their varied worlds. This is so despite their specific shared context—indeed, confinement—in Dublin over the duration of a day. The exile, then, is presented not simply in the identity of Bloom as the wandering Jew, who is necessarily an outsider, or that of Stephen as the wandering Bard, but also in figures who are exiles unto themselves, resistant to any stable identity and yet contained within a shared space (Dublin) we might understand as asylum. While Auerbach maintains that Joyce continues to explore an everyman figure, he acknowledges the continued emphasis on the particularity of location and the forms through which localization occurs.

Auerbach's commitment to the idea of a generalized modernist exile, articulated through Odysseus, is a useful point of departure from which to consider migration in the modern period: how it shapes ideas of borders and spatiality, and how we might think less about exile and departure from a place than about asylum and arrival. Asylum, or exile's counterpart, shifts the emphasis of the modernist paradigm, emphasizing in fact the antinomies of hospitality.

For Carl Schmitt, as for Auerbach, the beginning of Homer's *Odyssey* exemplifies a tension between universal and specific instances of law and custom. In a chapter titled "On the Meaning of the Word *Nomos*," Schmitt calls attention to the importance of the term *nomos* (law) to our understanding of European political history and, specifically, the different phases of world-constituting law (rather than of European literary history, as in Auerbach). In *The Nomos of the Earth in the International Law of the Jus Publicum Europaeum* (1952), Schmitt thus enters what he calls "the thicket of possible philological interpretations" regarding the text of Homer.⁶ He quotes from *The Odyssey*'s opening invocation:

Tell me, Muse, of the man of many devices, driven far astray
after he had sacked the sacred citadel of Troy. Many were the

men whose cities he saw, and whose minds [*noos* or *nomos*]
he learned, and many the woes he suffered in his heart upon
the sea, seeking to win his own life and the return of his comrades.⁷

Schmitt dwells on the distinction between *noos* (mind) and *nomos* because of a debate concerning the accuracy of the Greek.⁸ Explicitly setting aside the question of whether the two terms are etymologically related, or whether they can be traced back to the same root, he criticizes the standard version's use of *noos*, which he interprets to mean "the spirit, intellect, mentality, and character of many people or even of the cities of many people."⁹ For Schmitt, the introduction of such a notion makes of Odysseus a ridiculously modern figure, an epistemologist and a psychologist, in fact, who has more in common with neo-Kantians and with Johann Gottfried Herder than with Homer. More important, the misuse entirely fails to take into account the contrasting ways in which Homer viewed the land with its *nomos*, on the one hand, and the sea with a kind of *noos*, on the other. Schmitt draws on Herodotus to explain that *noos* cannot be used definitively to describe those contained within a walled city or a citadel, because *noos* is common to all people, and abstraction of spirit devoid of location is an absurdity to imagine among "the thinking of antiquity. Only in modern psychological distinctions," writes Schmitt, "relating to spirit or *esprit*, can 'spirit' be a historical and social-psychological theme that can be applied to cities and citadels . . . , whereas something walled or enclosed, or a sacred place, all of which are contained within the word *nomos*, expresses precisely the divisional and distinguishing orders whose particularity necessarily would be of interest to a perceptive and 'very wily' seafarer."¹⁰ The sea itself, described as being without jurisdiction, without walls, and without customs, may have *noos*, according to Schmitt, but not *nomos*.¹¹ In Joyce's *Ulysses*, one could think of Mulligan's admonition to Stephen on the tower overlooking the sea: "Look at the sea. What does it care about offences?"¹² Therefore, drawing out not only the epithetic relation—Joyce's sea is "snotgreen" as opposed to Homer's "wine-dark"—Schmitt also suggests the different relations to conflict and jurisdiction that both Homer and Joyce see in the sea and the land. Indeed, Odysseus, the seafarer, for Schmitt, becomes wily through his manipulation of land rather than sea.

But why does Schmitt take us into this contemplation of the Homeric term in his exploration of international law and a periodized world order? If *nomos* is a way to describe the spatial world order on which control of the juridical rests, it is certainly about the organization of land through land appropriation. The decline of the world order emerging from Europe begins for Schmitt in the Monroe Doctrine of 1823, when the use of the language of the "Western Hemisphere"



FIGURE 1.3. Frontispiece of Giambattista Vico, *The New Science: Principles of the New Science Concerning the Common Nature of Nations* (1744).

shifts “the Eurocentric lines of a global worldview,” and extends through the 1885 Congo Act (the Berlin Conference), in which the scramble for Africa is formalized.¹³ For Schmitt, it was the division of land rather than exile that became the focus in *The Nomos of the Earth*—what he called the “terrestrial fundament, in which all law is rooted, in which space and law, order and orientation meet.”¹⁴

Writing about Giambattista Vico (1688–1744), and generalizing his remarks to “the great legal philosophers,” Schmitt states: “The division of the soil (*la divisione dei campi*) is, along with religion, marriage, and asylum, one of the four primeval elements of all human law and all human history.”¹⁵ Schmitt refers in passing to Vico’s *The New Science*, in which Vico explains the change of the world with seafaring people’s migration. Represented symbolically in the frontispiece to the 1744 edition as a boat’s rudder leaning and bowing at the foot of an altar

(figure I.3), these migrants, Vico tells us, were wretched and impious and “took refuge in the lands cultivated by the people who were pious, chaste, strong, and even powerful, because they had already united in families.”¹⁶ The wandering wretched of the earth were killed off if they were deemed violent nomads or were protected if seen as fugitives, becoming household servants or, in Latin, *famuli*. Vico suggests that from this term one comes to the Italian *famiglia* (family) and that these household servants “were the prototypes of the later slaves captured in war.”¹⁷ These asylum seekers and their treatment also form the basis, according to Vico’s mythopoesis, of refuges, families, cities, jurisdictions, expansion of empires, coats of arms, fame and glory, true nobility, true heroism, and war and peace. Etymologically and historically, *famuli* derives from the event that caused the servants eventually to rise up against those who oppressed them and kept them from marriage, ownership of land, and other privileges reserved solely for the nobility.

Like Auerbach’s *Mimesis* and Schmitt’s *Nomos of the Earth*, Vico’s *The New Science* interprets a world order (*nomos*) with reference to Homer. Its frontispiece depicts the divine eye of providence shining on lady metaphysic and, in turn, on a statue of Homer. Among the other things leaning against the altar in the background is the aforementioned rudder. The ways in which objects are organized spatially in the frontispiece becomes emblematic of the logic of human history and the imaginative and intelligible universals driving it. And while Schmitt uses Homer to explain his four epochs of world ordering (divine law/*kat-echon*; the discovery of the new world/*Landnahme*; the Westphalian system; the dominance of the United States/total war), Vico establishes an imaginative root that creates commonality where there may have been none.

Vico and Schmitt seek to understand, through Homer, not only literature and systems of representation, but also the structure of human society—its possibilities and the tensions through which the epic is formed, with its suggestion of natural and divine law. Auerbach, too, sees Homer’s epics as central to the definition of a period, but he juxtaposes Homer’s high style as rhetorically flat in contrast to the style of the Old Testament. Homer, he suggests, needs no interpretation—everyone knows where they come from and where they belong, and he implies that this classical legend making and avoidance of historical thinking, with all its complexity in the representation of reality, can be seen in Nazi propaganda “composed only through the crudest simplification.”¹⁸ In contrast to Homer, he suggests, the Old Testament requires complex thought and interpretation: “It is concerned with human events . . . through all three domains: legend, historical reporting, and interpretative historical theology.”¹⁹ The sublime, the epic, and the tragic are all in play and demand interpretation. Vico, he suggests, provides the rubric for a historiography that understands epochs through “phenomena in

motion,” their “growth and transformation,” and the dissolving of those concepts that seem fixed, like the political concepts of antiquity. He, rather, sees in Vico an idea of the historical in which we might “trace the formulation which lies concealed behind them, and which our thought can grasp, a formulation that we can achieve only by collecting and rearranging the characteristic data.”²⁰

Both Auerbach and Schmitt seek to understand shifts, continuities, discontinuities, and breaks in the historical epoch through the large arenas of “Western literature” and “the earth” in the aftermath of war and the reorganization of historiography, literary history, and the organization of the earth through land acquisition and control.

For Raymond Williams, who, like Auerbach, was trying to imagine the relationship of location to an understanding of the historical period, the question “When was modernism?” addressed how man’s relationship to enclosure and city (and thus to capitalism) changed notions of community. He wrote: “If we have to break out of the non-historical fixity of *post*-modernism, then we must search out and counterpose an alternative tradition taken from the neglected works left in the wide margin of the century, a tradition that may address itself not to this by now exploitable because inhuman rewriting of the past but, for all our sakes, to a modern *future* in which community may be imagined again.”²¹ Interestingly, the future-oriented search for community in Williams emerged from the model of exile he formulated, and from exilic, modernist writing and experimentation as occurring within the “*general processes* of mobility, dislocation and para-national communication.” The exilic model, however, paradoxically leaves out the manner in which *stasis* (stillness), as opposed to mobility, may shape relations on land, and not just because of the resentments of those left behind or the nostalgia of those who have left. As Nicole Loraux points out, as Athens established itself as a city in the post-Homeric period, the divisions at the heart of democracy began to reveal themselves. *Stasis*, she reminds us, does not refer, in the Greek, only to a lack of mobility—a stagnation or stoppage. It also refers to faction and discord—indeed, to civil war. The wide margin of the twentieth century might thus look different when we look to the asylum and to refuge—to the *famuli*, for example, who may rise up to defy nationalism or family in the very site in which they have been given refuge. Emphasis on exile may prevent us from understanding the *nomos* that governs the site of arrival—indeed, the sovereignty of asylum.

IF MICHEL FOUCAULT once demonstrated that all forms of digression in mental life condensed around the institutions of madness and incarceration in the space of the mental asylum, today we see that diverse forms of migration—movement

and arrival—are assessed in the terms of a new set of moral criteria concerning a right to political asylum. We have shifted from a modernist period of exile into an *age of asylum*, even as, like Hannah Arendt, we may acknowledge that asylum is an anachronistic category. Whether understanding asylums historically or contemporaneously (as psychiatric facilities), and whether as part of a colonial system of governance in a European colony or in a metropolitan setting of a colonial power, asylums have institutional rights over living bodies; citizens do not have rights as they emerge into different spaces. Granting political asylum is a state right to decide neither to deport nor to extradite rather than a human right to resettle or take refuge. The state's decision concerning asylum reveals it at its most sovereign, as a decision is taken, potentially, between life and death.

If political asylum was predominantly a Cold War phenomenon, that period also saw a dramatic decrease in use of the term *asylum* for institutions of the insane, with shifts in psychiatric practice toward more drug-based treatments. During the 1980s, many state asylums were closed down in the United States and Great Britain. The reforms from the 1950s had reached their logical conclusion in the expulsion of inmates, who were then often incarcerated in prisons or made homeless, thereby creating a body of wandering vagrants or internal refugees.²² Though the mental asylum has changed dramatically over its history, we see, in the process of an inmate being committed, a legally binding relinquishment of rights by the inmate or by another (the committer) on the inmate's behalf. Language of safety or security is deployed concerning violence that the inmate could do to herself (in the case of self-harm or a potential suicide) or to another (in the case of outwardly projected violence). When attempting to prevent violence through exercising guardianship, sovereignty is invoked and the institution arrogates familial functions to itself. Though asylum awarded through sanctuary appears to offer unconditional hospitality to fugitives in terms of immunity from state law, it is, even in canon law, conditioned by "divine" regulation.

At its broadest, asylum is an opening of one to another. When it is a spatial term, as in a mental asylum, it carries the notion of an inviolable site that is retained for protection within a sanctuary and a refuge from violence. Etymologically, and given physical instantiation, it becomes a place without condition. It is sacred (thus providing forgiveness for minor crimes), and non-xenophobic, (thus providing a safe place for foreigners). Architecturally, it is a section of a temple precinct in the Roman context, in which peace is required. In the Greek, *a-sulon* means exempt from seizure or pillage, which, in its modern form, translates as exemption from extradition.

Asylum: The Concept and the Practice begins with a simple question: What are the conceptual links among different sites—sanctuaries, refugee camps, mental

asylums, holding facilities for asylum seekers waiting to be processed, and finally, the national territory—designated by the term *asylum*? Implied in this question is another concerning the nature of a concept. More than a linguistic coincidence, the term *asylum* is a concept with an intellectual history that allows for these different designations. The book proceeds in three parts to try to make sense of that intellectual history through moments of the paradoxical instantiations of hospitality, indignity, and value. Part I, “Hospitality,” examines how the concept and practice of asylum invoke secular and religious categories of the subject, of sovereignty of nation-states, and of the law of hospitality. It does this through a thinking together of concepts of political asylum and mental health asylums to understand a commonality in the notion of hospitality to alterity. Part II, “Indignity,” addresses the idea of “the human” that is crucial for international law and human rights work. In particular, it contends with the Kantian notion of “dignity” and the metaphorical structure of the “as if” in the realm of the ethical. The “as if” is the form of analogical thinking that implores us to act as if we are legislators in the *kingdom of ends*, in which no entity with dignity is used as a means to achieve something else. In Part II and the following, I propose that dignity is no longer an adequate formulation to argue for “humanity.” Indeed, through a larger contextualization of the Kantian framework into its global engendering, I consider whether the analogical “as if” was ever adequate to that task of ethical universalism when considered in the terms of that which was justified globally in Kantian notions of hospitality. In this reading of indignity, the question of the nonhuman and of species also comes into play, as does the breakdown of sovereign individualism. Part III, “Value,” continues that form of thinking and proposes, rather, a form of the ethico-political that is based on a reformulation of the distinction between that which has dignity (the human) and that which has value (the nonhuman, the dehumanized, or the yet to be human). Part III focuses on the notion of “disposability” and the manner in which asylum foregrounds how some subjects become waste products of modernity. Asylum, understood through hospitality, indignity, and value, reveals the importance of sovereignty understood through decisionism to formulate and then impose concepts of the human and of the valuable.

Asylum: The Concept and the Practice considers not only how sovereignty acts on those in asylum/s, but also how the notion of the sovereign self is complicated by attention to asylum. Ultimately, the *concept* of asylum leads to a consideration of ontology and, more specifically, to an understanding of difference and the other and their spatial organization.

The language of human rights, which shapes a certain understanding of asylum—and, indeed, politics more generally in the modern period—would

appear to displace the idea of the political as sovereign form of decision. Yet the quintessential play that brings together the advent of rights as politics with the mental asylum, Peter Weiss's *The Persecution and Assassination of Jean-Paul Marat, as Performed by the Inmates of the Asylum of Charenton Under the Direction of the Marquis de Sade* (or *Marat/Sade*), written in 1963 and first staged in 1964, nonetheless points out the continuity of sovereign rule in the relatively benign setting of the new asylum. In that iconic play, set in the mental asylum of Charenton just after the French Revolution, we see how the form of politics instituted by the 1789 Declaration of the Rights of Man and of the Citizen affected the inhabitants of mental asylums who had recently been emancipated from incarceration in prisons. Even as this moment marked a shift in the treatment of the mentally ill, the forms of guardianship that were instituted at even the most experimental of facilities put the "humanity" of the insane into question.²³ The benign but paternalistic figure of Dr. Coulmier—the historical Abbé de Coulmier who acted as the Marquis de Sade's mental health therapist at the Charenton asylum and a character in Weiss's play—used experimental treatments such as acting therapy to treat his patients. In the play, de Sade, having been moved to Charenton from the Bastille, directs the play. He is less interested in justice than are his fellow inmates, who revolt against Coulmier in the name of rights and justice, as if to register their own cynicism concerning the politics that emerged from the 1789 declaration.

Sovereignty, as we see in *Marat/Sade*, persisted in the mental asylum imaginatively in 1963, with its sense of continuity with 1789. That site provides a kernel for thinking about asylum more broadly as the management of the insane becomes the lens through which to understand the management of a larger population of both citizens and foreigners.

Weiss's play was in conversation with numerous works in anti-psychiatry that were being published at the time, as were historical and sociological political texts on the asylum—for example, Erving Goffman's *Asylums: Essays on the Social Situation of Mental Patients and Other Inmates*, Foucault's *Folie et déraison* (which I consider in chapter 2 alongside the psychiatric sections of Frantz Fanon's *The Wretched of the Earth*), R. D. Laing's *Self and Others*, and Thomas Szasz's *The Myth of Mental Illness* all were originally published in 1961. These, alongside much work in feminist thought from the 1960s and 1970s (Betty Friedan's *The Feminine Mystique*, Phyllis Chesler's *Women and Madness*, and Juliet Mitchell's *Psychoanalysis and Feminism: A Radical Reassessment of Freudian Psychoanalysis*), threw light on the exigencies of the mental health system and the politics of cruelty, ethnocentrism, and androcentrism, even as they offered other possibilities for the rearrangement of mental health practices. In addition, madness became the location through which to understand a variety of forms of othering. In

literature, for example, Sandra Gilbert and Susan Gubar's *The Madwoman in the Attic* took center stage, as did a return to the enraged or mad women of Greek mythology like Medea and Medusa. Numerous testimonies collected in texts such as Jeffrey Geller and Maxine Harris's *Women of the Asylum* described the wrongful incarceration of women against their will, due to familial or religious differences, in US mental asylums from 1840 to 1945.²⁴ Many women in that study explained how their exceptional status within the legal system left them entirely without recourse and described violations of their "inalienable rights."²⁵ One, Elizabeth Packard from 1866, said: "My husband insisted upon it that I had no protection in the law, but himself, and he was doing by me just as the laws of the State allowed him to do. . . . The statute of Illinois expressly states that a man may put his wife into an insane asylum without evidence of insanity."²⁶ Another, Elizabeth Stone, wrote in 1842: "Every law of the United States was violated, in secretly depriving me of my liberty."²⁷ And Phebe Davis corroborated this view, raising the question of whether a woman who spoke her mind could be understood as human. In 1855, she wrote:

An active temperament generates what I call a surplus of thought because one cannot dispose of ideas as fast as they coin them. Society compels them to make their mouth a sealed book, for you must consult fashion at the expense of your reason. We often see a wire muzzle on the canine nose when the hydrophobia becomes an epidemic; and for all we claim freedom of speech, our mouths are subjected to monarchical government just as much as the dogs are to the muzzle.²⁸

The later narratives stress less the wrongful incarceration in asylums and, more, the abuse within them. If asylums for the insane were more modern forms of sanctuary for criminals, it seems that the systematic abuse within them dispels any notion that these were benevolent institutions.

During the years of President Ronald Reagan in the United States and Prime Minister Margaret Thatcher in Great Britain, which followed reforms in the mental health establishment that began in the 1950s, many state asylums were closed down, and their inmates were often incarcerated in prisons or made homeless, creating a body of wandering figures—internal refugees, if you will—who, in turn, raise the question of who was being protected in these asylums. Interestingly, today we see that asylum seekers often need to prove that they have become mentally traumatized to be convincing. While at a certain moment those seeking asylum from political persecution were asked to show proof of physical torture through scars on their bodies, today's psychiatrists are called on to testify that asylum seekers have gone through mental trauma.²⁹ Paradoxically,

these figures who can prove such traumatization are more likely to become the citizens of the host nation, as if trauma—indeed, sometimes madness—became the prerequisite for national belonging.

That people in mental asylums have often been unjustly treated and incarcerated seems entirely incontrovertible, and that this has been done in a way that has benefited the state in the name of security of the insane or of the population at large is clear. For women in mental asylums, colonial asylums, or institutions such as the Asylum for Insane Indians in Canton, South Dakota, a federal facility that housed Native Americans from 1902 to 1934, the questions of security come into play as much as the state's sovereignty over its population. The form of exception in evidence in the insane asylum, however, similarly leads to suspension of access to law, or, as Arendt would put it in the context of the diminishing right to the anachronistic concept of political asylum, the loss of the right to have rights that characterizes her understanding of the human's fundamental right to political community and, following Immanuel Kant, his intrinsic dignity:

We become aware of the right to have rights (and that means to live in a framework where one is judged by one's actions and opinions) and a right to belong to some kind of organized community, only when millions of people emerged who had lost and could not regain these rights because of the new global political situation. The trouble is that this calamity arose not from any lack of civilization, backwardness or mere tyranny, but on the contrary that it could not be repaired, because there was no longer any "uncivilized" spot on earth, because whether we like it or not we have really started to live in One World.³⁰

Asylum as a category raises questions as to whether the right to have rights could ever ensure anything other than the reproduction of a contentless political community that could, in the name of security and emergency, have its right to have rights taken from it at any time, as we have seen in the case of the women treated like dogs in the United States in the nineteenth century.

In the period following World War II, which was also a period of decolonization and colonial power exit strategies (e.g., the British from India and from British Mandate Palestine), subjects were rendered as refugees by the drawing of new territorial borders, and the United Nations (UN) drew up its declaration of human rights. In accounting for the rights of the stateless, the UN came into being alongside not the right *to* asylum, but the right *of* asylum—that is, the right to grant asylum. The UN's 1948 Universal Declaration of Human Rights (UDHR) proclaimed the human right to seek asylum; the 1951 UN Convention

Relating to the Status of Refugees reinforced this right; and the 1967 Protocol on the Status of Refugees set the tone for Cold War asylum work.

Article 14 of the UDHR reads: “(1) Everyone has the right to seek and to enjoy in other countries asylum from persecution. (2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or acts contrary to the purposes and principles of the United Nations.”³¹ The only article that is immediately qualified, Article 14 exemplifies how asylum is the right of the state and is not a human right. The human’s right is to seek asylum and to enjoy it if it is granted. The state’s right is to consider whether imminent danger is caused by a form of political persecution. Asylum, then, is the right of the state, not of a human. If we understand sovereignty in its Hobbesian sense as the unaccountable right to decide whether someone lives or dies, in granting the right of asylum the state is acting at its most sovereign in the act of deciding not to extradite the asylum seeker. The state’s right of asylum presents its ancient sovereignty in decisionism and, through this, incarnates its political nature when it establishes its jurisdiction over people. At the moment in which the state demonstrates its own ancient and political power, the granting of asylum has been considered the worthiest form of protection of the most vulnerable and insecure—that is, of stateless peoples of the world, whether refugees or displaced people. While it is true that refugee law can put pressure on states to the extent that they can be required not to expel a persecuted person according to laws of non-refoulement, municipal rights, and non-extradition, it is also true that the state’s right to grant asylum prevails over any right of a person to be granted asylum, or to enjoy it. This instantiation of sovereign decisionism has an afterlife even within the neoliberal nation-state.

In a period in which the decline of the nation-state was being at once announced and feared in Europe, new nation-states emerging from European colonial powers were establishing new constitutions, new political ideals, and revised legal systems. Exiled figures were compelled to seek refuge somewhere; failed European exit strategies from their colonies compelled them to do so. We need think only of the post–World War II refugee crisis of the middle of the twentieth century—the Jews from Germany and elsewhere, the Palestinians from Israel, the displaced figures of the partition of India. These refugees remain huge populations shaped by the problem of statelessness and new state formation; of refugee camps that have become cities themselves; and of territories of incarceration by the states that rule them. Fanon, the militant theorist of the violent overthrow of colonial powers, nonetheless feared that the future population of independent Algeria would look like those wretched figures he treated in

the mental asylums—made mad through the colonial encounter. If asylum, as we shall see, seemed like an anachronistic category to some in the period following colonial rule and World War II, it nonetheless appeared as a concept that would have to be levied alongside that of exile to understand the state of being in that period in which human rights were being declared, and a world was being rebuilt.

But what kind of a concept is asylum? If we are to understand a concept as a response to the Socratic question “What is a . . . ?” then the Latin term *concept* may already have compromised us. Conceptual links among the sites designated by the term *asylum*—or, indeed, common sociological characteristics that emerge in relation to that term—caused Goffman, referring to a variety of spaces, including mental asylums, prisons, army training camps, naval vessels, boarding schools, monasteries, and nursing homes, to call these closed worlds “total institutions.” They all had resembling characteristics of a type similar to St. Elizabeth’s asylum—the national asylum for the insane in Washington, DC, on which he based his research. But as valuable as this analysis is, it understands a concept only as a metaphor, and it ultimately seeks to think through analogy and substitution. Asylum, I hope to suggest, at least throws into question conceptual substitutability working with and against a lexical, etymological, or myth-based philosophy.

Although the space of protection holds some form of eternal sacred temporality, the term’s temporal precariousness is suggested by the fact that the word for the place is descriptive also of the juridical category—the *ius asyli*. While it seemed originally to protect local criminals and slaves who sought refuge from cruel masters, it sometimes also protected warring states from plunder and pillage. It was, then, a discretionary law of war. It is not until sometime later that a site of refuge is formulated for foreigners, as when Romulus sought to populate the city of Rome by bringing in (male) foreigners from elsewhere rather than using local criminals. The problem then became one of concept again—conceiving and reproducing its future.

Concept and *asylum*, taking in and taking with, travel, change form, and then reproduce—or, at least, seem to have the compulsion to reproduce. The term *asylum* as refuge immediately becomes violable at the time of reproduction, with, for example, Romulus’s betrayal of the Sabines. The juridical understanding of *asylum* provides the means to open the philosophical terms that undergird it. A betrayal of hospitality occurs in the city of refuge at the moment in which its reproduction is sought. And in the case of the Sabines, it manifests itself as rape, from which is sought conception and reproduction. The inviolability of space designated by asylum is then tainted. But the reproductive notion of becoming suggests a prior state of purity, which does not exist. Asylum, like Being itself, is

always marked by sexual difference, even by sexual violence. Its residual conceptual violence remains hidden and sanctified until it is made evident in practice.

Asylum may be a word that opens us to thinking about what a concept is.

A concept is a plural within a singular—a taking together or a taking in (in the Latin), rather than an individuated unique thought suggested by the Greek term *idea*; it is more of a *Mitsein* than a *Dasein*, if we were to use Heideggerian terms. *Asylum* challenges lexical conceptual thinking because of its association with a language of hospitality without condition: a questioning of the neutrality of the ethico-moral palette and a notion of substitutability that, some may argue, lies within it, with its sets of rules and principles that can be applicable to any situation.

Cities of refuge—like Rome where, according to Livy and Virgil, Romulus took in slaves and other wretched figures from the surrounding areas—could not reproduce themselves other than through acts of extraordinary violence toward women, as told in the story of the “Rape of the Sabine Women.” As Livy tells us of the populating of Rome:

The City was growing by the extension of its walls in various directions an increase due rather to the anticipation of its future population than to any present overcrowding. [Romulus’s] next care was to secure an addition to the population that the size of the City might not be a source of weakness. It had been the ancient policy of the founders of cities to get together a multitude of people of obscure and low origin and then to spread the fiction that they were the children of the soil. In accordance with this policy, Romulus opened a place of refuge on the spot where, as you go down from the Capitol, you find an enclosed space between two groves. A promiscuous crowd of freemen and slaves, eager for change, fled thither from the neighbouring states. This was the first accession of strength to the nascent greatness of the city.³²

The myth of indigeneity is established for the lowlifes, and thus their secure refuge is assured. If asylum means an inviolable sanctuary for criminals and debtors, it also, however, is suggestive of the right of seizure, the discretionary counterpart to the right against seizure. Livy tells of the violation of the laws of hospitality that are multiply invoked in the story of Rome’s establishment—both of the abuse of the Sabine maidens’ parents by the city of Rome when the invitation by the Romans to the Sabines to come to the city results in the abduction of the Sabine young women, and the abuse of the Romans by the Sabine men as invoked by the Sabine (now Roman) women when retaliation is sought. Won over by the promise that they will become mothers to free men, the Sabine maidens agree to

marriage and to stave off the attack from their fathers and brothers against the Romans: “If, they cried, ‘you are weary of these ties of kindred, these marriage-bonds, then turn your anger upon us; it is we who are the cause of the war, it is we who have wounded and slain our husbands and fathers. Better for us to perish rather than live without one or the other of you, as widows or as orphans.’”³³ Taking it upon themselves to be the cause of the war, these abducted women are the condition of possibility for the establishment of Rome, just as Helen was the condition of possibility for Troy’s destruction. The city of refuge in this origin story is thus built on abducted women and the violent inception of the apparent reproducibility of the population that comes with them.

Other instances of the invoked law of hospitality similarly demonstrate the way in which woman herself is an anomaly for hospitality. She frequently becomes instrumentalized in the process of giving hospitality, as in the case of Lot’s daughters, or she becomes excluded from the pact or secret between men—as when Theseus gives sanctuary to Oedipus on the condition that Theseus will not reveal the site of Oedipus’s death. Theseus risks war in his homeland if it is revealed he has given sanctuary to Oedipus, and Oedipus is able to prevent his daughters from knowing the final location of his burial. This will, of course, for Antigone, begin a perpetual form of thwarted mourning as she is prevented from mourning her father/brother Oedipus and, later, her brother Polyneices. Having failed to stop the struggle between men for sovereignty over the state, Antigone protests in the only way she can—first, through an act of defiance against her uncle Creon by mourning the body of her brother who has not been allowed state burial rights, and then through suicide, which in many ways is the only way to thwart the sovereign Creon’s control over her life and death. Like the Sabine women, Antigone is destined to live with the knowledge of violent inception that will leave her perpetually melancholic (unable to mourn adequately) unless she kills herself.

But why use the etymological and mythical understanding of the term? Why this turning to philosophy in the Greek? In the mid-1960s, Jacques Derrida already pointed to the importance of Emmanuel Levinas’s labor by questioning the logic of sameness. This form of philosophical logic is argued, Levinas suggests, in and through Greek (and one might, indeed, update this by changing the language to German, which consistently returns philosophically to the Greek). For Levinas, whom I discuss further in chapter 3, Hebraic thought was brought to bear on the dominance of the Greek, and thus Greek and Jew were pitted against each other. But as Derrida put it, quoting James Joyce, Levinas, in spite of himself, poses the question of a historical coupling between Greek and Jew: “Jewgreek is greekjew. Extremes meet.”³⁴ In attempting to show how the philosophical tradition shaped by the Greek is blind to alterity in its logic of the same

and finally its Hegelian totality, Derrida wrote that Levinas's thought sought to develop an ethics based on alterity—indeed, an ethics of hospitality—that ultimately risked unwittingly replacing an ethics of totality with one of infinity, both of which shared the violence of the metaphysics of presence: “to liberate itself from the Greek domination of the Same and the One (other names for the light of Being and phenomenon) as if from oppression itself—an oppression certainly comparable to none other in the world, an ontological and transcendental oppression, but also the origin and alibi of all oppression in the world.”³⁵ Levinas seeks a form of relation to alterity through the face of the other, seeking a release from an ontological philosophy (articulated in relation to Martin Heidegger). Derrida and, differently, Luce Irigaray show how that ethics of alterity is itself based on an androcentric metaphysics of presence that articulates a relation to alterity that seeks absolute otherness and yet demands some aspect of presence. For them, Levinas's theory of hospitality presents a manifestation of the transcendental signified in form—in this context, through the face or, at least, the visage, which is perhaps more expansive than the English face. Taking the emphasis off a structure of Being introduces, in principle, a framework for thinking about the violence of that Being that situates itself in a homeland linked etymologically to a language of the political, of dwelling, and of a form of belonging that is androcentric and constitutionally anthropomorphic. The relation to alterity in Levinas makes the ethical opening up of the self, the putting at risk of oneself, of the priority given to the other who demands an ethics of hospitality, in principle, an ethics of asylum. It makes of one's self a site of habitation of alterity, constitutionally formed and deformed by it. This is not an ethics that seeks rights for the Other. It cannot know what the Other needs or wants or, indeed, should have prior to an encounter with the visage. But it also seeks some relation to a transcendental figure through that encounter.

If from the mid-1960s to the time of his death in 2004 Derrida sought to develop an ethico-political philosophy with and against Levinas, it was to seek out risk in relation to an alterity without a face, without a body even, acknowledging the violation done by bodies in the moment of encounter, showing therefore the proximity between the Greek (the philosopher) and the Jew (a kind of anti-philosopher) set up in opposition in Levinasian thought. Yet what does it mean to risk border and boundary with the insane, the foreign, the violating man, the beast, or the divine? It means to hold together concept and the loss of concept, to see life as disposable and not sacred or dignified, not given Being through dignity or name.

Levinas gave an understanding of the ethical relation as one that made oneself substitutable rather than making of the self someone who developed rules to live

by, making others substitutable to them. But this model of asylum was not without its exceptions—indeed, Levinas (and, in a different vein, Arendt) expressed his own fear toward those masses without faces to whom he could not relate with some dimension of height. (“The being that presents himself in the face comes from a dimension of height, a dimension of transcendence whereby he can present himself as a stranger without opposing me as obstacle or enemy.”³⁶) Levinas found a limit to his theories of unconditional hospitality, the relational human, and the crucial opening to the Other with the hungry Asiatic emerging from the underdeveloped world. Writing of the great events whose shadow was being cast over Europe, he mentions “the arrival on the historical scene of those underdeveloped Afro-Asiatic masses who are strangers to the Sacred History that forms the heart of the Judaic-Christian world.”³⁷ The masses are those who cannot articulate their political stake as political animals, who are not accorded the singularity of the visage, who have no dignity or name that appears to make them unique but who are actually substitutable within the logic of the patrilineal proper name. In effect, the masses are those who cannot be substituted for one another as Sabine women, Lot’s daughters, or Oedipus.

So what form of the political could emerge from the lexical study of the term *asylum*? What form of conceptual analysis would we be left with when we have no narrative of the asylee, no secure semantics, no reconfirmation of any world we have imagined for ourselves? What life is yet to come?

In many ways, this book performs a conceptual analysis of asylum, even as it shows how that concept has always been corrupted. Yet the conceptual performance works within a framework of the metaphorical, which also involves a framework of substitutability. The structure of hospitality that I derive from a Derridean reading of Levinas—and, to some extent, one offered also through the work of Irigaray—shows that the very structure of substitutability becomes a problem in trying to understand the kind of demand put on the ethical by the term *asylum*. Substitutability, I show, becomes bound by temporal and kin relations—for example, the structure of the proper name, which designates a line of familial descent. Even in cases when descent is not patrilineal, a binding to a community logic remains. As I show through Derrida, the structure of asylum to retain in the face of paradigms that compromise it is one in which a notion of community begins to fall apart, that puts itself at risk at every turn, and that functions equally as guest and as host. The structures of community and concept hold themselves together through a form of metaphoricity that disintegrates in moments of demetaphorization.

The concept of demetaphorization comes from Nicolas Abraham and Maria Torok’s notion of melancholia. One of the symptoms of melancholia, they

contend, is the taking literally of something that makes sense only figuratively. Understanding the nation-state as a mental asylum is a form of demetaphorization, even as the nation is, indeed, the locality in which asylum is given, and the analysis of that is a kind of undoing of concept. But metaphor is also about the problem of the question of the substitutable. The framework of hospitality I propose does not offer a set of rules that can be substituted, no matter the circumstances. Asylum, understood as containing a concept of kinship and temporality within it, carries, too, a notion of sexual difference. The metaphor of asylum becomes an important lever for understanding the manner in which metaphor and substitutability imply a sameness that is a violation of alterity. The subject of ethics is then rewritten as the subject of undoing.

The first theorists of international law, such as Francisco de Vitoria and Hugo Grotius and, later, Kant, and the first consultants of those in institutions of the mentally sick—from the *bimaristan* of Aleppo to the Retreat at York—may not have been writers, historians, or myth makers. But they were philosophers. They both formulated and worked within developing concepts of hospitality, dignity and humanity, and value. Today, philosophers have reformulated ideas of hospitality and the fundamentals of the human and, indeed, have reshaped the field of the ethical. But they are rarely employed to think through the exigencies of asylum in the modern period. This book makes sense of those concepts as they function today.

In thinking about concept and asylum, I attempt to develop an idea of the political that does not demand a shared language as the foundation of the political. Thinking beyond man as a political animal, and beyond an Aristotelian framework through understanding this life of disposability we live, this book reaches for what we may find beyond a common language and an ability to conceive within it. It seeks to make of the world, anachronistically, a borderless and beautiful asylum in which life gives and seeks refuge in a form of unbelonging.

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Notes

PREFACE

1. On the question of the subject as propertied, see Locke, *The Second Treatise of Government*, 18–30. As will become clear, my interest in postcolonialism here stems from the particularity of exit strategies European countries took on leaving the newly independent nation-states after World War II, even though I understand the term *postcolonialism* more broadly as referring to the period leading up to and following the onset of colonialism. I follow broadly the use of the term *late capitalism* in Jameson, *Postmodernism*, as drawn from Mandel, *Late Capitalism*, to understand shifts in aesthetic form and political formation. The qualifier of *postcolonial* to *late capitalism* may, however, shift its periodization when considered in different sites in relation to a colonial past.

2. See, e.g., Keller, *Colonial Madness*; Sadowsky, *Imperial Bedlam*.

3. For an overview of this case, see Human Rights Foundation, *Ahmed Zaoui*.

4. See Adorno, *Minima Moralia*; Marcuse, *Eros and Civilization*, xi. See also Marcuse, “Repressive Tolerance.”

5. See Said, *Reflections on Exile and Other Essays*.

INTRODUCTION

Portions of the introduction first appeared in “Asylum,” *Texas International Law Journal* 41, no. 3 (2006): 471–90.

1. Bernard Knox, “Introduction,” in Homer, *The Odyssey* (Fagles), 3, 29. See also Émile Benveniste’s chapter on hospitality in *Dictionary of Indo-European Concepts and Society*, 61–73. Benveniste places hospitality in his section on “Economy” and, specifically, on giving and taking—in other words, on the practice of hospitality in society as a system of exchange that includes marriage. See also Jamison, *Sacrificed Wife/Sacrificer’s Wife*.

2. The phrase, drawn from the Talmud, is used in the Israel Ministry of Foreign Affairs, “Declaration of the Establishment of the State of Israel.”

3. Edward Said's writing on Mona Hatoum frames the work in terms of exile, though I see it as addressing the sphere of potential arrival and all the problems associated with that: See, e.g. Hatoum et al., *Mona Hatoum*; Said, "The Art of Displacement."

4. Auerbach, *Mimesis*, 3.

5. Auerbach, *Mimesis*, 6.

6. Schmitt, *The Nomos of the Earth*, 76.

7. Homer, *The Odyssey* (Murray), Book 1.1–5, as cited in Schmitt, *The Nomos of the Earth*, 76. In line 3, Schmitt's text shows the Greek words in the accusative case (*noon*, *nomon*); for ease of recognition, the case is changed here to nominative.

8. Schmitt criticizes Hans Niedermeyer's interpretation of *The Odyssey*, claiming that his reading makes Odysseus into a neo-Kantian social psychologist. Schmitt, *The Nomos of the Earth*, 77.

9. Schmitt, *The Nomos of the Earth*, 77.

10. Schmitt, *The Nomos of the Earth*, 77–78.

11. We know from texts such as Hugo Grotius's *The Free Sea* that for hundreds of years there had already been claims to ownership of the seas; the claim that the sea was jurisdiction-free was part of an argument with the Spanish and Portuguese, who claimed the sole right to movement through certain waters. The Dutch were being defended by Grotius with a claim to the right to a free sea so they also could trade and colonize. See also Schmitt, *Land and Sea*.

12. Joyce, *Ulysses*, 9.

13. Schmitt, *The Nomos of the Earth*, 281 and 190–91, 223–26, 281.

14. Schmitt, *The Nomos of the Earth*, 47.

15. Schmitt, *The Nomos of the Earth*, 47.

16. Vico, *The New Science*.

17. Vico, *The New Science*, 12.

18. Auerbach, *Mimesis*, 20.

19. Auerbach, *Mimesis*, 21.

20. Auerbach, *Mimesis*, 38–39.

21. Williams, *The Politics of Modernism*, 35.

22. For a compelling study of this process in the context of the United States, see Torrey, *American Psychosis*. See also C. Anderson and Benson, *Documentary Dilemmas*; Bachelard, *The Poetics of Space*; Gamwell and Tones, *Madness in America*; Hatoum, *Measures of Distance*; Rissmiller and Rissmiller, "Evolution of the Anti-Psychiatric Movement in Mental Health Consumerism"; Wiseman, *Titicut Follies*. And see the work of Anna Schuleit, whose sound installation *Habeas Corpus: Thou Shalt Have the Body* (2000) at the former Northampton State Hospital is documented at YouTube, <https://www.youtube.com/watch?v=zg4jOBRo83I>; for her *Bloom* (2003), an art installation at the Massachusetts Mental Health Center, see Ann Schuleit, "A Hospital in Bloom," *New York Times*, <https://www.nytimes.com/slideshow/2012/04/26/health/bloom-ss/s/bloom-ss-slide-V1BT.html>.

23. See Strauss, *Human Remains*.

24. Geller and Harris, *Women of the Asylum*.

25. Geller and Harris, *Women of the Asylum*, 61.

26. Geller and Harris, *Women of the Asylum*, 60.
27. Geller and Harris, *Women of the Asylum*, 35.
28. Geller and Harris, *Women of the Asylum*, 51.
29. See Scarry, *The Body in Pain*.
30. Arendt, *The Origins of Totalitarianism*.
31. United Nations General Assembly, *Universal Declaration of Human Rights*.
32. Livy, *History of Rome*, 21.
33. Livy, *History of Rome*, 29.
34. Derrida, *Writing and Difference*, 153.
35. Derrida, *Writing and Difference*, 82–83.
36. Levinas, *Totality and Infinity*, 215.
37. Levinas, “Jewish Thought Today” in *Difficult Freedom*, 160.

CHAPTER I. SOVEREIGN RIGHT; OR, ASYLUM IN THE FEMININE

Portions of this chapter first appeared in “Asylum,” *Texas International Law Journal* 41, no. 3 (2006): 471–90.

1. Hobbes, *Leviathan*, 232–33.
2. See, e.g., Pateman, “Hobbes and the Sexual Contract.”
3. Hobbes, *Leviathan*, 683.
4. Hobbes, *Leviathan*, 186.
5. Hobbes, *Leviathan*, 186.
6. Hobbes, *Leviathan*, 254.
7. Hobbes, *Leviathan*, 186.
8. Hobbes, *Leviathan*, 257.
9. Hobbes, *Leviathan*, 202.
10. Hobbes, *Leviathan*, 103.
11. Hobbes, *Leviathan*, 104.
12. Hobbes, *Leviathan*, 104.
13. Hobbes, *Leviathan*, 203.
14. Hobbes, *Leviathan*, 317.
15. Hobbes, *Leviathan*, 111.
16. Hobbes, *Leviathan*, 301.
17. Hobbes, *Leviathan*, 102.
18. Hobbes, *Leviathan*, 146–47.
19. Schmitt, *The Nomos of the Earth*, 42, 48.
20. Schmitt, *The Nomos of the Earth*, 42.
21. Schmitt, *The Nomos of the Earth*, 43.

22. Page duBois offers an interesting counterpoint to Schmitt on the mother, myth, fecundity, labor, and the production of language in ancient Greece. See duBois, *Sowing the Body*.

23. Schmitt departs from his *The Concept of the Political*, in which politics is founded upon the distinction between friend and enemy.

24. See Schmitt, *Political Theology*.