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(eds.)

# IASFM19

19TH INTERNATIONAL ASSOCIATION  
FOR THE STUDY OF FORCED  
MIGRATION CONFERENCE

- Keynote Speeches -





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# INTRODUCTION

## About IASFM

The International Association for the Study of Forced Migration (IASFM) is a non-profit organization, which “brings together academics, practitioners and decision-makers working on forced migration issues”<sup>1</sup>. It was established in 1998<sup>2</sup> and had as its first International Secretariat the Refugee Studies Centre of the University of Oxford, UK, which was then moved to the Institute for the Study of International Migration of Georgetown University, US, and nowadays is hosted by the Centre for Refugee Studies of York University, Canada.

The Association has a global membership whose common interest is the study of forced migration, a topic that according to IASFM is “increasingly perceived to be global in scope”<sup>3</sup> and “Since the end of the Cold War this issue has seen renewed attention”<sup>4</sup>. With new developments such as environmentally induced displacement, the recurrence or development of new internal and international wars, violations of human rights and other drivers of forced migration, the topic is key in shaping the current international scenario, and Academia has a vital role to play in diagnosing, assessing, and proposing solutions not only for the field of forced migration, but also for the protection of forced migrants.

IASFM is a relevant forum in this regard, bringing together members from the Global North and Global South, from different backgrounds and stimulating cross-cultural, thematic, and diverse dialogues, which often take place at IASFM’s biannual conference, which is the association’s main event. The 19th Conference of IASFM (IASFM19) took place in 2022.

## About IASFM19

In the General Assembly of IASFM17 in July 2018, the bid by *Universidade Católica de Santos* (UniSantos) to host IASFM19 was approved. UniSantos is a public, non-governmental university established in 1951, which has over 6000 students that enjoy an offer of 30 undergraduate courses, 5 masters’ degrees and 3 doctoral degrees. In addition to that, the university offers postdoctoral degrees, as well as several specialization programs at graduate level.

UniSantos sees forced migration as one of its main research topics. It has

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<sup>1</sup> See: <<http://iasfm.org/>>.

<sup>2</sup> See: <<http://iasfm.org/statutes-and-rules/>>.

<sup>3</sup> See: <<https://iasfm.org/about/>>.

<sup>4</sup> Ibid.

research groups focused on the study of refugees and the impacts of migration on health, offers courses on Migration, International Refugee Law and Human Rights in the graduate level, and has inserted the topic on undergraduate classes.

IASFM19 bore the theme: “*Global Issues, Regional Approaches – contexts, challenges, dialogues and solutions*”, with a view to highlight the current forced migration scenarios, as well as to allow for the drawing and building of comparisons among regions and with the global context and of dialogues with potential to improve forced migrants’ protection in general and in particular scenarios. The dialogue between global and regional was, thus, paramount and aimed to (i) highlight common grounds and shared challenges in forced migration governance, (ii) allow for debates on global and on regional issues, (iii) contribute to survey strategies best tailored to create or reinforce protection, and, (iv) advance the promotion of best practices that can be translated elsewhere (regional to global or global to regional). The cornerstone of IASFM19 was the improvement of integral protection for forced migrants globally and regionally.

A focus on dialogues allowed for new, construed and diverse perspectives on forced migration, as well as interdisciplinary interchanges with the potential to enhance studies in the area and contribute to the expansion of integral protection to forced migrants. Therefore, IASFM19 also placed a relevant emphasis on dialogues in several dimensions.

IASFM19 took place exclusively online from August 1st to the 5th of 2022; and was guided by the need of dialogues to enhance protection and by the dual approach outlined – highlighting regional aspects of forced migration in itself and in relation to the global scenario; with emphasis on contexts, challenges, and solutions.

IASFM19 was structured around keynote speeches, and the presentations of papers in panels (the abstracts of which can be found in the twin of this eBook: “[IASFM19: 19th International Association for the Study of Forced Migration Conference – Accepted Abstracts](#)”, as well as of good initiatives that are not exclusively academic in a marketplace of good practices.

## **About the eBook of Keynote Speeches**

The Organizing Committee of IASFM19 decided to undertake a novel initiative – the publication of an open access eBook (with ISBN) with all keynote speeches delivered at the Conference. It is believed that this action will produce a relevant academic product increasing the results of the Conference to the host institution as well as serve as a record of the speeches and a means for those who were not able to join the Conference live to have access to the keynotes’ thoughts, critiques and provocations.

IASFM19 counted with 17 keynote speeches delivered by 20 speakers focusing on the Conference main themes: current global and regional contexts, scenarios and challenges and dialogues. As mentioned in the Opening Ceremony of IASFM19: “global issues, to allow for the sharing of our common experiences; combined with

regional approaches, not only to highlight the avant-garde position of Latin America in some forced migration topics and the relevance of the Global South in the issues, but also to grant room for specific contexts; particular lessons and distinct knowledge and understanding to allow for new or renewed dialogues. Dialogues among regions; actors; levels of scholarship”<sup>5</sup> , with the keynotes allowing for capacity building, learning opportunities and first steps in discussing the topics but also of enhancing these dialogues.

<b>Global Issues</b>	Current Global Challenges – Jeff Crisp and E. Tendayi Achiume
<b>Regional Approaches</b>	Latin America – Letícia Calderon Being a forced migrant in Latin America – Ahmad Serieh Being a forced migrant from Latin America – Militza Pérez
	Asia – Yiombi Thona
	Europe – Violeta Moreno-Lax
	Africa – Zachary Lomo
	Middle East – Elena Fiddian-Qasmiyeh
	North America – Jennifer Hyndman
	Oceania – Michelle Foster
	<b>New Dialogues</b>
With NGOs – Emily Arnold-Fernandez and Lublanc Prieto	
With Academia – Pablo Ceriani	
Interdisciplinary Dialogues – João Carlos Jarochinski Silva	
Intercultural Dialogues – Rose Jaji and Ulrike Krause	
Inter-religious Dialogues – Father Fabio Baggio	

<sup>5</sup> Jubilut, Liliana Lyra. Speech in the Opening Ceremony of IASFM19, August 1st, 2022

The keynotes were structured as follow:

In choosing to have 17 keynote speeches, IASFM19 aimed to “try and create as many dialogues as possible”<sup>6</sup>, and “as diversity is key to reinforce effective and productive dialogues, representativeness and inclusion – in general but also taking into account the historical and power scenarios in Latin America – were taken into consideration in the organization of the keynote speeches. It is relevant to note that (i) there is gender balance between speakers, with a slight majority of women, (ii) there is also a balance between Global North and Global South lecturers, but with a predominance of representatives of the latter, (iii) there is representation of racial and ethnic diversity, and (iv) there are over 30% of speakers who have personally experienced forced displacement”<sup>7</sup>.

It is also relevant to note that, in keeping with the academic nature of IASFM, as it is an association for the study of forced migration, in choosing the keynote speakers, academic backgrounds and experiences were taken into consideration. Even when the speech was to have a more practical nature, the selected keynote speakers all had academic credentials, thus combining lived and academic experience.

Some keynote speakers chose to submit texts they authored for the Conference (either the texts they directly used in their presentations or texts based on their speeches), while others preferred to have transcripts of their speeches done and published in this eBook. For the transcripts, the keynote speeches were recorded (in audio only) with prior knowledge of the speaker and with the specific goal and use only for the transcripts. Transcripts in English (the official language of the Conference) were done by Luiza de Oliveira Revers and Derek Assenço Creuz; and in Spanish (two speeches of forced migrants that felt more comfortable sharing their experiences and knowledge in their native languages) by Julia Piana Roussenq. All resulting speech texts were revised by Melissa Martins Casagrande and Derek Assenço Creuz before being sent to the keynotes for their final agreements and validations.

This eBook thus represents a novel initiative and a relevant academic product for IASFM19, compiling all keynote speeches of the Conference. As its twin eBook with accepted abstracts, “it spans a vast range of topics, issues, disciplines and geographies, and registers a key element of IASFM most relevant activity – its biennial Conference. It also showcases”<sup>8</sup> relevant current topics and, thus, might bring about relevant suggestions on how to develop the field of the study of forced migration further and to assist in enhancing the protection of forced migrants.

*Liliana Lyra Jubilut, Melissa Martins Casagrande, Gabriela Soldano Garcez,  
Derek Assenço Creuz and Flávia Oliveira Ribeiro*

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<sup>6</sup> Ibid.

<sup>7</sup> As per the call for paper. Also, Ibid.

<sup>8</sup> JUBILUT et al. “IASFM19: 19th International Association for the Study of Forced Migration Conference – Accepted Abstracts”, 2022.

# Global Issues

## GLOBAL ISSUES: CURRENT GLOBAL CHALLENGES

### A Difficult Decade: Global Challenges to the International Refugee Protection Regime, 2012-2022

*Jeff Crisp*<sup>1</sup>

#### **The international refugee regime**

During the past decade, the international refugee regime has come under growing pressure. In this presentation I endeavour to identify the different manifestations of this trend, explain why these developments have taken place and finally to ask whether any improvements are taking place in relation to the state of the world's refugees and displaced people.

Before going into the substance of my presentation, allow me to say a few opening words about this notion of the international refugee regime. Those of us who work in the field of refugee studies use this concept a great deal, but often without thinking about what it actually means. It is not a legally defined concept, and so what I will try to do in this introduction is to provide a working definition of the international refugee regime.

For the purpose of this presentation, I define the international refugee regime as a network of legal instruments, institutions and norms intended to ensure that refugees are provided with the protection and solutions to which they are entitled, while promoting international cooperation, safeguarding the interests of States and holding them accountable for their actions.

I will be arguing that in terms of those legal instruments, institutions and norms, and with respect to the notions of international cooperation and State accountability, the international refugee regime has been seriously tested over the past decade.

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<sup>1</sup> Jeff Crisp is a Research Associate at the Refugees Studies Centre at the University of Oxford, an Associate Fellow in International Law at Chatham House, and a LERRN (The Local Engagement Refugee Research Network) Co-Investigator. He has held senior positions with the United Nations High Commissioner for Refugees (UNHCR) (Head of Policy Development and Evaluation), Refugees International (Senior Director for Policy and Advocacy) and the Global Commission on International Migration (Director of Policy and Research). He has a Masters and a PhD in African Studies from the University of Birmingham. He has first-hand experience of humanitarian operations throughout the world and has published and lectured widely on refugee and migration issues.

## Negative trends

Allow me to identify some of the key features of the global refugee and displacement scenario that we have witnessed over the past ten years. First, we have seen a spate of major new emergencies. These include Myanmar, the Sahel region of West Africa, South Sudan, Syria, Ukraine, Venezuela, and, of course, the major influx of refugees into Europe from many parts of Africa, Asia and the Middle East in 2015 and 2016.

At the same time as these new major emergencies have taken place, another key feature of the global refugee and displacement has been the continued existence of protracted and unresolved crises in which refugees and displaced people have lived for many years without being able to find a solution to their plight. In this respect, I am thinking of places such as Afghanistan, a country in crisis since the end of the 1970s; the ongoing emergency in the Democratic Republic of Congo; the crisis in Iraq, which began in the mid-2000s, the Somalia armed conflict, which again goes back to the 1980s, and the longstanding violence that has affected the Darfur region of Sudan.

In terms of solutions, there is more bad news to report. What we have seen over the last ten years are very limited levels of repatriation – situations in which refugees voluntarily choose to go back to their own country. In the 1990s, for example, which UNHCR described as “the decade of repatriation”, about a million people per year, on average, went back to their homeland. In the past decade, however, the number has been at around a quarter of that level, and many of the returns have not been fully voluntary in nature.

If we look at the second solution, namely refugee resettlement, where refugees are able to relocate from their country of first asylum to a third country that has agreed to admit them, we again see a serious decline in the numbers. This has been largely as a result of the very restrictive refugee resettlement policy introduced by President Trump of the United States, as well as the restrictions on movement introduced by many States as a result of the COVID-19 pandemic. If we look at the figures, we find that in 2019 around 108.000 people were able to benefit from the solution of resettlement. In 2021, just two years later, that dropped to 57.000 – almost a 50% reduction.

At the same time, in the developing areas of the world, where most of the world's refugees are to be found, we find that there have been very few local integration opportunities, *i.e.* situations in which refugees are allowed to remain in their country of asylum and are eventually given the opportunity of naturalization in that State. Generally speaking, refugee hosting countries in the Global South have not been in favor of pursuing this particular solution and the last major local integration program started back in 2007, when some 160.000 Burundian refugees in Tanzania were granted citizenship of that country. There has been nothing like that in terms of local integration over the past decade.

If we add all of these factors together - major new emergencies, unresolved situations, limited repatriation, low resettlement levels and few local integration opportunities - then what is the result? Well, the most obvious one is that of rising numbers. In June this year, UNHCR published new statistics, showing that there are now 100 million forcibly displaced people around the world, which it described as “a record number” and “an unprecedented figure.”

We should, however, take particular note of the fact that only around 25 million, or 25% of that number, are refugees under UNHCR’s mandate. The vast majority of that 100 million, in fact, almost 60 million, are internally displaced people; *i.e.* those who have been uprooted by conflict and persecution but who remain within the borders of their own country.

Another pressure on the refugee regime has been the growth of what we call ‘mixed movements of people’, namely situations in which refugees, asylum seekers and other migrants move alongside each other, using the same routes and the same means of transport, and often employing the services of the same human smugglers. There has been a distinct growth in the number and size of such mixed movements over the past decade - movements of a type that were not really envisaged when the modern international refugee regime was established in the early 1950s.

I also want to suggest that the past has witnessed a distinct decline in the standards of protection available for refugees around the world. We have to be a little careful in making that statement. There has never been a ‘golden age’ of refugee protection in the 70 years since UNHCR and the other components of the refugee regime were established. Refugee rights have always been violated by both States and non-State actors, despite the creation of laws, norms and organizations intended to protect those people.

Even so, I would argue that in a number of respects, protection standards have been declining over the past decade. We find that in many parts of the world new barriers to entry have been erected to exclude refugees. Walls and fences have been constructed. States have deployed their military forces to prevent refugees from arriving on their territory and have introduced new surveillance technologies such as drones and blimps in order to detect the movement of people and to prevent them from seeking asylum on their territory.

We have seen a distinct growth in the scale of refugee refoulement and particularly, most recently, pushbacks at land and sea, as is the case, for example, with refugees arriving by boat in Greece and who are subsequently being towed back into the Mediterranean Sea. Such actions are a direct violation of two of the key protection principles that form part of the refugee regime: non-refoulement and the right to seek asylum in another State.

As mentioned earlier, the notion of voluntary repatriation has also come under serious pressure, meaning that when refugees go back to their own country, it is often under some kind of compulsion. They are not voluntary returns but are more



accurately described as forced or induced returns. We have seen this happening with Somali refugees in Kenya, Afghans in Pakistan, and Iran, Rohingya refugees from Myanmar in Bangladesh, and with the very large Syrian refugee population in Lebanon and, to a lesser extent, in other countries of the Middle East.

One of the dominant trends of the past decade has been the growth of policies that we describe as ‘externalization’ - in other words, measures taken by the world’s most prosperous States to transfer responsibility for controlling the movement of refugees to less wealthy countries by providing them with financial and other incentives to do so. We have seen this trend manifested in Australia’s policy of intercepting refugees at sea and sending them to Nauru and Papua New Guinea. And we see it with the EU support given to the Libyan Coast Guard, which intercepts refugees at sea and takes them back to detention in Libya.

Most recently, the United Kingdom has introduced a proposal whereby any asylum seeker arriving by so-called ‘irregular means’ in the country will not be allowed to seek asylum in but will be deported to Rwanda, where their asylum claim will be processed with no possible opportunity of returning to the UK. This proposal represents a very extreme form of externalization, and Denmark has already expressed its intention to introduce similar arrangements.

Another reason why protection standards have been in decline over the past ten years is because the international humanitarian system as a whole has come under great pressure from the new emergencies and the unresolved situations that I described earlier. Most UN appeals for humanitarian resources are very significantly underfunded at the moment. The humanitarian system’s capacity to respond to so many emergency situations and protracted crises simultaneously has been limited, and the pressure exerted on the system has been exacerbated by the war in Ukraine, by the COVID-19 pandemic, and, of course, by the growing demand for funding to combat climate change throughout the world.

UNHCR, in many ways the centrepiece of the international refugee regime, has been unable to stem the decline in refugee protection standards. It was intimidated by President Trump, who pursued a policy that was overtly hostile to the UN and to refugees. Fearing a loss of US funding, UNHCR established a closer relationship with the EU, despite the increasingly restrictive refugee and asylum policies pursued by European States. And UNHCR has retreated from forceful public advocacy on refugee protection, preferring to engage in branding, marketing, celebrity endorsement and self-promotion.

## **Failures of global governance**

How do we explain all of these negative trends in the status, effectiveness, and impact of the international refugee regime? First, as UN Secretary-General Antonio

Guterres often says in his speeches and statements, the international community has in recent years been characterized by serious failures of global and regional governance, with the UN unable to prevent armed conflicts from starting or to bring them to an end once they have occurred.

At the global level, we have seen this problem play out in the UN's international community's inability to prevent and resolve the ongoing conflicts in Syria and in Ukraine. At the regional level, we could look, for example, at the failure of the African Union to resolve the conflict in Ethiopia, and the inability of ASEAN to avert the violence in post-coup Myanmar.

Failures of global governance are to a significant extent the result of an increasingly polarized and dysfunctional UN Security Council - a body which is supposed to uphold international peace and security, but which is becoming increasingly unable to fulfill that function. Indeed, we have witnessed situations such as Syria and Ukraine, in which several Permanent Members of the Security Council are actively and militarily involved in the conflict.

Over the past decade, we have also seen the rise of a number of States that espouse a very nationalistic ideology and that behave in a unilateral manner - a manner which, I would suggest, is directly contrary to the principles and norms of the international refugee regime. These include China, Ethiopia, Myanmar, Russia, Turkey, and, of course, the United States during the presidency of Donald Trump.

As well as the rise of these nationalistic and unilateralist States, we have witnessed the growing importance and influence of actors on the world stage who are committed to the use of violence and who are prepared to violate International Humanitarian Law in the pursuit of their military, political and financial objectives. In this respect, I am referring to the armed forces of States such as Ethiopia, Myanmar, Russia and Syria. I am also referring to rebel and militia groups, such as those that are fomenting the armed conflict in the Democratic Republic of Congo. I am referring to extremist movements such as the Taliban in Afghanistan, Boko Haram in Nigeria, Al-Shabaab in Somalia and ISIS in a number of different locations throughout the Islamic world. And finally, I am referring to the very violent drugs and narcotics cartels of the type that have become so prevalent in Mexico and Central America.

All of these developments have exposed what might be described as the international refugee regime's accountability deficit. In my definition of that regime I made reference to the fact that it was responsible for holding States and other actors to account for their actions and for ensuring that they respect the principles of refugee protection. What has become increasingly clear over the past decade is that the international refugee regime has no real enforcement or compliance mechanisms.

UNHCR, for example, has an internationally recognized supervisory role in relation to the implementation of the 1951 Refugee Convention. But it is very limited in its ability to act if States violate the key principles of that instrument. It can name and shame States by going public and by publicizing their violations of refugee rights.

It can undertake quiet diplomacy, negotiating with States and other actors behind the scenes in order to encourage them to respect refugee rights. It can exert a certain degree of moral pressure in order to change the behaviour of governments. But at the end of the day, UNHCR cannot impose its will on abusive States and non-State actors, a longstanding weakness that has been fully exposed by the developments of the past ten years.

### **Room for optimism?**

So far, I have painted what can only be described as a bleak scenario in relation to the state of the world's refugees and displaced people. Their numbers have been growing. They have not been able to find solutions to their plight. Protection standards have been declining. And there has been a growing tendency among States and other actors to show complete disregard for international humanitarian law, international refugee law and the principle of international cooperation, all of which underpin the global refugee regime.

To conclude, therefore, I would like to ask if any positive developments have taken place over the past decade? Can we look back over the last 10 years and say that anything has improved in terms of the global refugee and displacement scenario?

First, let us consider the 2018 Global Compact on Refugees (GCR). Some commentators have argued that the establishment of the GCR was a very positive development, and UNHCR has certainly gone on record in this respect, describing the Compact as a “new paradigm”, a “key turning point for refugee protection” and even a “minor miracle.”

I would question such observations because I am not convinced that the GCR has been as influential as UNHCR and States have made it out to be. Of course, it was positive for the international community to come together to reach a consensus on the international response to refugee movements and to set out some key principles and objectives in the Global Compact. But in other aspects, the GCR has some fundamental limitations.

The Global Compact is non-binding in nature. While most UN Member States have endorsed it, in the past four years many have shown very little reluctance to violate its key principles. If you look at the text of the GCR, moreover, you will find that it is quite weak in its language in relation to some key protection issues, such as the right to seek asylum and rescue at sea and is much stronger on less controversial issues such as the forms of assistance provided to refugees and the need to link such support to longer-term development activities. It might also be considered a mistake for the UN to have facilitated the establishment of two separate global compacts, one on refugees and one on migration, rather than a single agreement on international responses to the challenge of human mobility.

Another weakness of the GCR is that it completely excludes internally displaced people, despite the fact they are much larger in number than those who have crossed borders in order to seek safety in other States. Instead, the issue of internal displacement was entrusted to a High-Level UN Panel, whose report led to the appointment of a Special Representative on Solutions to Internal Displacement. It remains to be seen if these initiatives can address the key issue, namely the unwillingness of States to treat their internally displaced citizens in ways that respect their human rights and enable them to establish settled lives in the place of their choice. In these respects, recent evidence from countries such as Ethiopia, Myanmar and Syria can hardly be considered encouraging.

### **Some hopeful developments**

Let us now move on to look at some ways in which the progress made over the past decade has been less ambiguous. First, while I have underlined the issue of declining protection standards and abusive government behaviour, we should recognize that these phenomena are not universal and that some States have acted in relatively positive ways towards refugees. Here I am thinking, for example, of Canada, which has admitted significant numbers of Syrian refugees and, more recently, Afghan refugees, by means of privately and community-sponsored resettlement programmes. I am referring to Uganda, which has generally kept its borders open and tried where possible to provide refugees with land so they could become at least partially self-supporting.

The European Union response to the Ukraine emergency has been positive in the sense that it has offered protection to large numbers of refugees from that country and enabled them to exercise freedom of movement within the European Union. And the countries of South America, whose response to the very large number of Venezuelans who have left their own country has been relatively positive when compared to the response to large-scale refugee movements in other parts of the world.

I am not suggesting that any of these examples are perfect. Canada still detains asylum seekers, for example, while Uganda's approach to the refugee issue has come under great pressure due to the large number of new arrivals from South Sudan. The warm welcome given to Venezuelans in South America now seems to be wearing thin, while the EU's positive treatment of refugees from Ukraine contrasts very strongly to the hostile environment established in Europe for asylum seekers originating from other parts of the world. But let us give credit where it is due, and endeavour to replicate and build upon the examples of good practice provided by such States.

Another positive development of the past decade is to be found in the evolving paradigm of refugee assistance and support in those developing countries where the largest exiled populations are to be found. Back in the 1980s and 1990s, for example,

it was considered completely normal and acceptable for refugees to be accommodated in camps, with severe restrictions imposed on their freedom of movement. Today, however, there is much greater recognition of the need for refugees to be mobile and to move, if they choose to do so, to urban areas, where they can live a more normal life and access better livelihoods opportunities.

At the same time, there has been a distinctive shift away from the old model of distributing relief items (tents, blankets, cooking pots, etc.) to refugees, and towards a new approach of providing them with cash, so they can make their own decisions as to where, when, and how to spend their money.

If we go back to the final years of the last century, it was considered normal to establish so-called 'care-and-maintenance' programmes for refugees, providing them a bare minimal amount of food but without giving them the option to become self-reliant. By way of contrast, in the last decade, there has been a much greater focus on providing refugees with access to land, the labour market, trading opportunities and credit, thereby enabling them to support themselves.

Finally, for many decades, responsibility for refugees has been very much focused on the role of UNHCR and other international humanitarian agencies. In the past few years, however, and especially as a result of the Syrian emergency, development actors, particularly the World Bank, have become much more interested and actively involved in refugee and displacement situations.

To conclude my presentation, I would like to mention three other recent and positive developments. First, since President Trump left office, we have witnessed quite a significant revival in UNHCR's advocacy role and its willingness to speak out on refugee protection issues. This has been particularly evident in the UK, where UNHCR has taken an extremely strong stand against the government's proposal to send asylum seekers to Rwanda.

Second, there has been a very interesting and positive discourse in recent years on the need to provide refugees with safe and legal routes to asylum so that they do not have to undertake difficult, dangerous, and expensive journeys that appear to threaten the ability of States to control their borders. This discourse has involved safe and legal routes such as State-sponsored resettlement, privately-sponsored resettlement, humanitarian visas and corridors, labour migration schemes, family reunification programmes and international scholarships for refugee students. At the moment, the number of refugees who have access to such routes is very modest. Every effort must therefore be made to ensure their expansion.

Finally, and to end on what might be the most positive development of all, the past decade has witnessed a growing recognition of the fact that refugees are not simply subservient, passive recipients of aid, but are agents and actors in their own right, with their own aspirations, intentions, objectives and life strategies.

In the past four or five years, there has also been growing evidence of the fact that refugees are able to come together, to mobilize, to organize and to speak up for

themselves. This has been illustrated by the growing number, visibility and influence of so-called Refugee-Led Organizations, all of them demanding a seat at the refugee policy table and insisting that there should be no discussions about them, without them. Looking to the future, those organizations seem likely to play an increasingly important role in the global refugee protection regime, even if they are not formally part of it.

## Racial Border Injustice

*E. Tendayi Achiume<sup>2</sup>*

It is an honor to be invited to reflect on current global challenges at the annual conference of the International Association for the Study of Forced Migration. The aim of my keynote is to make the case that a pressing global challenge—including for international legal scholars, and for other scholars of borders and migration—is the urgency of reframing border and migration debates to account for contemporary borders as sites of imperial injustice and inequality.<sup>3</sup> The challenge, of course, is not merely to reframe debates, but reframing is an essential precursor for the ultimate challenge, which is to remake borders in order to undo the injustices they entrench.

On June 24, 2022, Moroccan and Spanish border guards killed between 23 and 37 African men as they and a group of others attempted an unauthorized crossing of Morocco's land border with Spain in Melilla, which sits on the northern coast of the African continent (Publico 2022; Human Rights Watch 2022).<sup>4</sup> Many others were injured. The video images of the violence and its aftermath are difficult to watch, and included footage of bodies of living, injured and dead persons piled on top of one another as border guards kick and prod them to ensure they are subdued. I briefly contemplated showing these and related images as part of my presentation but deci-

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<sup>3</sup> I have written in more detail about this urgency elsewhere (see Achiume 2019; Achiume 2022a; Achiume 2022b).

<sup>4</sup> Melilla is an autonomous city of Spain and, notwithstanding its geographic location, forms part of the European Union as a special territory. Although it is part of the Schengen Area, however, Spain is required to conduct identity and immigration checks for anyone departing Melilla for any other part of the European Union (Schengen Acquis 1985).

ded against doing so. Dehumanizing images of spectacular border violence against Black and Brown people are by now commonplace. But as another author has put it in the context of racial violence in the United States: “Dead Black people are not ornaments to be put up and taken down for every activist need, purpose and point” (Anderson 2015).

According to some reports, there were hundreds of Black Africans who had gathered to attempt the crossing, and also according to some reports, they were armed with sticks, stones and other homemade items. In the aftermath of the incident, the Spanish Prime Minister called on NATO to recognize unauthorized migration of the nature manifest at Melilla as a threat to arguably the most powerful political and military security alliance in the world, thus warranting joint action. His call was successful, and indeed by July 6, 2022, a media outlet reported that NATO forces, including troops from Spain, Britain, Belgium and the United States had conducted exercises alongside EU member state forces off the Spanish and North African coasts (Ridgwell 2022; Carreño 2022).

Most debates treat borders themselves as immovable facts—they just are—and to the extent that they have an ethical valence, it is one of neutrality or of righteousness. In its invocation of NATO, Spain cited national and regional security threats to the EU’s borders, implicitly treating these borders, which include the borders of its African enclaves—Melilla and Cueta—as uncontested. In this and many contemporary public debates regarding migration, borders are rarely themselves the source of ethical conundrums, rather it is the movement of people or the policies that governments then adopt in response. And to the extent that debates take seriously the idea of changing the way borders work, arguments that weigh in favor of admitting migrants remain rooted in humanitarian and solidarity arguments, the edgier ones may make claims about equality, but very rarely is *justice* the dominant mode of challenging the border, let alone justice in the context of empire.

My specific focus is racial border injustice, and as such, it is important to say a word about “race” and the sense in which I use this term. The work of decolonial scholar Aníbal Quijano reminds us that race today is the product of centuries long colonial intervention and exploitation, during which “race became the fundamental criterion for the distribution of the world population into ranks, places, and roles in [...] society’s structure of power” (2000: 535). In the colonial context, race structured rights and privileges on hierarchical terms determined by White supremacy. Although formal decolonization has occurred in most (though not all) of the world, race persists as a neo-colonial structure, one that still allocates benefits and privileges to the advantage of some and the disadvantage of others largely along the same geopolitical and racial lines that characterized the European colonial project. This is by no means a totalizing account of the meaning of race,<sup>5</sup> but this structural and material

<sup>5</sup> Race is and does many different things. Building on the work of Ian Haney Lopez (2006) and Anibal Quijano (2000) among others, I discuss race and its relationship to borders in greater detail in *Racial Borders* (Achieme 2022a).



sense is an important part of how I will use the term.

Indeed as we confront the COVID-19 pandemic, its global impact has vividly displayed the persisting neocoloniality of race on a transnational scale. Across the globe, COVID deaths and exposure have had the worst impact on racially, ethnically and religiously marginalized populations. Racial disparities have also manifested across borders. For example, in February 2022, only 11% of persons in Africa had received a COVID-19 vaccine, compared to a global average of 50% (Jordans 2022). According to an analysis in October 2021, “[o]nly 0.7% of vaccines have gone to low-income countries [at that time], while nearly half have gone to wealthy countries” (Hinnart *et al.* 2021). Just a month earlier, it was reported that 2% of Africans, 15% of Indians, and 63% of Europeans were fully vaccinated (Ahmed *et al.* 2021). Meanwhile, Canada, among others, bought five times more vaccine doses from global pharmaceutical companies than it needed (Krishnan 2021). As I recently reported to the United Nations Human Rights Council, “the disproportionate impact of COVID-19 between and within countries mirrors colonial hierarchies borne out of failures to redress the effects of racism rooted in slavery, colonialism and apartheid” (UNHRC, 2022).

In November 2021, the discovery of the Omicron variant by South African scientists resulted in a vivid display of the racialized nature of First World borders. By December 4, the United Kingdom, the United States, Canada and Germany had imposed blanket bans on foreign nationals coming from southern African countries, including countries in which Omicron had not yet been detected at all. Entire African nations were deemed a diseased threat, with no provisions for individualized assessment, speaking to what Matiangai Sirleaf has described as the racialization of disease (Sirleaf 2020a; 2020b). Entire nations were immobilized, and to the extent that the arguments for the targeted immobilization is grounded in justifications regarding lower vaccination rates in regions like the African region, these justifications belie the operation of other dimensions of border racialization. As Professor Sirleaf has argued, global vaccine distribution is best characterized as a regime of vaccine apartheid, which features an international intellectual property rights regime that unjustly denies Global South countries access to vaccine technologies, and an international economic system that has, among other things, restructured many of these governments to shrink public healthcare and other essential services that have proven essential for weathering the pandemic. As Professor Sirleaf writes, “Using vaccine apartheid to characterize this state of affairs is important because it troubles, and renders suspect, the use of terms like vaccine nationalism to describe countries hoarding enough supplies to vaccinate their populations several times over. The euphemism of vaccine nationalism conveniently papers over the racialized distributional consequences of vaccine inequities” (Sirleaf 2021).

In the time I have, I want to focus on borders, with a lens that highlights race and empire, where empire refers to “social, political and economic interconnection



among sovereign nations but on fundamentally unequal terms that benefit powerful nations, while structurally disadvantaging and exploiting subordinated nations” (Achieme & Bâli 2021: 1386).<sup>6</sup> I invite you to consider borders in particular as racial imperial technology—a means of extracting value from bodies and regions, including through racialization, and on unjust terms that systemically benefit imperial hegemony. Race works through borders and is itself pivotal border infrastructure.<sup>7</sup> I also invite you to view law as a pivotal feature of this technology. I hope to show how thinking of borders as racialized imperial technology helps us articulate in more precise terms the injustices that borders perpetrate and perpetuate. My analysis privileges race, but I want to be clear that gender, disability status, and other structures such as class all operate as borders and law facilitates this bordering. Although my analysis is not of the intersectionality of systems and structure of imperial subordination, such analysis is crucial.

## Racial Borders<sup>8</sup>

The much-reviled “illegal immigrant” remains a racialized subject, the world over. Whether we are talking about so-called illegal immigrants in the United States, in western Europe or even in South Africa, illegality of migration—in its most contested and polarizing form—typically implicates the movement of non-whites. Race is absolutely a factor in determining who is the subject of xenophobic backlash (Achieme 2014: 323). But even absent explicit racist, xenophobic backlash, racialized immigrant exclusion and subordinate inclusion remain embedded in international and domestic legal frameworks, many of which are treated as facially neutral, existential features of liberal democracies.

I use the term *racial borders* to refer generally to territorial and political border regimes that disparately curtail movement (mobility) and political incorporation (membership) on a racial basis, and sustain international migration and mobility as racial privileges. Contemporary national borders of the international order, an order that is neocolonial, are inherently racial: a default manner in which they enforce exclusion and inclusion is racially disparate. Furthermore the racial disparities enforced by national borders still structurally benefit some nations and racial groups at the expense of other nations and racial groups. As a result of legal doctrine developed in the service of specific imperial and colonial projects initiated in the past and that persist today, “Whiteness” confers privileges of international mobility and migration,

<sup>6</sup> See Achieme & Bali 2021 for international legal analysis and scholarship, attention to both race and empire sheds crucial light on the functioning and impacts of the international system, and ought to shape normative assessment of the system.

<sup>7</sup> These are arguments I advance in greater detail in *Racial Borders* (Achieme 2022a).

<sup>8</sup> For the detailed explanation of and support for the arguments summarized in this section, see *Racial Borders* (Achieme 2022a).

and proximity to “Whiteness” calibrates these privileges. This racial privilege inheres in the facially race-neutral legal categories and regimes of territorial and political borders (sovereignty, citizenship, nationality, passports, visas), and it inheres in rules and practices of national membership and international mobility. The result—racial borders—are a pressing global challenge.

Take for example the current Schengen visa regime that applies to the European Union, home to the former colonial powers that divided Africa up for their benefit, and that I mentioned above are mobilizing NATO against African and other migrants. In 2002, all of Africa was on the visa “Black list.” Today, that has remained largely unchanged. The only African nations on the visa exempt list are Mauritius and Seychelles. Almost all of Asia is on the Black list, whereas all of North America, and most of Latin America are on the White list. These visa lists amount to a system of racialized national profiling (Cholewinski 2002: 21), according to which nationals on the “blacklist” must on an individual basis work to overcome their presumptive exclusion, via visa applications adjudicated through processes that by law are characterized by broad discretion that is barely insulated from racially infused decision-making, explicit and implicit.

For example, a recent parliamentary report in the UK found that African citizens who applied for British visas were twice as likely as the average applicant to be denied a visa and seven times more likely than a North American applicant (Asquith *et al.* 2019). Obstacles to approval include poor quality and inconsistent decision making by visa officers, disregard for individual circumstances, strict (but inconsistent) documentation requirements, and an apparent institutional presumption that African visa applicants—particularly those with limited financial means—intend to violate UK immigration laws. The “single most common issue” brought to the Report’s authors was the denial of applications because of the “requirement to prove the financial circumstances of the applicant.” (Asquith *et al.* 2019). Notably, this requirement caused problems even when applicants were fully sponsored by prestigious organizations providing financial surety for these applicants. In other words, even unequivocal evidence of financial means is insufficient to overcome financial suspicion of African applicants and prevent visa denials. The report raised concerns about gender and racial discrimination and prejudice in the visa decision-making process.

The racialized closure effected by visa regimes has another facet. Continuing with the example of the United Kingdom, its visa restrictions do not affect all Africans equally. More to the point, Africans of European ancestry, who are *de facto* White, can use their bloodlines to circumvent restrictions that apply to their Black co-nationals. For example, a 2010 study mapped the visa regimes that “facilitate access of white South Africans to the UK and Europe.” (Asquith *et al.* 2019). The author of this study identified a number of visa categories available to South Africans based on the historical colonial relationship between South Africa and the UK, including the Ancestral Visa. It is available to South Africans with a grandparent, and in some

cases a great grandparent born in the UK, and grants the bearer five years of work authorization, with a pathway to citizenship. Africa's formerly settled British colonies including South Africa, Zimbabwe and Kenya all have citizens with grandparents and great grandparents born in the UK, and almost all of these qualifying citizens are likely to be White. If you're Zimbabwean or Kenyan for example, being Black or White can determine whether you can travel visa free to the UK. This means, in effect, that the benefit of the Ancestral visa is allocated on a racial basis to Whites, even though British imperial subordination decimated the worlds of so many non-White Africans. The justification of this differential access to the UK can neither be divorced from empire (past and present), nor from the meaning of race as a structure of imperial privilege.

The bottom line is that these visa regimes are not race neutral, and the history of modern immigration regimes reveals the racial and racist purposes these regimes were originally intended to serve.

Between the nineteenth and first half of the twentieth century alone, approximately 62 million Europeans emigrated to colonial territories across the world. Historians note that the scale and consequences of even just British Empire migration between 1815 and the 1960s "explains much about the modern world" (Harper & Constantine 2012: 1). Historians Marjorie Harper and Stephen Constantine note, for example, that British colonial migration "of all types was an important element in the transformation of huge spaces of the overseas empire into primary producing regions whose principle markets were in the UK (and other parts of Europe)" (2012: 7). Colonial economic migration brought with it genocide, enslavement and exploitation that transformed the world and laid the foundation and basis for our current global order. And in striking contrast to the mortal costs that international law imposes on non-European migrants today, European colonial migrants benefitted from international and imperial legal regime that facilitated, encouraged and celebrated White economic migration.

European imperialism in the nineteenth century played a crucial role in producing the migration and mobility regimes that we should consider the progenitors of contemporary regimes. As late as the mid-nineteenth century, immigration was mostly unrestricted across the British Empire and its settler colonies. Large scale international mobility of Europeans and non-Europeans across imperial territories was a function of race and of the economic needs and political desires of metropolitan and settler-colonial nations. With slavery's abolition in the first half of the nineteenth century, the global imperial economy could no longer rely on brutally coerced migration of enslaved Africans for its labor supply. This shift thrust Indians into the role of "the global working class of the British Empire," (Lake & Reynolds 2008: 23) as millions were contracted as laborers to work across the British colonies in the Caribbean, Southeast Asia, South Africa, and the Pacific.

By the late nineteenth century, however, immigration restrictions that would

ultimately implement a regime of racial segregation on an international scale emerged, with British self-governing settler colonies, including the United States, leading the charge. In their seminal book, *Drawing the Global Colour Line*, inspired by the work and thought of W.E.B. Du Bois, Lake and Reynolds chart “the spread of ‘whiteness’ as a transnational form of racial identification, that was, as DuBois noticed, at once global in its power and personal in its meaning, the basis of geo-political alliances and a subjective sense of self” (2008: 3). This racial identity was forged in the context of nineteenth century imperial projects and the mass migrations that attended them. A transnational “imagined community of white men” (Lake & Reynolds 2008: 4) in this period bolstered border protection regimes and the doctrine of national sovereignty.

At the level of legal doctrine, the late nineteenth and early twentieth centuries were also the periods in which an absolutist conception of the sovereign right to exclude crystallized. This conception of sovereignty crystallized specifically to underwrite the exclusion of Asians, especially from White settler colonies of the British Empire. The *Chinese Exclusion* cases decided by the US Supreme court in the 1880s are a key component of this legacy, legitimating a national settler colonial project defined in racial terms.

Prior conceptions of the sovereignty doctrine had accorded foreign nationals mobility and migration rights, but these prior conceptions were revealed to be racially contingent. Eve Lester’s doctrinal analysis of early international law tracks how in the works of international legal theorists Grotius, Vitoria, Pufendorf, and Vattel, for example, “the [rights bearing] foreigner was — always and anywhere — a European insider” (2018: 78). But with European colonial expansion, “it was the appearance of the foreigner as a racialised (non-European) figure and the desire to regulate her labour that led directly to the emergence of restrictive migration laws and then a common law doctrine of ‘absolute sovereignty’” (Lester 2018: 82). In a comprehensive historical study of modern borders, Adam McKeown further shows how the most basic principles of contemporary border control were initially developed in the White settler nations, especially between the 1880s and 1910s, and such control would eventually “become universalized as the foundation of sovereignty and migration control for all states within the [international] system” (McKeown 2008: 3).

I have provided only a barely cursory account of the history of racial borders—a history that is of course much deeper and more complex,<sup>9</sup> but two points are important to highlight about this history. First, border and migration governance regimes were mechanisms for enforcing racialized access to benefits of colonial exploitation and for the production of these benefits to a significant extent. These racialized border regimes were thus at the political and economic heart of empire. As a result, legal theory even narrowly concerned with border and migration governance in this historical period and subsequent periods (such as our contemporary one) cannot be complete without some accounting for the extent to which empire shapes borders and migration.

<sup>9</sup> I outline the legal genealogy of racial borders in *Racial Borders* (Achieme 2022a: 455-464).

Racialized mobility, immobility, inclusion, and exclusion were not incidental or unfortunate by-products of colonial empire but rather imperially productive technologies for creating and allocating the benefits of empire. The final point to highlight from this history is that it is in this era of formal colonial empire that the racial operation and function of borders was perfected through facially race-*neutral* legal categories, doctrines, and policies—including citizenship, nationality, and even sovereignty doctrine—as it relates to the right to exclude non-nationals.

### What bearing does this history have on the present?

In November 2017, media outlets reported the death of 26 Nigerian girls and women, aged between 14 and 18, whose bodies were found floating in the Mediterranean (Giuffrida 2017). There were many more individuals on the boat that carried them, including some survivors. One of the survivors interviewed stated that the motivations for most of the women on the boat from Nigeria, was the search for jobs. Europe, like much of the First World is powered by an economic system that is predicated on labor migration, and arguably even unauthorized labor migration, but rather than provide legal pathways for this type of migration, European nations, with the support of African governments, have doubled down on the securitization of European borders, and even of African borders to keep migrants out. In the context of passports, visa regimes, border externalization and securitization policies that in effect privilege First World international mobility, the reality is that the mortal cost of international mobility is largely a non-White problem. As Nicholas de Genova puts it:

Europe's deadly borders... must be understood as *racial* borders. The physical barricading and ever more lethal policing of Europe's borders, likewise, signify an abundantly racialized affair. Rather than perceiving the brute racial (post)coloniality of Europe's borders as a merely "exclusionary" matter, it is vital that we discern the ways that this profoundly racialized system of immigration and asylum operates in fact in a perfectly predictable way as a machine of *inclusion* — albeit a form of inclusion that is always one of racialized, postcolonial, illegalized labor subordination (De Genova 2018).

It is neither arbitrary nor coincidental that the 26 girls and women who perished were Black, and the same is true of the people who perished at Melilla's borders—in effect, Europe's borders are racial, as are international borders more generally. The borders between imperial hegemony and the regions that have been historically exploited remain racially circumscribed graveyards, as a result of the contemporary system of racial borders.<sup>10</sup> Although my examples have centered on western Europe,

<sup>10</sup> For a discussion of the legal and policy parameters of this system see Racial Borders (Achiume 2022a:

similar arguments can and should be made about racial border injustice in other places such as the southern border of the United States (Achieme 2022b).

I want to further invite you to consider the ways in which race itself operates as territorial border infrastructure, and in doing so, I begin again with a historical example.

On July 27, 1919 a Black teenager named Eugene Williams was swimming in Lake Michigan, Chicago—a city that at the time was fraught with racial tension among Blacks and Whites, including as a result of the Great Migration of African-Americans fleeing the inhumanity of the Jim Crow South (Loerzel 2019). During his swim, Williams inadvertently drifted into a part of the water that was unofficially considered to be a “Whites only” part of the lake. Chicago was not formally segregated, but its territory was without a doubt racial—space and rights were informally but effectively demarcated on a racial basis. A White beachgoer outraged by Williams’ act of trespass began throwing rocks at Williams—we might think of this as an act of punishment but also of border enforcement. Williams drowned that day. In the aftermath, several Black witnesses urged a White police officer who was present to arrest the White man responsible for William’s death. He refused to do so, and according to one report: “Tensions on the beach escalated and a skirmish ensued when the officer arrested a black man instead” (Barrett 2020). This event triggered six days of protest and racial violence, sometimes referred to as the Chicago Race Riot of 1919—the biggest massacre of Blacks by White supremacists across the US during the Red Summer.

William’s death occurred in the same year that the United States, along with Britain and its other former Dominions, especially Australia and South Africa were working hard to consolidate what W.E.B. Du Bois described as “the Global Color line.” These colonial powers had become preoccupied with shielding racialized immigration control from international scrutiny, including by opposing an international agreement that would have required countries like the United States to put an end to Asian exclusion. Nicholas Wisseman has argued that both the Chicago Race Riot of 1919 and the British-Anglo opposition to that international agreement were triggered by “the perceived impact of migrating people” (Wisseman 2010: 43). In the former, the migration north of Black people “universalized a kind of anti-black politics that had previously been confined to the South” of the United States (Ibid.). The rhetoric of White Chicago included calling on the South to “‘keep’ its blacks,” with the advice that improving the right of Blacks in the South would help prevent their migration North (Ibid.). Notably, arguments of this sort are regularly deployed today by the European Union in its efforts to keep Black Africans out of Europe, including through fatal migrant interdiction policies in the Mediterranean.

For Williams—even in the absence of any physical barrier designed to police access on a racial basis, and indeed in the absence of any individualized assessment

of who he was and what rights he might have had in Lake Michigan—his Blackness—the specific social, political and legal construction inscribed in the color of his skin—operated as a border. His Blackness designated him an interloper, and made possible (and for some perhaps necessitated) his fatal stoning as border enforcement and as punishment for trespass.

There were no White men throwing rocks at the Nigerian girls and women who died in November 2017. The Mediterranean is, however, policed by Libyan coastguards funded by the European Union to push migrants and refugees back to Libya where they are detained in EU-funded migrant detention centers. And again, although there are no White men throwing rocks at Black African migrants and refugees in the Mediterranean, European countries have gone so far as to criminalize aid (even by human rights and humanitarian groups) to these migrants and refugees in these waters. Preventing the otherwise inevitable deaths of migrants and refugees in these treacherous waters is punishable by law, while creating the conditions and providing the resources that result in the deaths of these migrants and refugees is not. The Mediterranean is many things to many people, including a site of racially determined death. For the 26 Nigerian girls or the African men killed at Melilla, their race was as much a reason for and means of their exclusion from Europe, as was the physical border machinery that bounds Europe. As Black people, part of the social construction of their racial identity in the context of neocolonial empire is the mark of presumptive outsider/subordinate insider status where the nations of the First World are concerned. Access to Europe is mediated by facially neutral but racialized migration policies combined with pervasive racial profiling in immigration enforcement, such that the very bodies of non-White people operate as borders.

To say race itself is a border is to do a number of things. Firstly, it is to say that no taxonomy of the various technologies that effect international borders (e.g. walls, fences) can be complete without inclusion of race, and as such race requires legal and theoretical attention specifically where questions of legitimate national inclusion or exclusion, international migration and international mobility are under consideration. More importantly, to mark race as a border is to call attention to the unique ways that race functions as a means of enforcing the territorial and political borders of the nation, and the way that borders themselves can function as a means of racial governance.<sup>11</sup>

Racial borders, irrespective of whether they are underwritten with racist intent, subject politically equal and interconnected persons—Third World and First World citizens—to different structures, treatment, and possibilities for self-determination on a racial basis (Achieme 2022a: 494-504). And persisting neocolonial interconnection means that the contemporary system of racial borders is unjust in many of the same ways that rendered Jim Crow in the American South, apartheid in South Africa, and

<sup>11</sup> “[R]acial governance refers to the different ways that race creates a means of ordering bodies and territories on a hierarchy according to which imperial exploitation can occur” (Achieme & Bâli 2021: 1397). My point is that borders aid systems of racial subordination.



other colonial regimes of racial segregation unjust.

In conclusion, racial border injustice is a pressing global challenge. It raises questions that require urgent attention and include the following: How do we remake borders to overcome their current violent, imperial and racialized nature? How do we remake borders such that they become institutions capable of sustaining justice on a transnational and even global scale, instead of what they are today, which is sophisticated technologies of injustice and exploitation? And as we think about remaking borders, how do we do so in a way that addresses racial injustice, including the ongoing racial ordering of people and places in ways that designate some as beneficiaries of global political and economic interconnection while designating and ensuring that others remain subject to the worst forms of exploitation? Remaking borders has got to be about remaking systems of interconnection, overcoming the predations of global capitalism—patterns of extraction, exploitation and consumption that are fundamentally unsustainable and that rely on neocolonial and imperial power relations in order to sustain themselves, because it is these systems of unequal interconnection that fuel racial border injustice.

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# Regional Approaches

## REGIONAL APPROACHES: LATIN AMERICA

*Leticia Calderon Chelius*<sup>12</sup>

The pandemic found us naked, after the shared experience we have lived as humanity, it is impossible for us to continue seeing things the same way. In migratory terms, it is essential to review what was happening before and what should happen after this planetary moment. With this in mind, the idea that I want to talk about, as key points, has to do with leaving the narrative that we have maintained for more than 20 years about migration and making a change in perspective that urgently needs to be rethought as the pandemic forced us to face.

What I want to comment on then, is that it should be obvious to everyone that there is not a single place on the planet, but specifically in Latin America, where we recognize, at least one example of migration policy to follow, that benefits the majority. In reality, what we see is a growing discontent with immigration policy in general, a deep criticism and, above all, a malaise not only among the population that may be in favor of migrants, but even among those who are critical of this process and contribute to generate environments of xenophobia.

It would be useless to repeat in the short time that I have, the number of cases in recent years, even just in the last year, of the tragedies in which migrants have been involved, especially the humblest who seek to achieve a shore, or cross a border to safety, and all they have found is death and desolation. Repeating these terrible stories would only help to return to what is well known well and what I suppose we share as the final expression of what the system itself has generated by pushing people into a circuit that feeds human trafficking and benefits from the illegal trafficking of those who travel the continent, sometimes, with luck, crossing inhospitable and extremely dangerous territories (El Darian), to finally reach what they believe will be their lucky destination and turns out to be another kind of hell.

Faced with this reality that surprises no one of those present here, the point I want to emphasize has to do with the fact that if nothing surprises us anymore, even though it continues to horrify us over and over again, how is it possible that we continue to maintain the same type of narratives and the same type of demands to the authorities? We have seen how in each one of the countries of our Latin American region much more has been fortified, even more so under the pretext of the pandemic,

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many of the governments of this region justify not only the closure of borders, but migratory containment and, a disproportionate expulsion of the foreign population from their own national territories. And despite these border closures to others, what the pandemic itself demonstrated is that we continue to believe that the migration policies are limited to the national level. Instead, what we can see every day is a migration system related to our geographies. Perhaps, if we learned something from the pandemic is that it is time to stop believing that countries really should have control over migration when in reality this process involves many regional actors.

In these years of pandemic, what we saw was the Haitian diaspora walking from the South of the continent until some of them finally crossed to the Global North; the Venezuelan diaspora that moves in all directions, as well as a significant increase in mobility from countries to their own borders. Surprisingly, we also come across in each and every one of the countries of the Continent with a migration coming from other geographies such as Africa or Asia, in a dimension that we had never really seen before, and that has represented a challenge in attention and integration of each one of the governments, as well for the populations themselves.

It is here, with this diversity of flows and, in turn, of internal mobility in each nation (Forced Internal Migration) where I encourage us to react as a community. From the logic of contemporary migration policy, in the Latin American region, intensive flows beyond nationalities continue to be repeated and it does not seem that this is going to be any different, even less, when despite the pandemic itself, the economic impact is affecting each one of the nations of our region. We also know that the economic impact is part of greater structural violence that, in turn, the governments themselves have endorsed over decades and what we see at this time is an attempt to change these situations of poverty and inequality, but it will not be easy and it will not be soon.

In this way, to assume that the immigration policy of demanding channels that document people by visas, although it is correct in principle, must be categorically questioned.

The documents should not continue to be above people as entities with human rights, and even less, with children and teenagers, who should never for any reason be questioned because their nationality is placed before their condition, as the most vulnerable people in this chain of circumstances. The machinery of administrative legal procedures described above, allows millions of people to end up being hostages of the system where a document is more valuable than the person himself. I will say it differently: the logic from which an immigration policy has been imposed puts the administrative procedures as the goal even in the most extreme conditions, as it happens with refugees who must demonstrate their own fear, as a way for the authority to recognize their need to flee. This is absolutely insane and a form of political cruelty. Please think again, when a person, even in the case whose story was not so grave, but is someone who is willing to support that story in front of an authority, this should be

enough to understand that there is a very strong motivation for that person to decide to migrate.

The mere idea that according to the law there is a difference between those who deserves to be able to migrate in a documented manner and those who will not be able to do so, but will migrate anyway, even in the most adverse conditions, the only thing this shows is the failure of the legal scenario that today reduces migration as a legal category. And we all know it, there is a migration that manages to achieve the type of justification that is acceptable enough for the economies with some type of visa, either for work, as a student, as an economic dependent, as a tourist, but there is another migration that discards those who are at the bottom of the long list of those who are forced to migrate. If after the pandemic it is not sufficiently evident that this is an expression of the cruelest inequality, not only from the legal system, but of the way in which the contemporary economic system has been built, which seems to be done to control the precariousness of migration by slowing down any procedure that can change their situation in the most elementary manner, such as the right to legal identity for example.

And I am not talking about theoretical questions, this happens in absolutely all the countries of our continent, from Patagonia to the Rio Bravo, where we also know, it is not that there are economically solvent countries in its entirety, but that there are even regions within each of these countries that move differently in their economy and in turn in the type of migration and immigration they generate. Countries that expel population but that in turn require massive and cheap labor as is the case with Argentina, Brazil and Chile, for example, and at the same time, highly expelling countries such as Mexico, which in turn, increasingly require more of that migratory circularity that US policy did not completely stop, but it did pragmatically regulate as its economy need.

Therefore, the central point that I want highlight here is the urgent need to seriously rethink with a disruptive spirit, the need to modify our thought patterns not so much about migration, but about the immigration policy that seeks to regulate a social process that after a pandemic like the one we have experienced, should lead us to a profound revolution in the way the migratory process with police control offices and spaces is directed and the belief that this process can be reduced and become “safe, orderly and regular”, as if that could happen by decree.

The call then is to rebel against the current legal scheme that has imposed a bureaucratic logic to understand contemporary migration in the Latin American region and begin to discuss what International Law forms are already obsolete itself and what are forms of control that, in the end, do not contain the flows, but cause enormous damage and pain for those thousands of people who seek an alternative way to escape violence or extreme precariousness through migration.

We know that important political changes are taking place on the continent (from the Rio Bravo to Patagonia), and that if this occurs in a profound way, it can

cause real changes that in the medium term will modify this migration scenario, however, while those changes happen in a really structural way, it seems that for those of us who accompany the migratory processes, we could collectively begin to think about the elements that no longer work. The current narrative simply does not work and migration laws at the international level (refuge, asylum, internal displacement) are surpassed. The feeling is as if we were on the Titanic as it is sinking and the ship's officials would only be concerned with checking the boarding passes.

We are clear about the fact that migration is a symbol of our era. Almost everyone who sees some images or references can immediately recognize them. The majority of global citizens locate situations and even, as happened with the tragedy of San Antonio, Texas, or Chiapas in Mexico, or more recently in Nicaragua in which in all cases there were victims, the discursive solidarity is no longer enough. Because this does not change the context or prevent future emigrants from being future victims. That is why it is no longer enough to continue recounting the horror stories of trailers where innocent people die when they were abandoned to their fate in the middle of the desert, or desperate groups that try to cross borders and were separated from their children, or people who throw themselves into the sea on boats as fragile as their own lives.

The collective demand that what is needed is to open legal channels to allow migration in a broader and more flexible way, is a correct demand, however, in some way it ends up being a way of legitimizing the legal mechanism itself which, as I said before, puts people below the legal system, which has the control of their lives and their bodies. And that is the trap we are facing now, how by maintaining and even strengthening this discourse of legality that seeks to condition migration, in some way we help to support a selection process between those who “deserve” to migrate, and those who do not have the right to do it. For those, the system keeps them in a legal limbo that can be eternal, as is the case all over the continent with thousands of people waiting to cross, advance or at least receive a paper that allows them to continue with their lives wherever they are.

To finish here I would say that is not an easy moment because it seems there is not a single person, especially in the Latin American region, who believes that we are better off than twenty years ago, in the way contemporary migration is addressed. And if we are not better off that implies that we are obliged to rethink this planetary process. I hope we can start doing this together. Thank you.



## REGIONAL APPROACHES: BEING A FORCED MIGRANT IN LATIN AMERICA

*Ahmad Serieh*<sup>13</sup>

First, I will talk about Syrian and Lebanese immigration in Brazil, which started around 1850 in the Dom Pedro II Empire. When he visited northern Syria, he brought many engineers and medical doctors to Brazil. In that time, Syria and Lebanon were under Ottoman occupation and they were in a very bad economic and political situation. Many people wanted to emigrate to escape from the Ottoman military, because they did not want to join the army. Most of the immigrants were Christian.

The first immigrants arrived in Brazil around 1950. With the start of the war between Syria and Lebanon, there were a lot of immigrants coming to Brazil. This remains an ongoing trend nowadays because of the armed conflict in Syria. Most of the Syrian refugees and migrants in Brazil live in São Paulo, Rio de Janeiro, Curitiba, and the state of Santa Catarina. Almost six million Syrian and Lebanese migrants live in Brazil. They work in many different sectors: economy, healthcare, industry, and commerce, for example. Many Lebanese people work in politics.

I have arrived in Brazil ten years ago. I am an archeologist, I worked in Syria as the Director of the National Coordination of Museums and Archaeological Sites of Syria, but I do not see any difference between Brazil and Syria – I feel like I am Brazilian. I have access to all rights in Brazil, the right to work, the right to health, the right to documentation. I do not feel like I am treated differently or discriminated against. I have a house, I work, I have access to the healthcare system. I am very happy in Brazil.

I also feel very proud of the Syrian refugees in the country. They are very hard working and they have a lot of respect towards their own community.

Thank you very much.

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## REGIONAL APPROACHES: BEING A FORCED MIGRANT FROM LATIN AMERICA

*Militza Pérez Velásquez<sup>14</sup>*

Muy buenos días, muchas gracias por la presentación. Gracias al comité organizador, especialmente la profesora Liliana Jubilit que me permite hoy estar acá con este panel compuesto por personas a las que admiro profundamente, quienes, a través de un libro o de un artículo, me llevaron a una mayor comprensión sobre la migración internacional y especialmente sobre los desplazamientos forzados, de lo cual yo misma soy parte.

De las presentaciones que me preceden no me queda más que rescatar los puntos de encuentro. Con la profesora Leticia Calderón Chelius, latinoamericana, defensora de los pueblos migrantes, investigadora; con Ahmad Serieh, un destino: Brasil, que nos permite hoy estar acá contando un poco de nuestro tránsito y de nuestra experiencia en este desplazamiento forzado.

Hablar de mi proceso de tránsito hacia Brasil nos lleva al año 2019. Yo soy venezolana, soy caraqueña, vengo del norte de América del Sur. Me trasladé a Brasil con una beca de estudios ofrecida por la Organización de los Estados Americanos, lo que se presentó como una alternativa de salida de mi país. La precarización de nuestra situación, la mía y de mi hija, que tenía en ese momento 13 años, las vulnerabilidades constantes que enfrentábamos, lo fallido de un Estado de Derecho, una democracia altamente cuestionada, todos esos factores me hicieron pensar que una salida planificada se convertía en una garantía para una migración mucho más leve, es decir, yo pensaba que me aseguraba toda mi situación y los procesos de inclusión en el país que yo había elegido.

La escogencia de Brasil no fue al azar, es decir, dentro de mis propias lógicas yo quería estar en un país fronterizo, que estuviera obviamente muy cerca de Venezuela. La Universidad Federal de Roraima se presentaba a través de su Maestría en Sociedad y Fronteras como ideal para lo que yo quería garantizar: un regreso seguro a mi país, lo que resulta paradójico, porque desde 2019 no me he podido volver. Entonces, nos trasladarnos en marzo del 2019 para yo poder ingresar en la Maestría. Desde un primer momento la realidad me llevaría a cambiar todo ese racionamiento que yo tenía pensado hasta ese momento. La frontera estaba cerrada para Venezuela - el intento para que ayuda humanitaria que los países fronterizos habían intentado ha-

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cer llegar hizo que el Gobierno de Venezuela cerrase las fronteras, inclusive el paso de venezolanos fuera de su territorio. O sea, no sólo se negaban el paso de la ayuda humanitaria, tanto por Colombia como por Brasil, sino que también nos negaban la posibilidad de poder salir del país.

Ya estando nosotras en el pueblo de Santa Elena de Uairén, que es fronterizo con la ciudad de Pacaraima, en Brasil, nos llevó a dos cosas fundamentales en ese momento. Entender otras poblaciones que estaban saliendo junto con nosotras: poblaciones cercanas del oriente del país, extremadamente empobrecidas, personas híper-vulnerabilizadas, otras personas que estaban en tránsito a otros países de América del Sur y utilizaban a Brasil como ese puente, y personas que eran habitantes de frontera, que también estaban limitados en esa cotidianidad que les hacía trasladarse comúnmente de un país al otro. Tuvimos que contratar entonces los servicios de un “trochero”, se llama acá, para mayor comprensión sería un “coyote”. Ese trochero nos aseguraba pasarnos al Brasil sin mayores dificultades. En ese momento entonces entendimos las violencias que estábamos enfrentando en ese cruce fronterizo.

Logramos pasar. Para Brasil, la frontera estaba abierta, por lo cual nos pudimos regularizar y todos los que estaban en el mismo paso en ese momento, logramos regularizarnos sin mayores inconvenientes, es decir, una visa de estudiante no cambiaba nada, y eso pude percibirlo en ese mismo momento. Tuvimos que enfrentar las mismas situaciones desde el traslado de Venezuela por la única vía existente, hasta el mismo cruce de frontera.

Ya estando en el estado de Roraima, llegar a Boa Vista a 2 horas de la frontera fue el primer paso. La inmersión cultural y lingüística, así como la inclusión e integración en la sociedad brasileña iniciaban. Para mí, por una parte, como universitaria y académica, se presentaba con mucha calidez, con mucha acogida. La universidad había sido, y es referente en esa protección, en ese acogimiento que se hizo desde los primeros grupos de venezolanos que en 2016 comenzaban a pasar y que inmediatamente empezaban a quedarse en Roraima. Tanto las Organizaciones No Gubernamentales como la Universidad fueron ese primer punto de encuentro para todas esas personas que empezaban entonces a quedarse en Boa Vista. Entonces por esa razón, tenían una mayor sensibilización y conocimiento de la movilidad internacional, de ese desplazamiento forzado y particularmente de las razones que a mí me llevaban, a parte de ser académica, a tener unas condiciones personales diferentes, una necesidad diferente, porque puertas afuera la sociedad roraimense se presentaba muy reticente, con mucho prejuicio, con mucho rechazo, lo cual dificultaba nuestro proceso de interacción.

Yo tenía que enfrentar, puertas afuera de la universidad, igual que un venezolano, cualquier venezolano que hacía vida aquí en Boa Vista, sin embargo mi hija enfrentó los mayores desafíos en ese sentido, estar en una escuela pública que no tenía ninguna preparación para recibir a personas de otras nacionalidades, particularmente venezolanos, en el que el rechazo, inclusive la agresión física se hicieron

patente. Eso me llevó, por supuesto, a cuestionarme la decisión que yo había tomado para salir del país y fue un año, sobre todo el primer año, realmente desafiante en ese sentido. Es difícil acostumbrarse a ese rechazo simplemente por tu nacionalidad, por ser quien tú eres, por hablar español, por tener un acento diferente, y eso era nuestro día a día, lamentablemente. Inclusive, todavía, lo enfrentamos solo que, de otras maneras, con mayores herramientas personales que nos ayuda a superarlos.

Ese proceso en la universidad también conllevó hacer reformulaciones con respecto a lo que yo había pensado podía ser mi proceso de investigación. En Venezuela, yo había investigado sobre esa Venezuela receptora de migrantes. Evidentemente aquí, todo era completamente lo contrario, era el venezolano, mi día a día, lo que daba muestras de que era imperioso para mí también dar respuestas a lo que estábamos enfrentando como migrantes acá. En ese sentido, la receptividad de mis profesores orientadores fue para cambiar eso que yo inicialmente me había propuesto porque no tenía ya sentido ninguno, y enfocar más dentro de esas propias vivencias que yo estaba teniendo, las personas más cercanas a mí, y plasmarlo en mi propia investigación, por lo cual yo me convertía, por una parte, en investigadora, pero también era sujeto de investigación por las experiencias personales que yo estaba teniendo.

Eso fue fundamental para darle sentido a todas esas situaciones que nosotras estamos enfrentando acá en Brasil. Le dio sentido investigarlo, racionalizarlo, buscar entender, también comprender las decisiones de los venezolanos, con respeto a las categorías de regularización migratorias a las que estaban aplicando y las cuales les generaban por una parte, un no reconocimiento de la protección internacional y nacional que necesitaban a través del refugio, ya que el venezolano tiende a pedir, en una mayor propensión, una residencia, que no reflejaba de ninguna manera su movilidad forzada en vista de la emergencia humanitaria que vivía en Venezuela; y por otra parte, entender esas estrategias de tránsito que ellos hacían entre las regularizaciones migratorias que tenían. Eso también me llevaba a entender la propia institucionalidad brasileña y como esas reproducciones, limitaciones y categorías estatales no respondían entonces a las necesidades que los venezolanos en ese desplazamiento masivo necesitaban.

Ese encuentro entonces, con el otro venezolano, me llevó a una serie de descubrimientos, tanto personales como académicos. Por un lado, ese encuentro con el otro me permitía reconocerme desde mi propia “venezolanidad”, por decirlo de alguna manera, pero también a partir de los propios regionalismos, de esa diversidad cultural que conforma ser venezolano, inclusive con personas de diversas etnias indígenas que también son desplazados forzados y que también se encuentran aquí en Boa Vista. Venezolanos de la etnia E’ñepá, de la etnia Kari’ña, de la etnia Warao, eso personalmente me hizo tener una mejor percepción de mis propias identidades, y de rescatar memorias de mi propia ancestralidad.

¿Qué quiero decir con eso? Rescatar las memorias con mi abuela, indígena, reconocerme como parte de esa cultura, recordar mi infancia, la etnia Guajiba que es la

que pertenecía mi abuela, reivindicarla en esa reproducción que yo misma podía hacer y lo cual fue sumamente enriquecedor personalmente, porque me permitió una mejor comprensión de lo que yo era, aparte de ser una mujer, venezolana, caraqueña y todas esas otras facetas que también formaban parte de mí, pero que de alguna manera por el tiempo que viví fuera de esos espacios, yo simplemente había olvidado.

Entonces, fue un primer proceso de comprensión y de percepciones, y por otra parte fue una mayor profundización de conocimiento de esos tránsitos migratorios de venezolanos, de sus propias particularidades, entendiendo las propias limitaciones institucionales en cuanto a la inclusión y la falta de políticas públicas, para que ellos simplemente no viesan el refugio como una primera opción de regularización. Eso fue parte del descubrimiento que yo hice con ese proceso de investigación que también implicó un proceso muy personal. En tiempos de COVID-19, entonces, la reformulación tanto de mi proceso de investigación como de las experiencias que estaban compartiendo conmigo otros venezolanos y de lo cual yo era testigo, pasó a tener una mayor importancia para yo intentar reflejarlo en mis propios descubrimientos para esa investigación.

COVID, inmovilidad y movilidad. Movilidad, porque el venezolano nunca dejó de pasar. Inmovilidad porque el contexto así lo decretó restricciones a la entrada de los venezolanos, violencia en las fronteras, devoluciones, deportaciones, e irregularización de la migración. Esa fue otra etapa que tuve que vivir y compartir con las personas que estaban próximas a mí, también porque parte de esa reformulación de los tiempos de la Maestría me permitió intentar empezar a trabajar en una Organización No Gubernamental que, trabajando en asociación con el ACNUR, trabajaba en función a la regularización migratoria en cuanto al refugio, el reconocimiento a las personas reconocidas como refugiadas.

Eso vino a complementar todo ese proceso inicial personal y académico que yo había desarrollado, ya profesionalmente, en dentro de las propias estructuras que generaban una regularización, las propias limitaciones, restricciones y las condiciones asociadas al tipo de regularización migratoria, la discrecionalidad en la toma de decisiones, que vino a sustentar toda esa primera etapa que yo ya había desarrollado, y aun continuo en esa misma organización. Intento entonces finalizar la Maestría: logro ponerle punto y final a esa etapa de mi investigación, lo cual me dejó muchas satisfacciones personales y profesionalmente porque a pesar de lo difícil y de lo complejo que se presentó a nivel personal, por mi parte podía cumplir con eso que yo me había trazado como meta, con el sinsabor de que no podía regresar a mi país y debimos tomar la decisión de permanecer en territorio brasileño, por ahora, sin establecernos muchos planes a largo plazo porque dejaron de tener como mucho sentido para nosotras.

Mi hija ha cambiado de escuela, ha tenido un proceso ya post-COVID, de mucho mejor adaptación en la escuela, buscar una escuela que representara esos valores que yo estaba buscando afianzar, que me generara un poco más de seguridades en

respecto a la interculturalidad, lo cual ha sido así y por lo que mi tranquilidad es mucho mayor, aunque la sociedad se presente igual en esos términos, discriminatoria, lo cual es un desafío en ese momento previo a elecciones presidenciales y de otras autoridades, sabiendo que siempre, lamentablemente, la migración busca exacerbar y busca radicalizar ciertos sectores, lo cual me genera un poco de temor realmente en este momento.

El balance sigue siendo positivo, decidimos permanecer y lo estamos haciendo con la comprensión del caso, de que tenemos derecho a rehacer nuestra vida, a vivir de una manera digna, así como nosotros decidamos hacerlo. Buscamos ese reconocimiento, de que tenemos posibilidades de continuar, que es nuestro derecho, y en función de eso seguimos desarrollando nuestra vida, yo intentando hacer, compartiendo mientras pueda, con las personas lo que pueda, con los venezolanos que pueda, inclusive de otras nacionalidades, y divulgar lo importante siendo la única posibilidad de protección, por lo menos declarativa de refugio, que ellos entiendan ese propio desplazamiento que realizan de manera forzada, que logren no normalizar lo que vivían en Venezuela, en Cuba, en Haití, no normalizar lo que pasaban, y entender que deberíamos tener derecho a permanecer en nuestros países de origen, que el Estado nos garantice el mínimo, los mismos derechos a todos, de que podamos hacer vida en donde lo decidamos hacer, que tengamos garantías plenas, que nuestras democracias nos representen.

Entonces, desde el lugar que hoy ocupo, espero que eso que he leído, que los académicos, investigadores, profesores, intentan difundir tenga sentido, y yo creo que ese es el mayor punto positivo que podría destacar. No dejar de hacer o de exigir, no dejar de denunciar, no dejar normalizar lo que no se debe normalizar. Eso es determinante, y el hecho de que las personas que están acá y todos nosotros lo hagamos es lo que nos permite difundirlo, replicarlo, reproducirlo, que no se olvide, que tenemos derecho a vivir como lo decidamos, que merecemos Estados que nos representen, países que nos representen. Eso me lleva hoy a estar aquí, y lo agradezco. Muchas gracias.

## REGIONAL APPROACHES: ASIA

*Yiombi Thona*<sup>15</sup>

Thank you very much, Gabriela, for the introduction, and thank you to the organizers for thinking about us to come share our experience on forced migration issues. I decided to distance myself from academia and suit up as an activist, so I will not talk about theories and laws. I start by introducing myself: I chaired the Asia Pacific Refugee Rights Network (APRRN), which is the largest network on forced migration in the world, from 2016 to 2019.

When we consider Europe, the Americas or Africa, those regions have many instruments, such as law, to protect refugees. Asia has around 45 to 50 countries, but it is the continent with the smallest number of ratifying States to the 1951 Convention or the 1967 Protocol. In Africa, in Latin America, in Europe, you have regional instruments that protect refugees. Asia, however, is the only region that does not any regional instruments to protect refugees.

When I was chair of the APRRN, I travelled to almost all Asian countries. I met refugees and asylum seekers, the question most of them asked me was: “what are you doing with your NGOs, with the UN, with your regional instruments, with your governments, with your civil society organizations?” That means there is a huge gap between known instruments and refugees’ lives. I will focus on democratic and humanitarian countries, like South Korea and Japan.

South Korea is part of the 1951 Convention and its Protocol, and it is the only country in the region enacting Refugee Law. Most countries, such as Japan and China, deal with refugees with immigration control acts. When a country adopts this legal pathway, you can imagine the confusion with the police, with admission officials and citizens of the country.

In 2013, after seven years of fighting – I have been in the South Korean parliament twice to explain why we need separate legal instruments to migration and asylum –, South Korea enacted the Refugee Act. In South Korea, refugees have a F2 type of identification document, while asylum seekers have a G1 type. South Korean nationals’ identification cards start with 1 for men and 2 for women. All foreigners, including refugees, start with 5 for men and 6 for women.

The law states that refugees have similar rights in comparison to South Korean

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nationals, except for political and voting rights. The problem, however, is in practice – for example, when trying to buy a house, someone with an identification document starting with 5 or 6 may not be able to do so because the system will not allow it, because they are not a national. The problem is in the implementation of the law.

The other problem is related to children. South Korean children, as per law, must attend public schools in their designated area, according to where they live. However, non-South Korean children must attend foreign schools, which are very expensive. I have one daughter who attended high school in South Korea. She came to the country when she was seven years old, and she attended kindergarten, elementary school, high school and set out to study to undertake a Medicine degree. After passing the admission process, she went on to university. In South Korea, courses like Architecture, Medicine and Law are restricted to South Korean nationals.

However, a mistake happened to my daughter. She passed the State exam, before going to university, which meant she had the right to have an approval certificate issued on her behalf. When her identification card was checked, because she is a refugee (thus, a foreigner), she had to retake the exam, even though she had already been approved before. It took two years in contact with lawyers, lawmakers, and the government, and only then the certificate was issued.

The other problem that Zachary mentioned is accountability. I think the international community and non-Asian civil society have a bad perception that countries like Japan and South Korea are democratic, human rights-prevailing countries, where refugees are treated accordingly to human rights and democratic values. Most refugees in South Korea and Japan must fight for their own rights.

How did I become a professor in South Korea? I did so by fighting for and by myself. But I only got there because I had to be silenced – since I chose to become a human rights activist, acquiring an adequate job would be a way to keep my mouth closed. However, giving me this job only made me fight harder.

Housing is also an issue. A refugee cannot rent or buy a house, they have to ask other South Korean citizens for help. As for communications, in South Korea I am not legally allowed to have more than two cellphones. I have five children, and while both me and my wife are allowed two cellphones each, there are still three of my children who cannot possess a mobile phone. In case of any problems, how are they to reach us, the police, or their schools?

I go to the South Korean Human Rights National Commission; I make a complaint. After their investigation, I got a response: my complaint regarding the cellphone limit was right, it was a result from discrimination. However, this discrimination is not illegal, as I am not a national. I headed to the Commission's headquarters, but they still denied me my request.

Even though I worked in South Korea, because of my refugee travel documents, the National Bank of South Korea does not allow me to send or receive money to or from outside of the country. All foreigners must present their passport in order to



transfer money to or from other countries. As refugees usually do not possess this specific document, they are unable to complete any transfer transactions.

In South Korea and Japan, to become a permanent resident, you must comply with several requirements. In South Korea, for example, you must possess over sixty thousand American dollars, be a good citizen, have a good job, pass a national exam and other requirements. Living as an asylum seeker, you do not have that money, job quality, housing, and this means you cannot become a permanent citizen.

Nowadays, in South Korea, there is an idealized image of the refugee: they must be white, educated, with a good car and money. However, the refugee in the country means black, African, sickness, thief, and other negative connotations. Now, because of Ukrainian refugees, the narrative is changing.

We have to focus on changing narratives and ideas. In Canada or in Europe, for example, no one cares about the way I look or about seeing a black man. In South Korea, I am already used to people being surprised when looking at me.

As we are running out of time, I want to request to civil society of other regions of the world to support Asian civil society, so that they can face discrimination, bad policies, and poor legislation, especially in democratic countries.

Thank you.

## REGIONAL APPROACHES: EUROPE

### **Racialised Refuge? Europe and the “Right to Flee”: The Need for “Primary” Pathways to Asylum**

*Violeta Moreno-Lax*<sup>16</sup>

Thank you very much Madam Chair and thank you to the organisers for the kind invitation. I am honoured to be here with you today and contribute to this Keynote Panel at IASFM19.

I am going to speak about the latest developments in Europe and how they are

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demonstrative of a trend towards stratified access to asylum along racial (if not racist) lines.<sup>17</sup>

I will address the matter in three steps, discussing first the problem of selective or racialised access to asylum in Europe: taking the examples of the EU's response to two so-called crises, one at the border with Belarus<sup>18</sup> and the other of people fleeing the Russian invasion of Ukraine,<sup>19</sup> to show the disparate reactions to protection seekers and their needs in each case. (AMNESTY INTERNATIONAL, 2022) I will then move to what I think lies at the heart of the problem and which constitutes the prevailing view in Europe and elsewhere: that there is no individual right to 'primary' pathways to protection that ensure access to asylum regularly, safely and directly to those in need.<sup>20</sup> The final point will be a proposal to read existing law effectively and in good faith, inviting you to consider what I have called the 'right to flee'.<sup>21</sup>

The rule under EU law in its treatment of protection seekers, as we will see the Belarus crisis illustrates well, is one of non-access, containment, and externalisation of international protection *by default*,<sup>22</sup> particularly in regards to non-white individuals,<sup>23</sup> who have long been reified as 'security threats' and de-humanised as 'weapons' as of late (HRW, 2021). The 'open arms' response to the Ukrainian exodus, granted visa-free travel, temporary protection and immediate access to asylum in the EU (CARRERA *et al.*, 2022), is therefore highly exceptional and can be partly explained along a racial (if not racist) axis that considers the white, Christian Ukrainian refugee population as 'more civilized' and 'just like us,' in the words employed by media and politicians across Europe to depict Ukrainian asylum seekers (KALAYCIOGLU; BENABDALLAH; BA, 2022).<sup>24</sup>

<sup>17</sup> For a critique of the use of 'racial borders' as a technology of control and oppression, see ACHIUME, E. Tendayi. Racial Borders. *The Georgetown Law Journal*, v. 110, n. 3, p. 445-508, 2022.

<sup>18</sup> See, e.g., Standoff On Belarus-Poland Border As Stance Hardens Toward "Weaponized" Migrants. In: Radio Free Europe – Radio Liberty, 25 August 2021. Available at: <https://www.rferl.org/a/migrants-stranded-on-poland-belarus-border/31427609.html>; ERLANGER, Steven. Unlike Before, Poland Gets Support From Europe on Tough Borders. In: *The New York Times*, 10 November 2021. Available at: <https://www.nytimes.com/2021/11/10/world/europe/poland-belarus-border-europe.html>.

<sup>19</sup> See, e.g., UNHCR data portal, Ukraine Refugee Situation. Available at: <https://data.unhcr.org/en/situations/ukraine>.

<sup>20</sup> On 'primary' pathways to protection, see MORENO-LAX, Violeta. Statement of Dr. Moreno-Lax, Queen Mary University of London, to Thematic Discussion IV, 14 November 2017, Panel III: How can we expand access to complementary pathways for admission? Submission on "primary" pathways to admission. Available at: <https://www.unhcr.org/5a13eaaf0.pdf>.

<sup>21</sup> See further MORENO-LAX, Violeta. From Complementary to "Primary" Pathways to Asylum: A Word on the "Right to Flee". *Forced Migration Review*, n. 21, p. 21-22, 2021. Available at: <https://www.fmreview.org/sites/fmr/files/FMRdownloads/en/externalisation/morenolax.pdf>.

<sup>22</sup> For a general overview, see MORENO-LAX, Violeta. *Accessing Asylum in Europe*. Oxford: Oxford University Press, 2017.

<sup>23</sup> Illustrative of this discriminatory trend, see JOHN, Tara. Denmark opens its arms to Ukrainians, while trying to send Syrian refugees home. In: *CNN*, 10 March 2022. Available at: <https://edition.cnn.com/2022/03/10/europe/denmark-refugees-ukraine-syrian-intl/index.html>.

<sup>24</sup> See also WILLIAMS, James. Ukraine: People's generosity to refugees "extraordinary". In: *BBC*, 3 April

The Belarus crisis began in the aftermath of the Taliban take-over and the Afghanistan evacuation programme led by the US and its allies in the summer of 2021 (TAP, 2022), and should be understood against the background of Lukashenko's animosity vis-à-vis the EU for sanctions imposed in response to undemocratic elections and his crack-down on political dissent in Belarus.<sup>25</sup> Although EU authorities have spoken of a 'hybrid threat' or a 'hybrid attack' by Lukashenko's regime (EUROPEAN COMMISSION, 2022c), luring vulnerable refugees and others in need of international protection, coming mostly from Afghanistan, Syrian, and Iraq, to fly to Belarus on promises that they would be helped to access asylum in Europe, the most generous estimates count about a couple of thousands gathered at the Belarus-EU border at the peak of the crisis,<sup>26</sup> which could hardly test the asylum capacity of Poland, Latvia or Lithuania, let alone that of the EU as a whole. However, the official language and the measures adopted have been highly effective in dehumanising those concerned (predominantly non-white, non-Christian protection seekers), represented as 'weapons' in a 'state-sponsored' 'hybrid attack', orchestrated by the Lukashenko regime 'with the cooperation of smugglers and criminal networks', putting the EU at risk (EUROPEAN COMMISSION, 2022c, p. 1).

The policy response has been two-fold, on the one hand, the governments of Poland, Latvia and Lithuanian have adopted 'emergency measures' in utter violation of their human rights and refugee law obligations (under both international and EU rules), ignoring the principle of *non-refoulement*, pushing asylum seekers away from their territory, employing tear gas, water cannons and other anti-riot equipment to 'repel' them, building a fence (in the case of Poland), deploying the military, declaring a 'state of emergency', impeding access by humanitarian actors and the media to border zones, and contributing to border deaths, including of children.<sup>27</sup>

On the other hand, the EU, rather than condemning these actions, has supported them. It has provided funding, operational deployments of Frontex, the European Asylum Agency and Europol, and engaged in so-called 'migration diplomacy' efforts with the International Civil Aviation Organisation (ICAO), commercial carriers, and governments of the countries of origin of migrants to take them back, threatening sanctions unless they prevent the exit of their citizens who may otherwise undertake

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2022. Available at: <https://www.bbc.com/news/uk-wales-60965579>.

<sup>25</sup> For an overview, see DIXON, Robyn. In Lukashenko's dictatorship, enemies are shamed and the West is shunned. In: The Washington Post, 13 August 2022. Available at: <https://www.washingtonpost.com/world/2022/08/13/lukashenkos-dictatorship-enemies-are-shamed-west-is-shunned/>.

<sup>26</sup> Reporting official statistics by Polish authorities, see VELCÁRCEL, Amaya. Out of Sight – Refugees and Migrants at the Belarus-Poland Border. In: JRS – Jesuit Refugee Service, 1 June 2022. Available at: <https://jrs.net/en/news/out-of-sight-refugees-and-migrants-at-the-belarus-poland-border/>. See also 8 things to know about the EU/Belarus border crisis. In: Médecins Sans Frontières, 31 December 2021. Available at: <https://www.msf.org/8-things-know-about-eubelarus-border-crisis>.

<sup>27</sup> For an overview, see CARRERA, Sergio. Walling off Responsibility? The Pushbacks at the EU's External Borders with Belarus. In: CEPS, 25 November 2021. Available at: <https://www.ceps.eu/ceps-publications/walling-off-responsibility/>.

irregular voyages to the EU.<sup>28</sup> Such moves can be characterised as instances of EU-sanctioned, direct *refoulement*, collective expulsion without procedural safeguards, and breaches of the right to leave any country including one's own, besides the right to asylum. Yet, the European Commission has tabled a number of legislative proposals that would consolidate them, amending the Schengen border control and asylum norms of the EU (EUROPEAN COMMISSION, 2021a; 2021b; 2021c; 2021d), the combined effect of which has been criticized as a 'legalisation' of pushbacks and other human rights and refugee law violations (MEIJERS COMMITTEE, 2021). This contrasts very much with the reaction towards Ukrainian asylum seekers.

Since the Russian invasion, using the 24 February 2022 as cut-off date, UNHCR has recorded 6 million Ukrainian refugees across Europe (UNHCR, 2022). The language employed by EU authorities to refer to Ukrainian refugees is very different to that utilised during the Belarus crisis. Official declarations speak of 'solidarity' and the need to receive them with 'open arms' (EUROPEAN COMMISSION, 2022d). As a result, the EU has adopted specific measures in support of those fleeing the war, including the facilitation of border controls (EUROPEAN COMMISSION, 2022b), humanitarian assistance (EUROPEAN COMMISSION, 2022e), access to basic services, and, most importantly, access to a Temporary Protection scheme from which 4 million have already benefited (EUROPEAN COMMISSION, 2022a).<sup>29</sup>

However, access to the scheme is stratified and selective. Those entitled are Ukrainian nationals and persons enjoying international protection in Ukraine as well as their family members. For others (including permanent residents in Ukraine), access to temporary protection is either conditional, on showing specifically that they *cannot* safely return to their country of origin, or has been explicitly excluded, unless they can demonstrate an 'obvious risk' due to 'armed conflict or endemic violence, *documented* risks of persecution or other inhuman or degrading treatment or punishment', in which case the EU Member State concerned '*may*' grant them access to the scheme (EUROPEAN COMMISSION, 2022a, art. 2, emphasis added). This has disproportionately impacted non-white protection seekers. There is indeed copious evidence of discriminatory behaviour, including racist attacks, at the EU's borders regarding non-white asylum seekers attempting to escape the war in Ukraine. Human Rights Watch, Amnesty International, the European Network Against Racism and others have repeatedly denounced the situation (HRW, 2022; AMNESTY INTERNATIONAL, s/d.; ENAR, 2022), which I think is one that amounts to 'racial discrimination' as defined in Article 1(1) of the International Convention on the Elimination of All Forms of Racial Discrimination (CERD).

This situation builds on a generalised policy of racialised containment, externalisation and non-access measures that impact, in particular, non-white refugee

<sup>28</sup> Summarising and critiquing this approach, see LÜBBE, Anna. Pushbacks? Never mind, we're doing it. In: Verfassungsblog, 24 January 2022. Available at: <https://verfassungsblog.de/pushbacks-never-mind-were-doing-it/>.

<sup>29</sup> For the most recent statistics, see UNHCR, 2022, p. 1.

claimants, leaving them in practice only ‘spontaneous arrivals’ (qua dangerous, irregular pathways) to access international protection. The underlying assumption that underpins the entire EU asylum regime is that ‘claimed’ refugees cannot be trusted and, while their status is not yet officially sanctioned, Member States are legitimised to treat them as ‘suspected’ irregular migrants,<sup>30</sup> who, in turn, can be construed to embody a ‘security threat’ to the EU to be responded to through deterrence, violence and coercion.<sup>31</sup> This, in the end, consolidates and normalises discrimination along racial lines – understood as a ‘*distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms*’ (CERD, 1965, art. 1(1)).<sup>32</sup>

Supposedly, this situation is compatible with the EU and its Member States’ obligations under international human rights and refugee law, particularly in light of the ‘complementary pathways’ that have been made available for those in need to otherwise access asylum in Europe, albeit on an exceptional basis.<sup>33</sup> Measures such as resettlement, special labour mobility schemes targeting refugees, private sponsorships, family reunification, and other humanitarian admission programmes have indeed been adopted in a bid to ‘expand’ access to international protection in the EU.<sup>34</sup> What has received less attention by ‘complementary pathways’ enthusiasts is that these measures are typically small scale and *ad hoc*, addressed solely to already ‘recognised’ refugees, targeting people in situations of heightened vulnerability, with family or other ties to the country of asylum and, most of all, that they remain voluntary and good-will based.<sup>35</sup>

<sup>30</sup> For an elaboration of how the term ‘asylum applicant’ is conceptualised in EU law in spite of assertions to the effect that refugee status is ‘declaratory’, see MORENO-LAX, Violeta. Mutual (Dis-)Trust in EU Migration and Asylum Law: The Exceptionalisation of Fundamental Rights. In: SÁNCHEZ, Sara Iglesias; PASCUAL, Maribel González (eds.) *Fundamental Rights in the EU Area of Freedom, Security and Justice*. Cambridge: Cambridge University Press, 2021, p. 77-99.

<sup>31</sup> On the coercion-based paradigm and its legal repercussions, see HEIJER, Maarten den; RIJPMAN, Jorrit; SPIJKERBOER, Thomas. Coercion, Prohibition, and Great Expectations: The Continuing Failure of the Common European Asylum System. *Common Market Law Review*, v. 53, p. 607-642, 2016.

<sup>32</sup> For a recent critique of the provision’s (non)application by reference to ICJ caselaw, see COSTELLO, Cathryn; FOSTER, Michelle. Race Discrimination Effaced at the International Court of Justice. *AJIL Unbound* (Symposium on Undoing Discriminatory Borders), v. 115, p. 339-344, 2022.

<sup>33</sup> Generally on ‘complementary pathways’, see UNHCR. *Complementary pathways for admission to third countries*. New York, s/d. Available at: <https://www.unhcr.org/complementary-pathways.html>.

<sup>34</sup> An overview of these measures is provided in MORENO-LAX, Violeta. *A Model Instrument for an Emergency Evacuation Visa*. International Bar Association, London, 2019. Available at: <https://www.ibanet.org/MediaHandler?id=bd13bef4-6a29-414f-8d65-e2ddb7c695df> and in MORENO-LAX, Violeta. Annex I: The Added Value of EU Legislation on Humanitarian Visas – Legal Aspects. In: BAL-LEGOOIJ, Wouter van; NAVARRA, Cecilia. *European Added Value Assessment accompanying the European Parliament’s legislative own-initiative report* (Rapp. Lopez Aguilar). Brussels: European Parliament, 2018, p. 23-124. Available at: <https://op.europa.eu/en/publication-detail/-/publication/a3b57ef6-d66d-11e8-9424-01aa75ed71a1/language-en/format-PDF>.

<sup>35</sup> For a critique of this approach and its implications, see MORENO-LAX, Violeta. *The Informalisation*

The prevailing view that justifies this position is that there is no legally-binding right to asylum, especially not one with universal scope, neither in the 1951 Refugee Convention, nor in the major international human rights law Treaties.<sup>36</sup> Although Article 14 of the Universal Declaration of Human Rights stipulates that '[e]veryone has the right to seek and to enjoy in other countries asylum from persecution' (which should be enjoyed without discrimination), this clause has not been transposed in hard law into any of the UN human rights Treaties. It is, therefore, generally assumed that there is no legally binding obligation to regulate access to international protection on a general basis, that there does not need to be refugee-specific channels for admission as a (yet-to-be-recognised) refugee, and that there is consequently no obligation to provide 'primary' pathways to asylum.<sup>37</sup>

However, I propose to pay attention to existing provisions in European and international law to contest this understanding, considering two key elements of relevance to both signatories and non-signatories alike of the 1951 Refugee Convention that stem from binding international human rights law obligations, which already exist, and that need to be taken into account when implementing the Global Compact on Refugees. The two elements combine into what I call the 'right to flee'.<sup>38</sup> The first element is the legally-binding right to asylum proclaimed in *regional* human rights law. The second is the (jus generative) intersection between the right to leave any country including one's own and the principle of *non-refoulement*, the enjoyment of which cannot be limited along racial considerations.

Taking the first element first: A right to asylum has been recognised not only in the EU, but also in the inter-American and pan-African system of human rights protection as a right of the individual (rather than as a prerogative of the State). Article 22(7) of the American Convention on Human Rights speaks of a 'right to seek and be granted asylum', while Article 12(3) of the African Charter on Human and Peoples' Rights refers to a 'right to seek and obtain asylum'. In the European context, Article 18 recognises a 'right to asylum' in the EU Charter of Fundamental Rights. All these provisions are worded in imperative form and should be interpreted like any other provision of international law as producing a legal obligation, in conformity with the principle of effectiveness and the *pacta sunt servanda* rule.<sup>39</sup> This means that there is

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of the External Dimension of EU Asylum Policy: The Hard Implications of Soft Law. In: TSOURDI, Lilian; DE BRUYCKER, Philippe (eds.). Research Handbook on EU Immigration and Asylum Law. Cheltenham: Edward Elgar, 2022 [forthcoming].

<sup>36</sup> For an overview of this position, see e.g. BOED, Roman. The State of the Right of Asylum in International Law. *Duke Journal of Comparative and International Law*, v. 5, n. 1, p. 1-33, 1994.

<sup>37</sup> For a problematisation of this view, see MORENO-LAX, Violeta. *Accessing Asylum in Europe*. Oxford: Oxford University Press, 2017, chapter 9.

<sup>38</sup> For the full argument, see MORENO-LAX, Violeta. Intersectionality, Forced Migration and the Jus-generation of the Right to Flee: Theorizing the Composite Entitlement to Leave to Escape Irreversible Harm. In: ÇALI, Başak; BIANKU, Ledi; MOTOC, Iulia (orgs.). *Migration and the European Convention on Human Rights*. Oxford: Oxford University Press, 2021, forthcoming, p. 43 et seq.

<sup>39</sup> See e.g. TAKI, Hiroshi. Effectiveness. In: *Max Planck Encyclopedia of Public International*



(nearly) pan-regional recognition of a right to asylum that needs to be effective and accessible, both in law and in practice, by those concerned.

Looking at the second element now: What I have claimed in my recent work is that the intersection between the right to leave any country and the principle of *non-refoulement* is generative of what I have called a 'right to flee', which draws attention to the need to abandon policies of containment (MORENO-LAX, 2021).

While it is true that the right to leave any country is not absolute and can be limited, restrictions need to be proportionate and non-discriminatory (in purpose, operation and effect) and pursue a legitimate aim.<sup>40</sup> Otherwise, they will be illegal. Measures that restrict the right to leave in a way that impedes flight from persecution or serious harm are not compatible with international human rights law, even less so if their impact is discriminatory along racial lines. But the scope for restrictions is, in my view, eliminated when the right to leave is being used to remove oneself from persecution, ill treatment or other forms of serious harm, since this triggers the (concurrent) action of the principle of *non-refoulement*, which is absolute in character and does not allow for any limitations whatsoever (LAUTERPACHT; BETHLEHEM, 2003). This is why, from the intersection between the two, there emerges a 'right to flee' that renders any action, 'the effect of which is to prevent migrants [and refugees] from reaching the borders of [a] State [of destination]', incompatible with international law, if they 'expose [the persons concerned] to a 'real risk of ill-treatment', as concluded by the European Court of Human Rights in its seminal *Hirsi* judgment (ECtHR, 2012, para. 180 ff.).

Bringing all these elements together and by way of a conclusion: I hope I have been able to show that the current state of public international law is such that it recognises a 'right to flee' (to be enjoyed on a non-discriminatory basis) stemming from the intersection between the individual entitlement to leave any country including one's own and the principle of *non-refoulement*, which is reinforced by the near-universal, quasi pan-regional recognition of a right to asylum with legally binding force. This should lead to a fundamental re-think of externalisation measures and pathways to international protection in Europe and elsewhere. As a result, the international community ought to move away from a discretion-based model to the regulation of access to international protection, towards a rights-based paradigm instead, grounded in the 'right to flee', particularly in the regions that have recognised a legally-binding right to asylum (thus including the EU). Chiefly, the right to flee requires that all exercises of sovereign power (including by the EU and its Member States) which are likely to obstruct access to protection be replaced with mechanisms that establish general means of safe and regular admission for the purposes of seeking asylum, *as a matter of legal obligation*, and that they are accessible and exercisable by

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<sup>40</sup> See e.g. GUILD, Elspeth; STOYANOVA, Vladislava. The Human Right to Leave Any Country: A Right to be Delivered. *European Yearbook on Human Rights*, p. 373-394, 2018.

all those in need. Translated to the examples provided by the Belarus and Ukraine crises, the EU should accordingly expand its currently exceptional programme of Temporary Protection to cover *all* refugees (regardless of their racial, ethnic, or national origin) – this should become the new rule and the new organising principle of its asylum policy overall. In short, plans that restrict access to protection by so-called ‘irregular’ or ‘illegal’ migrants particularly impacting non-white protection seekers should be abandoned since they are discriminatory, arbitrary and in violation of international human rights and refugee law standards.

I thank you very much for your attention and look forward to our discussion.

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## REGIONAL APPROACHES: AFRICA

### **The Plight of Refugees in Africa: The Case for Freedom of Movement for Refugees and the Accountability of the Main Actors in the Humanitarian Industry**

*Zachary Agele Lomo<sup>41</sup>*

#### **1. INTRODUCTION: IMPROVEMENT OF INTEGRAL PROTECTION FOR REFUGEES**

- Thank you, + moments of silent prayer for late Dr Barbara E. Harrell-Bond • Pleased convenors of IASFM19 make ‘Improvement of Integral Protection for forced migrants’ cornerstone of IASFM19;
- What is integral protection? What needs to be improved?
- To some of the drafters of the statute of the UNHCR, e.g., French Delegation: i. “It was the belief of the French delegation that protection and assistance constituted one whole. Legal protection in the guise of passport, for instance, would be of little use to people who were blind, tubercular or starving.”
- To League of Nations under Dr Nansen:
  - I - Freedom of movement, right to work, and access to education;
  - II ‘Development of means of general and professional education and the securing of employment for refugees.
- For others integral protection may mean treating refugees, migrants, and persons displaced within their own country without considering the legal distinctions between them.
- Suggest that improving integral protection for refugees must involve integrating refugees’ current needs with their future aspirations, including the aspirations to rebuild their countries of origin, if they choose to return when the reasons that compelled them no longer exist.
- I agree, but in the context of Africa, improvements in the integral protection of refugees:

I - must begin with removing limitations imposed on their freedom of mo-

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vement and choice of residence;

II - must include a system for holding accountable actors in the humanitarian industry involved in refugee protection;

III - must include African refugee-hosting States reclaiming their framework governance on refugee policy and practice from external actors.

• The issue of the expropriation of the refugee-hosting state's framework governance of refugee policy and practice raise fundamental questions about the themes of IASFM19:

- In this context, what best practices can Africa provide for other regions and the rest of world with respect to refugee protection per se and improvements in refugee protection in general?

- Can Africa say it has a regional approach to refugee protection that truly 'co-exists with the global in seeking the highest levels of protection' for refugees?

- Indeed, can regional approaches co-exist with the global 'in seeking the highest level of protection' for refugees or forced migrants?

- What are the conditions necessary for such a co-existence to happen?

- What are the potential risks that the global may displace the regional, if it has not done so already?

- Can *dialogue* mediate such a co-existence? What dialogue, and between which actors specifically? What issues or rather whose interests drive the dialogue?

- Dialogue or monologue? Can there be genuine dialogue in asymmetrical power relations?

• My thesis: nothing short of freedom of movement for refugees in Africa can improve their protection.

Conclusion.

## 2. REFUGEE POLICIES AND PRAXIS IN AFRICA

### 2.1. Quantitative Assessment: Number of Refugees in Africa at end of 2022

• No one can know the exact number or even the approximate number of refugees in Africa;

• 6.989.200 in Africa (UNHCR, 2022);

• 4.717.500 in East and Horn of Africa, and the Great Lakes (UNHCR, 2022);

• 1.353.500 in West and Central Africa (UNHCR, 2022);

• 783.300 in Southern Africa (UNHCR, 2022);

No specifics regarding North Africa alone, as it is coupled with Middle East (UNHCR, 2022);

- Major refugee hosting countries in Africa:
  - Uganda, 1.5 million.
  - Sudan, 1.1 million.
  - Ethiopia, 821,300.

## 2.2. Qualitative Assessment

- Africa is lauded for its open-door, *laissez-faire* refugee policies and practices.
- Who oversees refugee policy and practice in Africa?
- Where does the framework governance on refugee policy and practice resides? (OKAFOR, 1997)
- Who authors the framework decisions that constitute the bulk of refugee policy and practice in Africa?
- Refugee-hosting African States?
- The African Unity?
- External actors such as UNHCR, INGOs?
- Refugees under immigration (mainly colonial regime)
- Open door, but most restrictive legislation, some inherited from colonial regimes
- South Africa until 2016, open-door and liberal legislation
- Refugee camps preferred technology, save South Africa
- UNHCR architect of refugee encampment in Africa; it authors the framework governance decisions that constitute the bulk of refugee policy and practice in refugee hosting African states.

## 3. REFUGEE CAMPS AND FREEDOM OF MOVEMENT

### 3.1. The hidden suffering in plain view refugees in camps and settlements

- Most officially recognized refugees in refugee-hosting states in Africa must live in refugee camps;
- The average time refugees spend in camps is difficult to predict because of the different episodes of refugee movements each year;
- Some refugees have lived in camps for all their lives;
- Dadaab refugee camps – fieldtrip in 2018 – some refugees came as children;

others were born in the camps;

- Benefit of refugee camps and settlements:

I - UNHCR:

- “Two main considerations. First, *accessing refugees; it is easier for us to access refugees and monitor violations of refugee rights when they are in one place. It also makes it easier for refugees to access UNHCR.* Second, logistics. Coordinating humanitarian aid for refugees – supplies such as food and non-food items and facilities – *in a camp setting is much easier and less costly (my emphasis).”*

Ii - Uganda touted as classic example of refugee protection in settlements

That refugees in Uganda provided land and free to movement;

III - Settlements mantra is perfect stalking horse for absences of law and freedom of movement in the settlements.

- Greatest negative impact of refugee camps: LIMITATION ON FREEDOM OF MOVEMENT

I - Sites where people’s rights are violated and human dignity undermined (JANMYR, 2014; AGIER, 2011; LISCHER, 2006; VERDIRAME; HARRELL-BOND, 2006; LOMO, 2020; HARRELL-BOND, 2002; VAN DAMME, 1995).

II - “Open prison” – refugees

a) Take a bird and keep in it a cage and you will have to feed it, give it water, treat it, and protect it from predators. Yet before its captivity, it fed itself. It freely roamed the skies and lacked nothing. If refugees are free, they can do anything. Here ... I have created opportunities like this school, for both refugees and Tanzanian children because I am free...

b) “It is like we are in a prison. It is like an open prison though; and yet, we cannot leave this apparently open place any time we would wish to go out and look for solutions to some of our pressing and sometimes emergency needs. We are entirely dependent on UNHCR for everything.”<sup>42</sup>

c) “We are not allowed to leave the camps. Yet, the Government of Kenya has given us alien identity cards. These cards are useless because when we attempt to leave the camps, the real cards that matter are cash. In most cases, when we attempt to leave the camp for whatever reason, the security agents at the various roadblocks do not recognise the alien identity cards; instead,

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<sup>42</sup> Interviews with FG04, 21 February 2018.

they will ask us for a written movement permit, which is a document that has to be approved by six government officers: the deputy County Commissioner (DC); the Sub-County security head; the Refugee Affairs Secretariat manager, the police/CID.”<sup>43</sup>

III - Dependency and helplessness

IV - Refugee encampment is torture (European Court of Human Rights):

•...considers that *the conditions both in the Afgooye Corridor and in the Dadaab camps are sufficiently dire to amount to treatment reaching the threshold of Article 3 of the Convention*. IDPs in the Afgooye Corridor have very limited access to food and water, and shelter appears to be an emerging problem as landlords seek to exploit their predicament for profit. Although humanitarian assistance is available in the Dadaab camps, due to extreme overcrowding access to shelter, water and sanitation facilities is extremely limited. The inhabitants of both camps are vulnerable to violent crime, exploitation, abuse and forcible recruitment. Moreover, the refugees living in – or, indeed, trying to get to – the Dadaab camps are also at real risk of *refoulement* by the Kenyan authorities (my emphasis). (ECtHR, 2011, para. 291)

### 3.2. Alternative to refugee encampment: Freedom of movement and choice of residence

- Freedom of movement and right to choose where to live is one of the most effective means of achieved improved integral protection for refugees;
- The right to freedom of movement and choice of residence for refugees:
  - I - Is a moral imperative
  - II - Is a legal obligation (article 26 of the 1951 Refugee Convention)
  - III - Is a practical cost-effective way to treat refugees like human beings like me, worthy of human dignity and deserving of all my support and help
  - IV - Works.
- League of Nations’ Dr Fridjof Nanse High Commissioner for Refugees (1921-1930) made it the cornerstone of his mandate to provide international protection to Russian and other refugees. When submitting the proposal to States for an Arrangement for Armenian refugees in 1924, he informed State delegates that:
  - I- ‘...experience gained in connection with the Russian refugee problem has convinced me of the great importance of facilitating as far as possible, free mo-

<sup>43</sup> Interviews with FG10, 10 March 2018.

vement by refugees.’

II- ‘...development of means of general and professional education and the securing of employment for refugees.’<sup>44</sup>[consider the depression of the time to our present condition]

III- ‘...finding employment for Russian refugees in order to solve the Russian refugee problem,’<sup>45</sup>

IV- ‘...secure the solution of refugee problems on lines that make for reconstruction’ of Russia by building ‘up a new body of technical experts, a new educated class, who would be able to help in the rebuilding of Russia.’<sup>46</sup>

- For a very long time, the UNHCR considered refugee education a luxury. There is, however, some reason for optimism. In 2019 it launched a revised version of its 2012 – 2016 education policy, the Refugee Education 2030: A Strategy for Refugee Inclusion. Similarly, the New York Declaration 2018 also prioritized refugee education as an essential component of international protection for refugees.

- Also, in 2014, UNHCR floated a policy on alternative to camps. How far that translates into an end to refugee encampments and freedom of movement for refugees remains to be seen.

- Given the problematic aspects of refugee policies and practices in Africa, especially the refugee encampment policies, and the dominant role of external entities in authoring the framework decisions that constitute refugee policy and practice, what regional approaches can Africa offer to the rest of the world?

- My thesis is that Africa has no real good approaches to share with the rest of the world because beneath the apparent open-door policies are several obstacles placed on way for refugees to be able to enjoy fundamental freedoms and live in dignity; in other words, no home-grown African refugee policies worthy exporting to other countries, save not turning refugees away from their borders.

#### **4. ACCOUNTABILITY AND IMPROVED INTEGRAL PROTECTION FOR REFUGEES**

- In addition to freedom of movement and an end to refugee camps, any improvements of integral protection must include a system of holding accountable

<sup>44</sup> See Report of the Council of the League to the Fourth Assembly of the League, Doc. A.10.1923, Geneva, 28 June 1923, at 86.

<sup>45</sup> See, Resolutions adopted by the Council of the League of Nations at its Thirteenth Session in Geneva, June 17th-27th 1921, at 37.

<sup>46</sup> See Letter of 4 March 1922 to Dr. Manley C. Hudson of Harvard Law School, in NBKR 4/472; also, see letter from Dr. Nansen to Mr. Hoover, 23 February 1922, in NBKR 4/472.



actors in the humanitarian industry involved in refugee protection.

- The conventional wisdom to focus on the accountability of States and State actors because they are assumed to be the bad guys subverting an international system of refugee protection.
- My experiences – both as a former refugee for 11 years in what was then Zaire, now Democratic Republic of Congo (DRC) and Sudan, now South Sudan, and research experiences in refugees, with fieldwork in refugee camps in Chad, Kenya, Tanzania, and Uganda, some of the most egregious violations of the refugee rights are the ‘good guys’ in the humanitarian industry.
- It is time we develop international rules that address their acts or omissions that cause harm to refugees.

## **5. DIALOGUE, REGIONAL APPROACHES, AND IMPROVEMENTS OF INTEGRAL PROTECTION FOR REFUGEES**

- What dialogue or monologue? Between whom or amongst who?
- What issues to dialogue on?
- Who determines the issues? Where do refugees fit in this dialogue?
- Who has final say on the forward in this dialogue?
- I suggest that the right to freedom of movement and choice of residence should be amongst the issues to dialogue on if such as thing exists.
- Can global approaches co-exist with regional approaches?

## **6. CONCLUSION**

- No perfect human beings on earth; many working in humanitarian issues have good intentions, but intentions are not good enough. Refugees need concrete self-giving love and consistently doing what is right for them regardless of the circumstances.
- Refugee encampment policy cause far more suffering for refugees in the long run than the momentary gains from relief aid in the early years of exile;
- Nothing short of freedom of movement and eradication of camps will improve integral protection for refugees in Africa.
- Main conclusion – 15 years to the High Commissioner, now UN Secretary-General, Antonio Guterres: change of mindset, dialogue will not improve integral protection for refugees. Unless I see myself in the refugee; unless you see yourself in the refugee, as being your fellow human being deserving dignified treatment, the values I claim to espouse remain empty rhetoric for a refugee in

dire need of basic human needs such as freedom and solidarity.

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## REGIONAL APPROACHES: MIDDLE EAST

### Regional Approaches to Displacement in the Middle East<sup>47</sup>

*Elena Fiddian-Qasmiyeh*<sup>48</sup>

The Middle East is home to a significant number of displaced people including refugees who are under the mandate of the bifurcated International Refugee Regime, that is to say, across the mandates of the Office of the UN High Commissioner for Refugees (UNHCR) and the UN Relief and Works Agency for Palestine Refugees in the Near East (UNRWA). According to UNHCR's planning figures for the Middle East and North Africa for 2022, of a total of 16 million forcibly displaced and stateless people in the region, 12.5 million were internally displaced (78% of the total), while 2.5 million (15% of the total) were refugees (UNHCR, 2022a). All refugees in the region, except for Palestinians, fall under the mandate of UNHCR; in turn, 5.8 million Palestinian refugees are under UNRWA's mandate, and are consistently excluded from the so-called "global" refugee agency's statistics.

Against this backdrop, major challenges are faced by displaced people in the Middle East, the vast majority of whom do not hold official refugee status. Displaced people have varying levels of access to different forms of assistance, services, and resources, including those provided by a significantly underfunded UN system. In 2021, the UNHCR asserted that "Funding needs in the Middle East and North Africa were the largest among UNHCR's seven region [...] and the most underfunded" (UNHCR, 2022a). In spite of being so significantly underfunded, UNHCR is also solely responsible for undertaking refugee status determination (RSD) in the Middle East and North African Region, doing so in seventeen countries in 2021 (UNHCR, 2021).

Notably, the very definition of the 'Middle East' as a region is problematized when we note that the UNHCR not only assesses asylum claims in relation to the

<sup>47</sup> This paper offers a slightly expanded version of the keynote lecture offered by the author at the IASFM conference 'Global Issues: Regional Responses'. I am grateful the conference organisers, and in particular to Professor Liliana Jubilit for the invitation to contribute to the conference.

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1951 *Geneva Convention on the Status of Refugees*, but also, in the context of those countries which have ratified the Organisation of African Unity (OAU) Convention, including Algeria, Egypt, Libya, Mauritania, Tunisia, and the Sahrawi Arab Democratic Republic, also according to the 1969 *OAU Convention Governing the Specific Aspects of Refugee Problems in Africa* (emphasis added). This bifurcated (UNHCR-UNRWA), or even trifurcated (if we also consider the OAU Convention) system leads to a very uneven hierarchy of protection, for those people who have international protection at all. In such contexts, refugees granted status under the 1951 Geneva Convention may be eligible for different forms of aid and support (although they may not always be able to access these), and also potentially have access to durable solutions such as resettlement to a third country; in contrast, these are not available either to Palestinian refugees, or indeed to those people granted refugee status under the OAU Convention.

Acknowledging this, if only briefly, helps to disrupt the assumption that there is actually such a thing as a region *per se*. Instead, we need to recognize not only that there are different ways of conceptualizing and framing different spaces and people, but also that these different ways of conceptualizing the relationship between territory, regional descriptors and the people who inhabit these territories change over time and space. For instance, we can recognize that a variety of different frames, such as *Mashreq*, the *Maghreb* and the *Gulf*, are also used within the “region” (using that term very loosely), depending on different institutional and geopolitical concerns.

Indeed, a critical approach to regions advocates for a move away from fixed and static conceptualizations; away from “the mainstream approach [which] views regions as homogenous, static blocs of (nation-)states territorially bounded and demarcated by the member states’ borders” and instead towards a more *relational* approach, recognizing “the importance of relational ontologies and of focusing on “transnational processes and relations among political and social forces (state and non-state actors) in the construction and reconstruction of regions in/through space/time” (MUHR, 2019, p. 96). This suggests the need to apply critical and theoretical insights and critical methodologies to challenge ‘mainstream’ forms of knowledge, including how a particular territory and their inhabitants are ‘imagined’ and analyzed (also see CARPI; FIDDIAN-QASMIYEH, 2020b).

This is pertinent in the context of today’s presentation, insofar as Orientalist modes of analyses (see SAID, 1978), for example, deeply influence the way as in which the Middle East has been viewed, represented, and discursively constituted as a ‘refugee producing region’, as a ‘host’ region and as a ‘region of origin.’ While beyond the scope of this brief discussion, a range of key dynamics to be aware of is how the region is variously romanticized and exoticized (for instance, as a space of organic hospitality), or vilified (constituted as inherently violent and patriarchal, for instance), and how ideologically-driven assumptions around (for instance) religion, culture, gender and sexuality are mobilized in analyses of conflict and displacement, and

indeed in asylum-claims and humanitarian campaigns alike (*i.e.* see AKRAM, 2000; ABU-LUGHOD, 2002; FIDDIAN-QASMIYEH, 2014a; 2014b; 2016a).

With this short introduction in mind, I will now briefly turn to two of my research projects - “Southern Responses to Displacement”<sup>49</sup> and “Refugee Hosts”<sup>50</sup> – which, since 2016, have been examining how, why and with what effect different actors from the so-called Global South are responding to displacement from Syria in countries including Lebanon, Jordan and Turkey. Amongst other things, in my research I argued that displacement from Syria and responses to this must be viewed *in relation to*, rather than *in isolation from*, other refugees’ situations and processes of both mobility and immobility (FIDDIAN-QASMIYEH, 2016b; 2018a; 2019c; 2019a; 2020b). Not only do the people who have been displaced from Syria – Syrians, Palestinians, Iraqis and Kurds alike – themselves have complex histories of migration, mobility and displacement, but they have often been ‘hosted’ by people who have equally complex histories of (forced) migration and immobility, including people whom I refer to as ‘refugee hosts’ (2016b; 2018a; 2019c; 2019a; 2020b). My research starts from the premise that responses to displacement from Syria must be viewed in relation to these complex histories of displacement, migration and hosting; it also takes a multiscalar approach to examine responses to displacement from Syria, including by ‘regional’ actors, ‘host’ states, ‘Southern’ donor states, diaspora organisations, local and transnational faith communities, and refugees themselves (FIDDIAN-QASMIYEH, 2019a; 2021).

In the rest of the presentation, I will situate the focus on ‘regional responses’ to displacement within the context of the so-called Localisation of Aid Agenda, arguing that a study of ‘Southern’ responses to displacement can be helpful precisely because it enables a multiscalar approach which is attentive to multiple directionalities and spatialities of response – both ‘local’ and also transnational – within and across different ‘regions’ (FIDDIAN-QASMIYEH, 2019a).

The localization of aid agenda has led to increasing recognition of the roles played by local actors in responding to displacement. ‘Local’ in this context obviously refers to regional, national, sub-national actors but is also a term that has often been used as a synonym for Southern actors. Especially following the 2015 World Humanitarian Summit, the so-called “international community” has increasingly officially offered support to national and municipal actors, with diverse funding commitments having been made at this stage by different donors (see FIDDIAN-QASMIYEH, 2019a). This commitment promised to offer an alternative approach to what we can identify as hegemonic directionalities of aid – which have traditionally been driven

<sup>49</sup> Funded by the ERC **under the Horizon 2020 Research and Innovation agreement no. 715582**, the full title of the project is ‘Analysing South-South Humanitarian Responses to Displacement from Syria: Views from Lebanon, Jordan and Turkey’ (2017-2024) – see [www.southernresponses.org](http://www.southernresponses.org).

<sup>50</sup> Funded by the AHRC-ESRC, the Refugee Hosts project’s full title is ‘Local Community Experiences of and Responses to Displacement from Syria: Views from Lebanon, Jordan and Turkey’, running between 2016-2022 – see [www.refugeehosts.org](http://www.refugeehosts.org).

by North to South movements of money, aid and humanitarian ‘experts’ alike - and more attention to locally driven, South-South forms of humanitarianism (FIDDIAN-QASMIYEH, 2019a).

One particular form of regional response which has been repeatedly heralded by the UN is the UN’s Syria Regional Refugee Resilience Plan, the ‘3RP’, which, according to the UNHCR’s latest report in 2021 “remained the cornerstone of support for 5.7 million Syrian refugees and their host governments” (UNHCR, 2022b). As an aside, I would take issue with this sole reference to “Syrian refugees,” since refugees *from* Syria are not solely Syrian nationals: they also include Palestinians, Iraqis and Kurds who previously lived in Syria, were displaced from Syria and should also be considered within responses to the displacement caused by the ongoing conflicts in Syria (FIDDIAN-QASMIYEH, 2019a).

Importantly, since its launch in 2014, UN documentation has repeatedly and consistently used the term ‘paradigm shift’ to describe the 3RP (*i.e.* 3RP, 2014). Notably, the extent to which the Plan embodies a ‘paradigm shift’ is highlighted as one of the “key messages” and “topline messages” that officials are meant to widely share when discussing the Plan (see 3RP, 2017). It is presented as being innovative – indeed, “a UN first” – as follows:

The Regional Refugee and Resilience Plan (3RP) is a UN first. It represents a paradigm shift in the response to the [Syrian] crisis by combining humanitarian and development capacities, innovation and resources (3RP, 2015, p. 6).

The 3RP has thus been presented as demonstrating the ‘international community’s’ commitment both of ‘forward-looking’ policies and programmes and of supporting national and regional actors in the global South, embodying a “paradigm shift” to a “nationally-led, regionally coherent strategy” (3RP, 2014), which “aims to combine humanitarian assistance with development and resilience of host countries” (ILO, 2015).

However, elsewhere in my work (*i.e.* FIDDIAN-QASMIYEH, 2019a) I have argued that repeatedly framing and messaging this as a “paradigm shift” and a “UN first” does not of course render this plan a paradigm shift in itself. Indeed, even the briefest analysis of the long history of the humanitarian-development continuum demonstrates significant continuities, rather than the dramatic shift declared by the UN: there is a long history of programmes based on ‘humanitarian-development continuum’; of forward-looking, capacity-building responses; and of regional and national responses (see FIDDIAN-QASMIYEH, 2019b). Equally, there is a long history of both past successes and failures, including the cooptation of ‘local’ actors and political failures (FIDDIAN-QASMIYEH, 2019b; 2018c). This is not to say that the approach is not a welcome one (if it were to be implemented with appropriate funding), and the 3RP has consistently centralised the importance of mainstreaming support for local municipalities and institutions into various programming activities

to maximise positive outcomes and experiences amongst refugee *and* host communities alike in the Middle East. This is important because the existing evidence confirms that regional, national and municipal level actions and coordination *are* key to responses to different forms of disasters (*i.e.* FIDDIAN-QASMIYEH, 2019b). However, evidence also confirms that appropriate levels of funding and localised modes of partnership do not result from official assertions and commitments.

A further critique of the localization framework is that although national and regional responses are often equated with 'localised responses', there is also a need to move towards a localization agenda that is even more 'local' in nature: focusing on individuals, communities and neighbourhoods, alongside other national and sub-national actors, not just as 'experiencing' and being affected by displacement, but also as responding to this in different ways (FIDDIAN-QASMIYEH, 2015; 2016b; 2018b; 2019b; 2020a; 2021). Equally, the localization framework risks reproducing methodological nationalism and (dis)missing *a priori* the multi-scalar and multi-directional forms of response that have long been taking place in displacement situations. That is to say, that it seems essential to view 'regions' and 'regional responses' relationally, rather than as geographically bounded modes of response.

I will return to this relational approach shortly, but first I will turn to some regional and national level examples of 'Southern' responses to displacement from Syria. In 2012 alone, the Arab League pledged \$100M in aid to Syrian refugees and MENA States' responses have included not only policies developed by 'host States' but also diverse forms of significant humanitarian assistance: the Moroccan government, for example, sent aid convoys to establish a field hospital in Jordan in 2012 and the Qatar Charity provided food and non-food aid and medical assistance for Syrian refugees both in Lebanese border areas and in Jordan. Regional actors and regional States have thus been responding in different ways, and a question that has often arisen is *why* regional responses may have been developed. Noting that there are many different reasons 'why' regional responses may be developed - the League of Arab States, for instance, founded its Humanitarian Aid Section in 2007 with "the aim of consolidating *joint social Arab action* for the *interest of the Member States*"<sup>51</sup> - such questions must, of course, also be asked of Northern States and the UN: whose interests are prioritised, and what principles are mobilised (for instance, political and ideological), but also who defines 'humanitarian' and how does the humanitarian *relate* to the political, ideological, faith-based etc. These are some of the questions that the Southern Responses to Displacement and Refugee Hosts projects have been examining.

Less institutionalized and non-State-led responses are also receiving increasing recognition. Commentators have, from the onset of the conflict, argued that civil society groups have, in fact, been the most significant actors supporting refugees from Syria in Lebanon, Jordan and Turkey (*i.e.* IRIN, 2012; GATTEN; ALABASTER,

<sup>51</sup> See <http://www.lasportal.org/en/secretarygeneral/Pages/PoliticalAffairs.aspx#tab1>.



2012; SVOBODA; PANTULIANO, 2015). These initiatives have included local faith-based organizations and local faith communities delivering aid and providing spiritual support to refugees from Syria (REFUGEE HOSTS, 2018; FIDDIAN-QASMIYEH et al., 2020; CARPI; FIDDIAN-QASMIYEH, 2020b); and diverse forms of what I conceptualise as ‘refugee-refugee humanitarianism,’ including protracted Palestinian refugees offering support to ‘new’ refugees seeking sanctuary in Lebanon (see FIDDIAN-QASMIYEH, 2015a; 2015b; 2016a; 2016b; 2016c; 2019b; 2020a; 2021; FIDDIAN-QASMIYEH; QASMIYEH, 2017). Research, including that conducted through the Southern Responses to Displacement and Refugee Hosts projects, has carefully documenting very clear examples of localized forms of response by local, municipal, civil society, faith-community-led and refugee-led responses. However, there have also been significant responses from beyond the region, including Brazil’s resettlement program for Palestinian refugees (see VERA-ESPINOZA, 2019b; 2019a). Actors from across many other regions have likewise been developing policies and programs that have been implemented within the Middle East and/or in support of refugees from the Middle East. Under-documented examples include Malaysia’s role in supporting Palestinian refugees since the 1990s and refugees from Syria since 2011, including through having financed the establishment of the Beit Atfal Assomoud Centre in Baddawi camp in Northern Lebanon where I have conducted a lot of my research (FIDDIAN-QASMIYEH; PACITTO, 2015). There is also a long history of transregional educational and scholarship programs for refugees, including scholarships provided by the Malaysian government for Palestinians from Baddawi camp and also from Gaza to study in Malaysia. As I have explored in earlier parts of my work, Palestinian refugees, as well as Sahrawi refugees from the non-self-governing territory of the Western Sahara have received different forms of support from countries including Libya and Cuba (i.e. FIDDIAN-QASMIYEH, 2012; 2015a). A focus on Cuba reminds us of the complex legacies of a transregional scholarship programme for refugees from the Middle East and North Africa: since the 1950s, students from across the Middle East and North Africa have left their home-camps or places of origin to study in Cuba through a fully paid for educational scholarship program, with the vast majority of these young people graduating as medical practitioners from Cuban universities; in turn, the medical practitioners who have been treating Syrians, Palestinians, Syrians, Iraqis, Kurds, amongst others who have been displaced from Syria since 2012, precisely include Palestinians, and indeed Syrians, who studied in Cuba (see FIDDIAN-QASMIYEH, 2019b). In this case, a transregional scholarship programme for refugees has enabled what I refer to elsewhere as refugee-refugee humanitarianism.

By means of conclusion, I would like to return to my proposal that a focus on Southern-led responses to conflict-induced – rather than a focus on ‘regional,’ ‘national’ or ‘local’ responses – enables us to examine both the multiplicity of *State*-led responses *and* community-based responses, and to view these in relation to other modes



of response and discourses. By examining both formal and informal, and State- and community-led responses in relation to the localisation of aid agenda, I would argue that there is more need for further research into the diverse modalities, spatialities, directionalities, relationalities and conceptualisations of Southern-led responses to displacement in and beyond particular ‘regions’ (FIDDIAN-QASMIYEH, 2019b).

A number of key implications arise from this brief discussion, including, firstly, the importance of using critical socio-spatial modes of analysis when discussing ‘regions’ and ‘regional projects.’ Secondly, there is an urgent need to be critically attentive to why and how UN agencies and the international community are interested in promoting regional solutions for refugees. While this may be more ‘efficient’, some analytical frames would lead us to engage critically with the instrumentalization of ‘Southern’ actors; attempts to shift responsibilities away from the UN and Northern states (many of whom are former colonial powers) without sharing and providing promised funding and resources; and promoting the continuation of a particular form of North-South relations. Indeed, at particular historical and geopolitical moments, certain Southern actors, including States and regional organizations, have been actively mobilized and some would say instrumentalized by the international humanitarian community. It is against this backdrop that there has been an equally long-standing history of actors from across the Global South resisting, rejecting, and developing alternatives to the hegemonic aid system (FIDDIAN-QASMIYEH, 2015; 2019b; 2021). Southern-led responses to displacement, including those that can be analysed through the lens of South-South cooperation, have been developed as a means of resisting the process of institutionalizing ‘Southern’ actors ‘into’ the pre-existing paradigm and parameters established by the Northern-led ‘international system’ (FIDDIAN-QASMIYEH, 2018b; 2019b; 2021). With regards to the displacement of people from Syria since 2012, this process has been clear in so far as certain regional and national level actors have been incorporated into the international aid system as part of a localization of aid agenda, while community- and neighborhood-level responses, for example, have continued to be marginalized and excluded, including those developed by refugees themselves (FIDDIAN-QASMIYEH, 2018b; 2019b; 2021).

Thirdly, in spite of the discussive framing of the 3RP in the context of the Middle East, we need to be wary of and indeed reject notions of “paradigm shifts”, instead developing historically- and spatially-situated analyses that document and examine how different actors around the world have responded in specific contexts of displacement. This must include ensuring that analyses of contemporary forms of response are situated within the longer history of different forms of response across time and space.

Fourthly, just as we examine the role of distance in the discourses and policies of European countries which position refugees in the Global South as worthy of receiving humanitarian assistance “over there” while framing refugees who try to reach European borders and territories as being unworthy of legal protection (FIDDIAN-

-QASMIYEH, 2016b), we also need to consider how States and regions labeled as South American, Caribbean, African or Middle East or Asia for example not to only act *within* their own States and regions but also *beyond* the confines of the geographic region itself (also see FIDDIAN-QASMIYEH *et al.*, 2020). Such an approach would also be aligned with calls within the academy to de-exceptionalize studies of specific regions (*contra* ‘area studies’), by exploring the connections that exist between different parts of the world.

Finally, beyond a focus on documenting “refugee experiences” and even beyond the long overdue acknowledgement of the ways that refugees themselves respond to development and to displacement, I argue that there is particular urgency to explore how different forms and directionalities of response – whether on local, national, regional or transregional levels - are *conceptualized* and *negotiated* by refugees themselves (see FIDDIAN-QASMIYEH, 2015a; 2019a, 2019c; 2020a, QASMIYEH, 2020).

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## REGIONAL APPROACHES: NORTH AMERICA

### **Slamming the Door on the Down Low: Tactics to Include a Few and Exclude A slew of displaced persons in North America**

*Jennifer Hyndman*<sup>52</sup>

To begin, I would like to thank you Liliana, thank you Melissa, thank you João for chairing and for the invitation to be here. It is bittersweet that we cannot be together, but also inspiring that we can be here from locations in the Middle East, North America and Australia. I love this conference and I see many of you in the zoom participant list with whom I have had a chance to have coffee with at these meetings over the years. I am missing you, but I am very grateful to have this opportunity to give you a brief keynote talk.

As you can see, I have amended my title slightly, but let me just get going as I

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will speak about the “small print, new measures and procedural changes, some of the North American tactics to include a few and exclude a slew of displaced persons”. What I want to do, and I want to echo Elena Fiddian-Qasmiyeh’s effort, is query the possibility of regional approaches in a world that is so thoroughly networked by global transportation and communication links that while borders still matter, there may be more similarity about regions given common processes and politics of globalization across space. I am a geographer by training, but I like that critical social-spatial approach to seeing North America not as a fixed and static region as much as an arrangement of States that we can trouble and unsettle. A relational approach that understands shared tactics of managing migration by governments is helpful.

We have leading experts on this panel sharing the important legal and policy frameworks in which we work. My main argument is that the small details of immigration and asylum practices, things like procedural changes, ‘little things’ like protocols that might be added or taken away without announcement, can evade the scrutiny and public-ity of official policy or legislation. These can be largely invisible, and yet they have a concrete effect to exclude, downgrade, punish and even deport asylum seekers and refugees. In the context of the US expelling hundreds of thousands of asylum seekers, Megan Stack (2022, p. 5) puts it this way:

The high-minded international agreements that were guiltily drafted after World War II to protect refugees and asylum seekers have been steadily hollowed out by the very same wealthy nations that consider themselves standard bearers of human rights. The United States has been at the vanguard of this undoing (...). [The asylum seekers] are the casualties of the latest US contribution to an ignominious international system – an array of legal machinations and shady deals quietly hatched to block asylum seekers from reaching the most economically and politically advanced nations.

Interviewing lawyers representing asylum seekers and staff working in U.S. grassroots migrant organizations, Sarah Stillman (2021, p. 32) also traces “an extensive, unpublicized bureaucratic effort to transform immigration through rule changes, adjustments to asylum officers’ guidelines, modifications to enforcement norms, and other measures.” Banal bureaucracy is not so boring after all.

Some of my own recent work on small, largely invisible changes to the governance of refugee resettlement in Canada illustrate how these can transform who is selected, how many can come, and the implications of new categories of resettled refugees (HYNDMAN, 2022). Following Hiebert (2019), changes in refugee-migrant selection and governance increasingly do not require changes in policy or law. I rarely use the word migrant by itself in these contexts and try to use asylum seeker or refugee-migrant in a hyphenated way to blur the divisions among the monikers – one person could be all of those things in a given journey (HYNDMAN; REYNOLDS, 2020).



This ‘bureaucracy is not banal’ contention is not, perhaps, the newest of arguments but I want to highlight and illustrate this line of thinking in this context of North America because these regional approaches as Elena Fiddian-Qasmiyeh mentioned were ‘the assignment’ for us to cover in our keynotes to ensure awareness of asylum controls and refugee procedures in different parts of the world. If we just look at the laws and policies, however, we are going to miss the quiet and yet dramatic changes in the migration machinery ‘on the down low’ – out of sight and often off the official record. This is where the ‘down low’ in the original title came from.

I will use a few examples from the North American context and then a North American analysis of my own to highlight how despite the largely positive reputation on refugee resettlement historically of countries like Canada and the US until recently, we are looking at the ongoing reproduction of Fortress North America in those two States particularly. Mexico has been the most welcoming North American country as of late, but others at this conference are better placed to argue this.

The externalization of migration is not new. Scholars have been talking about it for two decades. Yet, States are always finding new ways to do it. Back in 2008 I wrote about this notion of ‘neo-*refoulement*’; we know that *refoulement* is forced return, neo or new *refoulement* is basically return before someone has touched the territory and activated or mobilized the rights that would in here if they did (HYNDMAN; MOUNTZ, 2008). For example, if someone makes a refugee claim on Canadian soil, this legally entitles them to a live refugee hearing in front of the Immigration and Refugee Board. If you never quite arrived in Canada, however, and perhaps were not admitted to Canada because of a false passport found before you entered officially through immigration, then this neo-*refoulement* tactic of externalization might send you back on that plane that brought you. I call this preclusion, rather than exclusion because one has not yet been included into the public sphere but has been prevented from joining. That piece was written years ago, but what I want to introduce today are some of the new ways that people are being turned back and/or protection is being dismantled. These are often unnoticeable and even unofficial ways that will not count as *refoulement*, and so it is less likely to get governments in trouble, but the outcome is very much the same as other neo-*refoulement* externalization measures.

As before, I am not a Mexico specialist, but I benefit hugely from the incisive insights of the graduate students with whom I work. Linn Biorklund is one of them whose work documents the tactics of managing asylum seekers arriving in Mexico on its Southern border. Earlier in this conference, Zachary Lomo spoke about how most official refugees in the African context have to live in camps. Encampments and settlements slow down people who are on the move, specifically if they can get the kinds of housing and safety and basic needs met in a temporary way. Returning to Linn’s research, one of her research sites in Tabasco, Mexico hosts a hospitality centre, which is basically a compound where Central American women and children can come and have weeks and months of support, housing, safety, with various humani-



tarian actors providing support funded by UNHCR and this is all on the Southern Mexican border. I would argue, there is a lot of support and money coming to the Southern Mexican border because it is, in effect, the externalized border for the U.S. and Northwards. The US government would like all asylum seekers to (a) stay in Mexico if they can; and (b) stay at the Southern border of Mexico rather than the Northern border of Mexico, which has historically been where many people and people continue to arrive, of course, many Venezuelans are there today.

Linn is not the only one working at this border or critically appraising the infrastructure and ‘staying power’ of well-funded centres such as the one in Tabasco. The Southern border geopolitical strategy to buffer the U.S. from additional asylum seekers began in 2014, if not earlier, with Mexico becoming a signatory to the 1951 Convention on Refugees and its 1967 Protocol. This legal protection through treaties is much more visible, of course, and is hard to argue with, but it is also very much part of slowing the flow refugee-migrants travelling North.

Moving to the US context, so much can be said. I pondered how I could do justice to developments around refugee-migrant protection in this country over the past five years. The US government continues to surprise and disappoint its critics. Since March 2020, when the pandemic began, the US drew on an obscure public health law from 1944, Title 42, and has use this to exclude more than 1.8 million asylum seekers who may have been eligible to make a refugee claim in the US but were deemed a threat to public safety and removed before entry (SULLIVAN, 2021; THE ECONOMIST 2022). Title 42 was meant to be a local law to protect public health, but it has had national implications for several years now. Its removal is tangled up in the courts where its future will be determined.

To be fair to the current US administration, President Biden’s term in office did mark the reception of one million asylum seekers in September 2022, despite the Title 42 efforts (SULLIVAN, 2022).

Yet in *The New Yorker*, Martha Stillman chronicles an extensive range of procedural changes in the US - invisible tweaks on asylum and immigration practices that have led to deportation, legal returns and other offshoring of asylum seekers. In particular, she cites the work of Professor Lucas Guttentag, a Law Professor appointed both at Stanford and Yale, working with a team of Law students who have tracked more than 1,000 of these small changes to the not-so-banal bureaucracy. These are not legal changes and not official policy changes that have to be recorded and publicized. The project is called the Immigration Policy Tracking Project, and is a sizeable database of every change that President Trump made to the immigration system compiled by Guttentag’s team. Guttentag has a notes that says “someday we will need a roadmap for reversing all of this damage” (GUTTENTAG *apud* STILLMAN, 2021).

The US has not restored its refugee resettlement numbers of decades past, normally 80,000 to 100,000 people per year. In Fall 2016, former US President Obama announced that 110,000 resettled refugees would be the US target for the 2016-2017

year, and yet that number was diminished to 15,000 under the Trump administration. On the one file that the US was unassailably first in the world at – namely refugee resettlement – the US has lost its top position. The Biden administration has not restored those numbers, and we wait. Canada now holds the title for ‘most resettled refugees per year’, but the number resettled is merely in the 30,000 people per year range in that country, far lower than it once was. Compared to Brazil, Mexico, Colombia and other neighbors in the Americas, Canada is doing good work but nearly as much as most.

Speaking of Fortress Canada, the federal government does seal the borders rather solidly, except of course for Mexicans and US citizens who do not need a visa to enter. I have written about ‘cold water geography’ and how being surrounded by three cold oceans plus a long border with one wealthy country (the US), blocks Canada from the same access refugee-migrants might have to other countries. Canada’s nonetheless has highly punitive regulations for those who might arrive by ship: even if a person is found to be a refugee after making a claim, one must still wait five years before getting permanent residency. This enforces family separation, full access to the labour market, and builds many forms of insecurity into people’s lives. The current government, led by Prime Minister Justin Trudeau, could have dismantled this provision, but following the pattern of the Biden administration, has not done so.

As noted, Canada has one very long border with the United States (8891 km), and many will know that since 2004 it has the Safe Third Country Agreement (STCA) with the United States, which tries to keep asylum seekers from moving from one of these States to another, to avoid making claims in the other. The logic is that both are ‘safe’ countries, so no need for an onward journey, yet Canada’s Supreme Court is to determine whether the protection offered to refugees in both countries is on parity and if the agreement is constitutionally sound. Beginning in 2017 with the presidency of Donald Trump in the US, his ban on certain nationalities and religions and repeal of Temporary Protection Status for several nationalities, thousands of people who thought they were safe in the US travelled North and began to walk across the US-Canada border, avoiding the official ports of entry which are the only sites to which the STCA applies.

I do not have the space to show Canada manages arrivals by air through its biometric visa regime (see REYNOLDS; HYNDMAN, 2021), but my point here is that the country aims to seal itself off from the rest of the world against uninvited asylum claims. And yet Canada loves to praise itself for resettlement, remember it is the leading country for refugee resettlement currently, which it does well. I do not want to discount this work, as the Canadian government has actually quintupled the number of privately-sponsored refugees (PSRs) since coming into power in 2015; even government-assisted refugees (GARs) have seen an increase, in addition to the special protection programs offered to Syrians, Afghans, and now Ukrainians.

I find the overwhelming response and mobilization of Canadian civil society,

working in partnership with government, inspiring and compelling. For more than 40 years, people affiliated with community and faith groups, as well as kin or allies of those still living in precarious conditions as refugees, have raised funds and done the day-to-day work of getting people settled in to a new home in Canada. I find this compelling; more than 350,000 thousand have arrived through this modest protection pathway, and yet it got mentioned in the Global Compact on Refugees, I think, because it is a recipe that works. Any group of five people – who work together, live together, or possibly pray together – can get involved.

Private sponsorship is a public-private partnership. I have also called it a social movement because what, why, and how do you get so many people – we call them sponsors – to put their money on the table and to show up and do things like drive people to their dental appointments, help them get their kids enrolled in school and other essential tasks, how do you make that happen in any society? And it continues to happen. For thirty of the last forty years, from 1979 to 2009 or 2010, this work has been happening without a huge amount of government oversight. The government would screen applicants for security and health criteria, select, make sure that refugees were eligible under the Canadian and Convention definitions, but once they were in Canada, it was handed off without much fuss, or monitoring. And then in 2010 that changed, with the gradual introduction of what might be considered subtle stealth governance of private sponsorship (HYNDMAN, 2022). No policies or laws changed, but tools to manage the number of refugees each sponsorship agreement holder (SAH) organization could support, who got how many and from where, and how this would be decided shifted to the federal government (HYNDMAN, 2019).

Bureaucracy, as I hope this chapter has shown, is not banal. In terms of providing protection for refugee-migrants, I am convinced by local initiatives and bureaucratic back channeling to *support* asylum seekers and refugee-migrants (KIHATO; LANDAU, 2017) who write about such practices of ‘stealth humanitarianism’ in the South Africa context. Southern responses to refugee-migrants vary widely, and yet offer promising practices where displaced persons fall outside of international and domestic refugee law, as in South and Southeast Asia and the Middle East. Non-State recipes for assisting and/or providing safety to those who require it abound (HYNDMAN; REYNOLDS, 2020). The 1951 Convention and its 1967 Protocol are essential protection tools, but at times one forgets that they do not apply in many refugee-hosting States outside of the Americas.

Returning for a moment to refugee resettlement in Canada and private sponsorship, we know the numbers are relatively small (about 22,000 people in 2022, plus potentially more through special programs for Afghans and Ukrainians). One thing that distinguishes Canada’s private sponsorship from its government-assisted refugee resettlement and from most countries’ resettlement practices is that sponsors can decide to name a person, family or child to bring to Canada. The person or household must meet the Government’s eligibility criteria for refugees, and the process it takes

time, but sponsors can sign up and say, ‘here is the person we would like to sponsor, here is the money we have raised, please accept our application.’ That ability to name particular people allows families to reunite; it allows people who want to sponsor human rights defenders that they know to do so; one can apply to sponsor ethno-national kin back in a camp or settlement from which they resettled to Canada. As long as people continue to face precarious political, social and material situations – in a camp in Thailand or in a city, like Beirut or Warsaw, there will be people to sponsor who need security and potentially resettlement. You can name that person or family, and that is compelling, especially for refugee diasporas that are already here in Canada (MORRIS *et al.*, 2020).

And just to cite the important work of one more PhD researcher I have the privilege of working with, Biftu Yousuf is looking at the poorly understood sponsorship role of racialized former refugee diasporas in Canada. My own research and team, of which Biftu is part, has collected an extensive body of evidence to show how such sponsorships initiated by allies, including family members in Canada, can drive, sustain, and keep the momentum of private sponsorship going (HYNDMAN *et al.*, 2021). The ongoing push to keep sponsoring comes, in part, from the intimate knowledge and contact with those former refugees who have come to Canada but left others behind in precarious and insecure situations.

After three decades of kind of volunteers doing private sponsorship and welcoming refugee newcomers into their communities, a new structure – a national council of Sponsorship Agreement Holders (SAHs) and the federal government – emerges in 2010. All of a sudden, a few dramatic changes happen. First, based on this new national network a new governance structure across the country is created by the federal government. The new network’s primary objective officially is “to increase cohesion within this community and develop a common national perspective and voice for the Private Sponsorship of Refugees Program” (Canadian Refugee SAH Association, 2022). And yet, based on my research, I do not think any sponsors were expecting the new rules, targets and distribution of refugee numbers to come from Ottawa (the seat of the federal government). New limits on the number of privately sponsored refugees emerged, where none had existed for the thirty previous years. Caps on numbers appeared for certain Canadian visa posts abroad but not others, whereby the number of privately sponsored refugees were limited in certain regions and not others, so in Sub-Saharan Africa, for example, but not in Jordan and Lebanon. All of this proceeded without any policy changes to the never-banal-always creative government bureaucracy.

If Canada were to take its Private Refugee Sponsorship Program (PRSP) and share it worldwide, it could go viral. A government interested in this would need to show existing support refugee resettlement and cultivate a positive public opinion towards such a program if sentiments toward refugee resettlement was not already positive (ALBOIM, 2016). Proper supports and funding to launch and steer the pro-

ject – perhaps through peer-government supports would also be essential, but in my view, Canada has not chosen this path of least resistance.

Instead, Canada is using a resettlement category that has not worked very well, since its invention in 2013 when it was arguable introduced to help phase out or scale down private sponsorships (LABMAN, 2016; LABMAN; HYNDMAN, 2019). The Blended Visa Office-Referral (BVOR) Refugee Category. Simply what this means is that all refugees in this category are referred by UNHCR which adjudicates their claims. UNHCR has specific vulnerability criteria, which are the basis for resettlement screening. This is the same list from which Canada selects its GARs (government-assisted refugees). One could make the argument Canada has got that piece/group of refugees covered by the GAR program. I ask, why can we not continue to do both? Yes, increase both streams, as the government has, but why stipulate BVOR refugees in Canada's efforts to promote sponsorship globally, when it is clear that this does not work as well as private sponsorship?

In 2016 the Global Refugee Sponsorship Initiative (GRSI) was launched with BVORs as the focus (BOND; KWADRAS, 2019). More than five years later, it is clear to me that GRSI would flourish if privately sponsored refugees were added to the GRSI mix of refugees eligible for resettlement. The ability to name PSRs is a major incentive to keeping sponsorship alive.

What is my closing point then? The devil is in the details of the never banal migration bureaucracy. Whether in the US, Mexico or Canada, stealth governance measures that evade the scrutiny that law and policy receive -- minor means of changing the immigration/asylum systems just enough to keep refugee-migrants out – are increasing the tools being used to 'manage migration'.

Constantly tracing these minute changes that can exclude, deport, or detain refugee-migrants, as Guttentag, his team and others have done, is critical to dismantling them. In Canada, the caps placed on refugee sponsorship in particular world regions have been lifted and equity among them prioritized. In the US, efforts to lift Title 42 continue though courts at the State level hear legal challenges, not federal courts. As scholars, we have to make noise when these petty bureaucratic details generate inequities and even potentially illegal practices that may not even be written down (STILLMAN, 2021).

Echoing Professor Violeta Moreno-Lax whose presentation addressed the way in which geopolitical priorities for refugee reception and asylum seekers are highly racialized in Europe, and arguably racist, the same can be said of Canada.

I do not understand how the Canadian Prime Minister, in June 2022, at the Los Angeles Summit of the Americas said that Canada will (only) pledge an additional 4,000 protection spaces for people from the Americas to come to Canada, despite widespread displacement in the region. Canada opened its door without limit for Ukrainians fleeing war there. The political contradictions mount.

If Canada can create a now dismantled geopolitical system of racialized

preferences for resettled refugees through a byzantine bureaucracy of caps and targets, what other inventions of banal bureaucracy are we missing? Stealth governance by bureaucratic design has opened up a whole new landscape for managing migration.

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## REGIONAL APPROACHES: OCEANIA

*Michelle Foster*<sup>53</sup>

It is a pleasure to address the participants of this important conference today on the topic of regional approaches to the protection of forced migrants in Oceania. I would like to begin by acknowledging that I am joining you from the lands of the Wurundjeri people of the Kulin nation, and I pay my respects to their elders past, present and emerging. I would also like to acknowledge that this presentation today draws some work I have undertaken with my colleague, Dr Anna Hood, of Auckland Law School, and which was published last year in the *Oxford Handbook of International Refugee Law*<sup>54</sup>.

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<sup>54</sup> This presentation draws heavily on Michelle Foster and Anna Hood, ‘Regional Refugee Regimes: Oceania’ in Cathryn Costello, Michelle Foster and Jane McAdam, *The Oxford Handbook of International*



In line with the themes of this conference, in my talk today I will consider the context, challenges, dialogues and solutions to forced displacement in Oceania. Starting with the context, at first glance, the inclusion of a presentation on refugee law in Oceania might seem unusual: no regional refugee system exists, and ratification rates of the key International Refugee Law instruments are low.

Further, there has been very little academic attention paid to refugee law across this region. When refugee scholars have turned their minds to this part of the world, they have tended not to examine Oceania's approach to refugee law specifically, but rather the dynamics of refugee law in the Asia-Pacific more generally. Most are focused on the situation in Asia and Australia with only a cursory nod to what happens in Pacific Island States. Combined, these factors create the impression that the region has little to offer refugee law scholarship.

A closer examination, however, reveals that there is much to learn from studying refugee law and related displacement issues in this part of the world. To start with, the region's low level of engagement with the International Refugee Law regime provides insights into assumptions and limitations embedded in International Refugee Law treaties. Further, if Oceania's approach to displacement is considered on its own terms, a number of other narratives emerge. These have the potential to shift the way in which refugees and other displaced people have been conceptualized, as well as the legal responses that may be developed as a result.

Finally, paying attention to refugee law and displacement dynamics in Oceania may have relevance beyond the parameters of refugee law. Specifically, they may generate new understandings of the region itself, and the relation that exist between the State and civil society actors within it.

How do we define the region? Historically, the idea of Oceania as a region was controversial, since the concept was constructed in the 19<sup>th</sup> and 20<sup>th</sup> Centuries by European powers to serve their colonial interests. Over time, however, the States' territories and peoples of Oceania have come to own the idea of their being part of a regional bloc. These changes have been strengthened by research in recent decades that reveals a long, pre-European history of Trans-Pacific links and relationships. Consequently today, the main controversy is not about whether Oceania is a region, but rather where its boundaries lie.

The key points of contention are whether Australia and New Zealand should be understood as part of the region, whether the dependent territories in the Pacific should be included in regional discussions, and what role civil society should have in conceptions of Oceania. For the purposes of this presentation, all States' dependent territories and civil society actors that come within Polynesia, Micronesia, Melanesia, Australia and New Zealand are regarded as part of Oceania. The rationale for including the States and dependent territories is that these groups make up one of the most significant and long-standing institutions in the region: the Pacific Islands Forum.



What is the International Law framework governing displacement in this region? The extent to which States in Oceania have engaged with the International Refugee Law regime is limited, but not non-existing. Of the 16 States with treaty-making ability, 8 have ratified the Refugee Convention and Protocol. With respect to the statelessness treaties, 3 States have ratified the 1954 Statelessness Convention and 3 have ratified the 1961 Convention on the Reduction of Statelessness. With regard to human rights treaties pertinent to non-refoulement, in particular the ICCPR and the CAT, until the first decade of the 21<sup>st</sup> Century, the only Oceanic States that have ratified both treaties were Australia and New Zealand. Since 2008, however, several Pacific Island States have done so, and today 7 States are parties to the ICCPR and 8 to the CAT.

In order to obtain picture of the extent to which Oceanic States have engaged with the International Refugee Law regime, it is useful to consider also domestic law, and the picture that emerges is mixed. At one end of the spectrum, New Zealand has enacted substantive and procedural laws that align relatively closely with the obligations in the international system, with only a small number of inconsistencies. At the other end of the spectrum lie Samoa, the Solomon Islands and Tuvalu, which have not passed any domestic implementing legislation or regulations. In between these extremes are four States: Australia, Fiji, Nauru, and Papua New Guinea, which have taken some legislative steps to ensure that their domestic legal systems are consistent with their international obligations, but where some significant gaps or weaknesses remain.

This patchwork needs to be understood in light of the fact that very few people who meet the international refugee definition seek protection in Pacific Island States. Where refugees have sought protection in the region, it has generally constituted intra-regional flight rather than flight from further afield. For example, in the early 1980s, thousands of West Papuans sought protection in Papua New Guinea, where a significant number are reported to remain today. Even in relation to intra-regional flows, Australia is the most likely destination country. For example, tens of thousands of East Timorese fled persecution in the decades following Indonesia's invasion in 1975, primarily to Australia. More recently, Australia has recognized a small number of women from Papua New Guinea fleeing domestic violence as refugees.

Hence, despite some specific and largely historical examples of refugees seeking protection in Pacific Island States, it remains the case that the numbers today are extremely low. Moreover, the Refugee Convention definition fails to capture a large number of people who are at risk of displacement in the Pacific. In addition, since the Refugee Convention applies only to those who have crossed borders, it does not, of course, apply to internally displaced persons. And this is despite the fact that in 2019, for example, twelve disasters, most of them volcanic eruptions, triggered more than 31 thousand new internal displacements in Papua New Guinea alone.

When these facts are coupled with the reality that many Oceanic States have

very limited resources, the low levels of engagement with the International Refugee Law regime begin to make sense. Indeed, they suggest that instead of criticizing States and civil society organizations in the region for failing to engage with International Refugee Law instruments, we should be asking whether the refugee law regime is fit for purpose in the Pacific and whether the conditions in Oceania reveal certain shortcomings in it.

Turning to challenges, in my limited time today, I would like to address two key challenges. First, the dominance of Australia as a regional hegemon, and second, the growing urgency of mobility induced by climate change. Turning to the first challenge, throughout most of the 20<sup>th</sup> and 21<sup>st</sup> Centuries, Australia has sought to impose its will and views on many aspects of life in the region. It is perhaps unsurprising, then, that in the last two decades, Australia has sought to encourage Pacific Island States to adopt laws and policies that conform with and support its own approach to asylum.

Although Australia is a party to all the treaties that constitute the International Refugee Law regime, it has a history of securitizing refugees seeking to deter asylum seekers and shifting the responsibility for protecting refugees onto other States. Efforts by Australian governments to securitize refugees began prior to the 21<sup>st</sup> Century but became particularly prominent from 2001 onwards. The key method by which Australia has sought to draw Pacific Island States into its refugee policies has been through the development of offshore detention and processing arrangements.

Beginning in 2001, Australia entered into bilateral agreements with Papua New Guinea and Nauru, which provided that each of them would accept asylum seekers who had attempted to reach Australia by boat in exchange for significant monetary compensation. The asylum seekers were detained in camps until they were processed and then resettled in third States. The programs were briefly suspended in 2007 but reinstated in 2012. In a second incarnation, however, the scheme was designed such that asylum seekers would ultimately settle in Papua New Guinea and Nauru.

The programs have constituted an important part of Australia's efforts to shift responsibility for refugee protection onto other States and central to deterring asylum seekers from making their way to Australia by boat. This deterrent strategy was bolstered by the fact that conditions in the detention facilities in Papua New Guinea and Nauru were extremely harsh, and asylum seekers and refugees have been housed in conditions which have raised a range of serious human rights issues.

There is no denying that by procuring bilateral agreements through the promise of a large amount of aid and financially underwriting the offshore scheme, various Australian governments have been able to implement controversial policies, yet largely avoid legal responsibility by claiming the human rights violations are the responsibility of the sovereign nations of Nauru and Papua New Guinea and not Australia.

Australia's approach to Papua New Guinea and Nauru is clearly hegemonic in nature. It uses its political and financial power to convince these States to detain, process and later settle asylum seekers. Scholars have also pointed to the neocolonial

elements of the bilateral agreements. Australia was a colonial power in the Pacific and exercised a large degree of political control over both Papua New Guinea and Nauru.

Although both States are now independent, the money offered to the two governments in exchange for offshore processing was tied to particular projects and required officials to implement policies dictated by Australia, such as the privatization of numerous State-owned enterprises. Indeed, Papua New Guinea even amended its own constitution in an ultimately unsuccessful attempt to ensure the constitutional validity of the detention of asylum seekers transferred from Australia.

It is important to appreciate, however, that there has been strong resistance to Australia's offshore refugee scheme in certain parts of the region. For example, when Australia first started to search for possible States with which it could collaborate, Fiji refused to entertain the idea of participating in the programs, declaring that Australia's actions were a shameful display of 'chequebook diplomacy'. Further, the Supreme Court of Papua New Guinea ruled in 2016 that the detention facilities violated the constitutional right to personal liberty.

Additionally, many civil society organizations in Australia and New Zealand have repeatedly condemned the programs in the strongest terms, so offshore programs can only be deemed to have been a partially successful mechanism for imposing Australia's will on refugee policy in the region.

The existence of strong pockets of resistance fits into and develops work that is emerging around the idea that the Pacific may be entering a post-hegemonic phase in which Australia no longer has the ability to dictate the region's agenda. Further work in this area may well generate greater insights into the changing scope and limits of Australia's role in Oceania.

The second key challenge in the region relates to climate mobility. The potential for the impacts of climate change to contribute to displacement, migration and relocation has become a major policy and scholarly focus over the past decade. While some scholarship has focused on the notion of 'sinking islands', engaging case studies from the Pacific as prototypical, although hypothetical examples, it is now well understood that the reality is far more complex.

There is no question that, as the Intergovernmental Panel on Climate Change explains, people who live close to the ocean or depend directly on its resources for livelihoods are particularly exposed to climate change impacts and hazards. Yet, while such impacts may lead to movement, after all, migration has been an adaptive strategy for millennia, to date there is limited evidence of cross-border migration occurring directly as a consequence of impacts associated with environmental change generally and sea level rise specifically.

Further, there are two key limitations in the simplistic 'sinking island nations' analysis. First, any future movement is likely to occur well before the disappearance or sinking of an island State, given the nature of slow onset degradation and the likelihood of resources being depleted before land becomes uninhabitable. Secondly,

the causes of any such movement will always be mixed since the impacts of climate change operate as a 'threat multiplier' rather than a sole cause of movement.

Concern about the impacts of environmental degradation, resource scarcity and overpopulation has understandably been on the Pacific agenda since well before the start of the 21<sup>st</sup> Century. In recent decades, the focus has centered more specifically on the potential impact of climate change because of its particular threat to the habitability of parts of the Pacific. Yet the extent to which existing international protection frameworks can and should apply to potential movement linked to the adverse impacts of climate change has been controversial.

First, there is a question about the applicability of the Refugee Convention and the appropriateness and feasibility of developing new frameworks to respond to the challenge. Secondly, and more fundamentally, the fact that many proposals for reform have been posited by developed States and/or scholars from the Global North has given rise to a neoliberal critique in which the need for autonomy, agency and self-determination of affected States and communities in the Pacific is emphasized.

Now, looking at dialogues and solutions in the final part of my talk, in identifying regional approaches to displacement in Oceania, we can identify one well established framework, the Bali Process, and a second emerging set of dialogues and frameworks on climate mobility.

So first, the Bali Process. Australia established the Bali Process in 2002 to bring States together to address people smuggling, human trafficking and irregular migration in the Asia-Pacific Region. It provides a forum for ministers and senior government officials to meet periodically to develop norms, share information and participate in capacity-building measures.

From the outset, the Bali Process served as a mechanism for Australia to disseminate its refugee policies across the region. In documents developed through the Bali process, refugees have been cast as irregular migrants and securitized, with States' international protection obligations given only perfunctory attention. For example, while some Bali Process statements have contained cursory references to ideas such as the legitimate rights of genuine refugees to seek and enjoy asylum, there has been no effort to put in place measures that would ensure these rights are protected. Further, there has been a strong emphasis on persuading States in the region to criminalize people smuggling and human trafficking and to enact stronger border controls. These initiatives aim not only to deter people from seeking asylum, but also to shift responsibility for them from Australia to the States from which they have come and through which they have transited.

While it is apparent that Australia views the Bali Process as a means to export its approach to refugee issues in the way discussed earlier, the extent to which it has succeeded in doing this in Oceania is open to question. Assessing the impact of the Bali Process is difficult, since there is relatively little academic work on it, and amongst the work that does exist, most is focused on the significance of the Bali Process

in Asia and Australia, so there is a need for more work in this area before any firm conclusions can be drawn. However, it is worth observing that only eleven States in Oceania are part of the Bali Process, and only two, Australia and New Zealand, are involved in the main leadership and operational groups.

Secondly, it is unclear from the literature how many of the substantive ideas encouraged by the Bali Process have been implemented in practice in Oceania. One of the few achievements that is commonly touted in the literature is that 18 States in the Asia-Pacific Region adopted model people smuggling legislation drafted by Australia and China in 2003. But it is unclear, however, how many, if any, of these States were in the Pacific Region.

A more promising area for dialogue with the potential for developing solutions relates to climate mobility. As foreshadowed above, the policy and scholarly debates concerning movement linked to the adverse impacts of climate change have been subjected to a neocolonial analysis in recent years. However, there is now a growing body of scholarship that examines the phenomenon of climate-related movement from the perspective of Pacific Island States. Such research has revealed that there is not one homogenous view within the Pacific, that perspectives have waxed and waned, that domestic politics is as integral to this debate as is international politics, and that a number of Pacific Island States reject movement as a primary or sole adaptation strategy and prefer to prioritize the actions of developed States to reduce emissions and limit future climate change impacts.

The important work of the Nansen Initiative, which involved extensive consultation with governments and affected communities in the Pacific, likewise affirmed that the Pacific leaders' perspective is that movement is the least preferred option, with concerns that cross-border movement would impact negatively on nationhood, control over land and sea, territory, sovereignty, culture, and livelihoods. Participants instead expressed a preference for climate change mitigation and adaptation measures to prevent displacement and avoid the need for relocation.

In practice, Pacific Island States are defiantly resisting the imposition of extraneous labels and policy settings, instead formulating endogenous responses to the threat of climate change. They have roundly and emphatically rejected specific proposals emanating from Australia and New Zealand, labeling, for example, a former Australian Prime Minister's suggestion that Australia should offer citizenship to residents of Tuvalu, Kiribati and Nauru in exchange for control of their seas, Exclusive Economic Zones and fisheries as 'imperial thinking'.

Such proposals also need to be understood against the long history of colonial powers relocating populations in the Pacific in order to exploit resources. As McAdam's seminal work on this topic highlights, the relocation of whole island communities is not a novel, futuristic idea. Strategies adopted in the region reflect an emphasis on self-determination and autonomy, such as the purchase of land by Kiribati in 2014 on Vanua Levu, the second largest island of Fiji, with the purpose of economic deve-

lopment and food security.

Where relocation is becoming necessary, some Pacific nations are taking an active preemptive approach by managing their own internal relocations. In Fiji, for example, the government notes that it has taken the initiative of developing its own people-centered relocation guidelines that advocate for and plan and preempt individual and community needs in order to ensure that any relocation protects and upholds the rights and dignities of the people involved. Vanuatu's new National Climate Change and Displacement Policy has been described as one of the world's most progressive policies on climate-driven displacement, and Tuvalu's Climate Change Policy 2012 to 2021 proposes the creation of climate change migration resettlement plans to ensure that Tuvaluans have a secured place to live should the worst-case climate scenario eventuate.

In other words, the reality challenges the image of passive victims of climate change awaiting an externally devised solution. Over the past decade, the Pacific Island Forum has had a concerted focus on strengthening and deepening regionalism in the Pacific. Indeed, the 2018 Boe Declaration on Regional Security described climate change as the single greatest threat to the livelihood, security, and well-being of the peoples of the Pacific.

In February this year, Jane McAdam from the Kaldor Center at the University of New South Wales was appointed to lead a small team to develop a draft regional framework on climate mobility for the Pacific. The framework is being developed under the auspices of a joint working group on climate mobility chaired by Tuvalu and Fiji and the Pacific Climate Change, Migration, and Human Security Program. The framework is grounded in core Pacific values of trust, respect and care for people, knowledge, land, and sea. It draws on laws, policies, and practices from the Pacific Region, while also taking inspiration from a range of global and regional frameworks and guidelines.

In conclusion, although there is little refugee law scholarship on Oceania as a region, analysis of emerging issues and trends has much to offer refugee law scholars. Oceania is a region that has undergone significant geopolitical change, as many island countries have emerged relatively recently from colonialism and have sought to redefine their relationship with the region's hegemon Australia and to a lesser extent, with New Zealand.

While Australia has sought to enlist its neighbours in the implementation of its highly controversial refugee policies under the guise of regionalism, this has received strong resistance from certain quarters. An even more concerted resistance is evident in the rejection of labels and policy approaches that assume that movement away from the Pacific is the only response to the adverse effects of climate change, with a strong preference for policies that enable self-determination and autonomy.

As Anna Hood and I conclude in our co-authored work on this topic, there is a clear need for more research and scholarship into the policies and practices of re-

fugee protection in Oceania, and in particular, greater support for scholarship from States within the region that are most likely to be impacted by rising sea levels and other damaging consequences of climate change. While research that seeks to draw out the voices and perspectives of affected communities is important and should be welcomed, there is also a need to support and facilitate academic work from within these communities in order to ensure that scholarship on refugee law and displacement is truly global.

Thank you so much for listening and I wish all a wonderful conference.

# New Dialogues



## NEW DIALOGUES WITH FORCED MIGRANTS

*Anila Noor<sup>55</sup> and Najeeba Wazefadost<sup>56</sup>*

**Anila Noor:** Thank you so much. I am very happy to be here sharing this speech with Najeeba because we are coming from the same experience of displacement. Being women, we always face more challenges than other refugees' communities, because when we are talking about new approaches, whether it is in academia, research, or policy debate, it is difficult to bring new perspectives because it is new - it has not been discussed before. That is why we are facing more challenges, because meeting new perspectives requires more understanding and more discussion. And what does it mean? It means that when we are talking about refugees' policies, refugees' representation, refugees' resettlement, refugees' related policies we need to include them. Not only as a passive receiver but as a part of discussion, because it helps them to create more impact. In the end, they are the ones who are being impacted by these policies.

So, this is what we are doing, and we are bringing our knowledge, our lived experiences in these debates not only to share our stories and our journeys to identify, to indicate the gaps which are happening because of policies. We are trying to prove that that is why this is very important and sometimes it becomes uncomfortable because it is new. And when highlighting these embedded discrimination and inequalities, it becomes uncomfortable. It is very easy to understand what is happening. It has become part of a normal life, it has become part of a normal routine. It is difficult to accept and to see that there is a gap and to accept that this is a gap because if we are not accepting it, if we are not realizing that this is a barrier, how can we work towards improving it? So that is what we are doing. We are trying to bring the policies, to be a part of the discussion to bring more impact for a solution that works for everyone. We need to give the power back to the people and that is what we are advocating for. We are looking for participation to bring systematic change because this mechanism,

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<sup>56</sup> Najeeba Wazefadost is the founder of three refugee-led networks, Global Refugee-led Network (GRN), Global Independent Refugee Women Leaders (GIRWL) and Asia Pacific Network of Refugees (AP-NOR). She is also Refugee Ambassador at the Amnesty International Australia. She holds a Bachelor of Medical Science and Nursing at the University of Technology Sydney. She is a refugee and gender equality advocate and is actively involved in the development of refugee-led networks at both the regional and global level, which focuses on bringing together refugee-led organizations and refugee change-makers to gather to discuss their lived experiences and propose solutions for more effective and sustainable refugee policy. She is a former refugee from Afghanistan. When she sought asylum in Australia she spent several months in mandatory immigration detention before being recognized as a refugee.

this change will help and enable different communities who are facing displacement. We will help them to advocate and find a solution that works for them, and that is what we are trying to do. By using our experience, we are helping and working with researchers and academia, thinking how we can go beyond organization and bring power for local knowledge, which is very important. I give the floor to Najeeba so she can continue.

**Najeeba Wazefadost:** Thank you very much, again it is so exciting to be part of this panel. As Anila mentioned, we work together quite often, especially in the last few weeks. To add to what Anila has already mentioned, what I would say is that not necessarily refugee participation or migration conversation means engaging in new dialogue. I feel like since the adoption of the Global Compact on Refugees (GCR) or the Global Compact for Migration (GCM), both the Global Compacts have delivered an immediate result in the way that we actually engage with refugees and migrants or start dialogues with forced migrants or refugees. The GCR and the GCM focus on the movements of people and on the situations in different regions of the globe. In my keynote speech I would like to focus on the Asian region, where I have been born, where I have been displaced to and where I have resettled now. As most of you know, Asia has seen large forced migration flows in the past and even now this continent is actually home to one of the world's largest refugee flows, the Rohingya population, and would also host the most at risk due to sea level rises and climate-induced displacement. It hosts the largest group of undocumented migrants and the biggest number of refugees and displaced persons out of any region. Using Asia as one of the examples, I believe in each region there are policy-makers and academics that need to create spaces that can deal much more effectively with human trafficking, with seeking protection, with refugee status determination procedures and, really, to be able to improve not only the international system but also regional cooperation.

How do I link this back to the conversation? What can we do so that today's research becomes much more inclusive? How do we create an enabling environment where Academia and refugee expertise are all in the same room with equal rights, with equal power when it comes to designing any kind of research? For me, any research on forced migration needs to create a mutual space for refugee experts and refugee academics, refugee leaders and refugee-led organizations to be able to discuss policy and operational options for the countries they are living in or the region they are living in and also all the other complex migration issues. I feel like at least up until now, some of the research that we have been involved in or the feedback that we have been receiving, we have been working in different regions, the research dialogue is not necessarily aiming towards communication or building trust or confidence as its primary objective. It should be the main and the first aim of every research: how do we create a space with open lines of communication, how do we ensure that we are

able to build trust and confidence with those who work with forced migration? This is quite crucial to promote inclusive ethical research. Once this is achieved, it will be much easier for us to start identifying areas of mutual interest and to deal much more effectively on policies and research responses that we want to do.

I am talking about being able to co-design a process with those that have lived experience and ensuring that they are there, but to be there they need to be able to trust those collecting the data. It is not easy for people who have been traumatized in long journeys of asylum, either still living in that journey or having lived the experience, to be able to share their personal stories. It is not just a matter of data, there is so much more to it, so, hence, being able to build those open lines of communication and trust is so important. Going back to what Anila mentioned, going beyond storytelling, going beyond *ad hoc* consultations, I feel like the language around refugee participation has existed for a bit and I think it is the practical terms, it is the processes and the mechanisms which are leading to review and change so that it becomes much more inclusive. I really feel that there needs to be a particular focus on how the new consultation mechanisms can be developed to bring true understanding of situations of potential and actual displacement and really be able to generate and coordinate an effective response.

To be able to make an effective consultation, it requires some level of preparedness, and I feel like most of the research is done in a very insensitive manner, where it is more about collecting data for the purposes of the research. I believe there needs to be an angle of empowerment, with refugee-led organizations and refugee academics involved, and ensuring that there is mentoring and coaching purposes to it as well so it becomes much more of a learning circle for those that are being involved, so not only they are part of the statistics, or part of the data collection for the research, so that there is also another way of acknowledging and bringing agency and ownership back to those people's work and voices.

One other aspect which we have come across a lot when research has been taking place is around security. I have been looking at some universities' ethical application forms to see the approach they adopt and whether the research is ethically done or not, and what we realize is that so far most of the approaches have not been ethical. I think that when there is data collection for any kind of research related to forced migration, refugee voices are not being meaningfully included in whatever the purpose of the research is. Some of the feedback that comes from affected communities is that usually refugees are contacted only at the last stage of the research when they are asked to participate in interviews and asked to be part of initiatives and projects just for the purpose of sharing their stories and their voices. However, there is no feedback from that moment onward or there is no review process on how they can expand and engage further with the research.

It really goes back to how we can create spaces where refugee academics can also become co-developers of research. It goes back to the point Anila was making, how

do we share this space, how do we share the power that exists, whether it is within the research field, whether it is with philanthropic organizations, whether it is with NGOs and program design. In the end, it is about being able to create that space and allowing them in, facilitating some level of support and resources. When we dialogue with forced migrants and refugees, it becomes ethical, it becomes much more meaningful in ensuring those voices are included in a way that agency and ownership trace back to the people who have contributed.

## NEW DIALOGUES WITH NGOS

*Emily Arnold-Hernandez<sup>57</sup> and Lublanc Prieto<sup>58</sup>*

**Emily Arnold-Hernandez:** I'm Emily Arnold-Fernandez, founder of Asylum Access where I served as President & CEO for 17 years (until last month!).

Just before I left Asylum Access, we and 5 refugee-led organizations collaborated to launch the Resourcing Refugee Leadership Initiative, which provides catalytic funding to refugee-led organizations and advocates to position these organizations at the center of designing solutions to forced migration and displacement. My dear colleague Lublanc Prieto, founder and Executive Director of Refugiados Unidos in Colombia, joins me for this keynote on Dialogues between Academia and NGOs.

Much has been said over the years about opportunities and challenges that arise in collaborations between the academy and NGOs; I will not repeat these. Instead, I would like to highlight two points:

First, the constellation of powerful actors that address forced migration and displacement is shifting. For example, ten years ago, the International Labor Organization (ILO) largely ignored refugees, as they were not central to the organization's areas of focus -- even though refugees labor all over the world, and even though many migrant workers meet the prevailing international definitions of a refugee, whether or not they choose to identify as such. Despite this, the International Labor Organization largely did not focus on refugee populations.

Similarly, the World Bank mostly saw refugees as detrimental to national economies, even though the real detriments were proximity to conflict -- with all the economic disruptions that creates -- coupled with widespread exploitation of refugees

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<sup>58</sup> Lublanc Prieto is a Lawyer and Human Rights Activist. She is a Venezuelan refugee, who currently resides in Colombia. She is President and a Founding Member of the Fundacolven. She has played a major role in launching campaigns with organizations throughout Latin American serving refugee communities, specifically strengthening the rights of Venezuelans in Colombia.

that undermines economic growth. In other words, there was a correlation between negative economic impacts and refugee populations, because conflict causes both refugees and negative economic impacts. Moreover, unless a state integrates refugees into its labor economy on equitable terms, other actors will take advantage of refugees' lesser power in a host country to seize individual economic advantage at the expense of the national economy.

While ILO ignored refugees and World Bank saw them as detrimental, UNHCR remained the undisputed queen of forced migration response - but a queen acting alone, a leader without followers or collaborators.

Today, the World Bank, the International Labor Organization, the International Organization for Migration, all are much more deeply involved alongside UNHCR in shaping responses to forced migration and displacement. The World Bank in particular, and regional banks like the Interamerican Development Bank, are finding that stable low- and middle-income countries often are not interested in their loans; rather, to remain relevant, they are engaging with countries affected by, or proximate to, conflict and violence. For all of you who are academics working on forced migration, this means you may find that you have opportunities to engage with powerful institutions that are newly interested in your work.

Second, calls for refugee leadership of responses to forced migration and displacement have grown dramatically over the past five years. This is partly because of the truly heroic efforts of refugee-led networks such as the members of the Global Refugee-led Network, and of refugee political activists like Anila Noor and Najeeba Wazefadost, who you will hear from shortly. It is also because of wider movements for leadership by affected people, from the decolonizing aid efforts of groups like the NEAR Network, which helped broker the Grand Bargain at the World Humanitarian Summit, and a broad range of movements for recognition and redress of harms around the world that have gained traction in recent years.

One place these calls have borne fruit for refugees and forcibly displaced persons is in the increased space and resources given to refugee-led NGOs. Compared to five years ago, we are starting to see an investment in those organizations. As you as academics engage with NGOs, you may find more opportunities to engage with refugee-led organizations, often grassroots, almost always significantly under-resourced, but closer to and better informed about the nuances of problems related to forced migration, and with important ideas about solutions. I know Anila and Najeeba will speak to the fact that refugees and refugee-led organizations are mined for data and connections but too often are not funded or compensated, are not invited as experts to the back rooms where deals get made, are not positioned as leaders. And I know they will talk about how that is changing, slowly.

For myself, I want you as academics to be aware of these shifting dynamics - awareness is an important starting point. I also want to encourage you to continue to do what you do best: to ask questions about the impact of your research. To

ask questions about the agendas behind proposals to collaborate, particularly with powerful institutions or where not everyone involved is fairly resourced, in particular refugee-led, grassroots, and community-based NGOs. And to seek out opportunities to bring your intelligence, insights, and ability to reveal truth into partnership with NGOs that are close to forced migration and forced migrants -- in particular, refugee-led organizations.

To talk a bit about how collaborations with refugee-led organizations may work, I will now share the floor with my colleague Lublanc *Prieto of Refugiados Unidos*.

**Lublanc Prieto:** Muy buenos días, muchísimas gracias Emily y Carolina.

Bueno, voy a hablar sobre, un poco más a detalle, a pesar que mis compañeras ya han hablado sobre esos procesos de cambio que ha venido teniendo el reconocimiento a la población refugiada y a nosotros dentro de las organizaciones.

Voy a hablar un poco también de cómo yo llego a este proceso, porque muchas veces no se habla de la realidad de Latinoamérica, de donde vengo. Yo soy venezolana, y mi proceso en estos últimos años, que sabemos que ha sido un proceso de movilidad humana forzada, que proveniente de Venezuela ha venido creciendo, aumentando, durante los últimos cinco o seis años, en donde ha sido el impacto global, y estamos siendo reconocidos como el segundo país con mayor movilidad humana del mundo.

Dentro de este proceso ha venido una situación de reconocimiento hacia sí somos o no somos refugiados, porque no venimos de un proceso de conflicto armado, pero de violencia o violación masiva y generalizada de derechos humanos. En este impacto y en este proceso, el reconocimiento como líderes refugiados ha sido un poco de paso a paso, y este proceso tanto para institucionalidad en donde los países donde vivimos, como también para la academia ha sido también un proceso para ese reconocimiento.

Aunque les puedo decir que desde Latinoamérica han existido muchos avances con respecto a la academia. La academia ha venido pasando por procesos de comunicación mucho más directos con nosotros, desde espacios, es verdad, de intervenciones, espacios de ponencia, espacios de investigación, o espacios de procesos también de construcción de proyectos mancomunados, pero es importante establecer que muchas veces, como les decían mis compañeras, no somos vistos como seres humanos, o no somos vistos como constructores de nuestras mismas soluciones, sino somos vistos como cifras o implementadores de ciertos proyectos, y esa es la nueva línea, la nueva forma, que hemos querido venir haciendo ver y cambiando dentro del sistema y de las grandes organizaciones como ACNUR, OIM, espacios muy emblemáticos e importantes de organizaciones en donde ven que los refugiados son necesarios, pero no nos ven como constructores de nuestras propias soluciones.

Y por eso la academia ha sido ese punto de enlace en donde nos hemos ido acer-

cando poco a poco a la academia, para mostrar verdaderamente cual es la potencialidad y las cualidades que tiene la población refugiada. En este contexto siempre abrimos la puerta para la academia en donde les decimos que ustedes son parte de una construcción del futuro de lo que pueden ser vistos los refugiados verdaderamente, no quedarnos solamente con historias y con cifras destacadas de cómo estamos viviendo, o donde estamos viviendo, sino es vernos más allá y ver que somos procesos constructores dentro de nuestras comunidades.

Por ejemplo, nuestras organizaciones crean espacios de comunidad dentro de nuestras mismas comunidades, a través de integración y procesos de crecimiento y desarrollo dentro de comunidades de acogida y comunidades refugiadas. Esta integración de las comunidades hace que estos mismos Estados, en donde estamos localizados, puedan tener un crecimiento y un desarrollo internamente, colaboramos dentro de los procesos de construcción de procesos internos.

¿Qué es dónde llegan las limitantes para nosotros? El acceso a derechos, el acceso a que seamos reconocidos dentro de procesos de que nos escuchen, o escuchen nuestras voces para construir nuevas políticas públicas o cambio de políticas públicas. Y por eso, sentimos que la academia es un paso importante porque muchas veces la academia nos escucha a nosotros en el proceso de construcción de cambios normativos o propuestas de investigaciones para esas realidades, pero muchas veces no es reconocido tan fuertemente por los gobiernos o los Estados estas voces nuestras, ya que piensan que las organizaciones lideradas por refugiados no son procesos constructores, o consideran que solamente somos o se escuchan que somos historias pero no ven más allá que sí somos historias, somos seres humanos, pero somos seres humanos con capacidades, con habilidades, con competencias, con desarrollos, a parte muchas de la población proveniente de Venezuela. Lo puedo destacar en el espacio, somos profesionales de segundo nivel, tenemos doble titulación, tenemos especialidades, maestrías, y sé que en el mundo también existen muchos refugiados de esta forma, y que lo que queremos es construir.

Dentro de esta óptica es importante que la academia vea que tiene una función muy poderosa dentro de estos espacios, dando un enlace entre las organizaciones lideradas por refugiados y las realidades que se viven dentro de grandes organizaciones o de espacios de poder importante, a nivel de subversiones, pero también a nivel de espacios de gobiernos, donde los gobiernos pueden escuchar a la academia y pueden sentir que esos cambios pueden ser posibles y pueden venir de nosotros mismos.

Muchas veces, lo hemos vivido bastante en Colombia, es que nosotros, se ve que somos un proceso de asistencialismo, que el refugiado solamente necesita un momento de atención o una temporalidad, pero no ven que dentro de ese proceso nosotros ya llevamos años en el proceso de establecimiento en algún lugar o en alguna región en donde se necesita construir procesos normativos, procesos de integración, procesos de estudios, más amplios de cómo nosotros podemos apoyar en la construcción de ese desarrollo, pero también apoyar en la construcción de nuevas



políticas públicas.

También es esencial, y que me llama mucho la atención, como mis compañeras decían que dentro de estos procesos también de reconocimiento por parte de los grandes donantes, muchas veces no ven hacia abajo, porque consideran, y creo que es destacable que ustedes como academia pueden hacer ver un cambio dentro de esos procesos con las investigaciones que ustedes hacen, en donde no quede arriba solamente con grandes organizaciones los recursos, en donde esos procesos son mucho más burocráticos, son procesos mucho más difíciles de llegar verdaderamente a la población, y en donde todavía es visto como solamente asistencialismo la forma en cómo se debe atender a la población.

En cambio, si vemos hacia abajo, y si esas soluciones llegan hacia abajo, podemos cambiar la historia porque precisamente la población o la comunidad refugiada son los que saben cuáles son sus verdaderas soluciones, y cómo podrían impactar esos cambios dentro de su comunidad. Así que es importante poder tener ese cambio y esa posibilidad de interpretar y poder llegar hasta nosotros. Así podemos construir entre todos un cambio y un verdadero futuro para los refugiados. Gracias.

## NEW DIALOGUES WITH ACADEMIA

*Pablo Ceriani Cernadas*<sup>59</sup>

Good morning or good afternoon to everyone. Let me first thank the organizers for inviting me to participate at this very timely and important discussion on forced migration recent regional approaches to global issues. Secondly, please excuse me for not being present today at the discussion with the colleagues and the other participants. Unfortunately, I was not able to attend today so please excuse me for that.

In these few minutes what I wanted to do is just share a few thoughts on some of the trends and challenges in regard to human mobility and the protection of migrants, asylum seekers and refugees in the context of Latin America. But also having

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in mind some of the global trends and challenges in this field. I will do that thinking on the role of the academia. So, my first few minutes will be based on the role of academia and then, connected to that point, I will just leave a few examples on substantive matters.

In my opinion, the academic sector in partnership with the stakeholders could provide some ideas, proposals in terms of informing some policies and practices, or informing the change of policies and practices. Specifically, those policies and practices that nowadays are impacting the rights of people that have been fleeing from different countries of the region to other countries, or that are coming to the Americas from other regions.

My first point is focused on the academic role. I think we have a very clear responsibility in terms of providing ideas, proposals, inputs, evidence to different processes: policy discussions (both design, implementation, assessment), legislative reform opportunities, or even in the context of strategic litigation and strategies that are being developed by the academia, civil society organizations, or other stakeholders. Some of those processes could be critical for providing, by the Academia and its partners, technical analyses, and proposals, including evidence from the field in terms of the impact of migration and asylum policies or other related policies on the rights of all migrants -including asylum seekers- and their families.

What I wanted to flag in particular is our social responsibility and even political responsibility as members of the academic sector involved on human rights issues. In this regard, when we think of universities from the Global South in regions of Latin America that have been coping with structural challenges and inequality, social responsibility has to be considered, in my opinion, a key factor for framing the development of researching, teaching, training, advocacy and other activities. This should include both methodological aspects as well as the goals pursued in each initiative.

We see discrimination due to different factors - ethnic based discrimination, gender discrimination, discrimination based on disabilities or other factors; violence, gender based violence, social violence, institutional violence and so many other structural problems that have been leading to the reality that we know in terms of poverty, violence, insecurity, lack of opportunities and so many others that at the end of the day are the structural factors and drivers of migration.

We deal and work on topics or matters such as forced migration and human rights protection, access to asylum and many other relative matters. Therefore, I think that the academic sector has a very clear responsibility when we develop our actions related to pressing issues that impact people in the context of human mobility, especially those who are in vulnerable situation. Our activities, in such a challenging context, should be primarily oriented to promote social and policy change. With different partners, including civil society and other kinds of institutions, international organizations and so on, even from the political sector, academia has a critical role for providing evidence-based proposals and analysis. This is central in the field of

migration policies, where stigmatization, false representations, myths, and political interests tend to fuel narrow and harmful policies and practices.

Orienting our initiatives to policy and social change is not only about the outcome to be achieved. It is also about what we do, how we do it, with who, and more importantly when it comes to academic sector, what we say, in terms of partnerships, academia should work very closely to civil society, to migrants and refugees themselves who are working on this field. There are plenty of grassroots organizations and other key stakeholders that have very clear and comprehensive information on what is going on the ground, on the actual impact of policies on the lives of people that need to migrate, or the lives of migrants and refugees in transit or destination countries.

Then, one point that I wanted to highlight is that, at least in my opinion, our role is just not developing some kind of theoretical analyses on a particular aspect of human mobility but providing evidence in order to inform policies that should change in order to protect people that need to move, that need to leave their countries, that are on the move, are crossing countries, seas, deserts, rainforests and so on. The key goal is not only to prevent the loss of lives but also to protect their rights, to ensure that they can flee their countries if they need to, that they are protected, and they can safely, orderly, and regularly access another country in order to either seek asylum or ask the protection of other human rights.

My second point is to think about on this responsibility of the academic sector through two concrete examples on substantive issues. These examples, in my opinion, evidence some of the main challenges that we have been facing for the last years in the region. The first one is in terms of the narrative, the concept that we have been using in order to address forced migration. I think that some years ago the region and many, perhaps, South American countries, had been developing, to some extent, a rights-based approach to human mobility. Many countries adopted rights-based commitments and statements, although in some it was more a rhetoric commitment rather than one that led to policy change, or maybe it did but in a very slow and incomplete way. This region was characterized for developing - since the very first years of the century - some changes in terms of legislation and some policies in both national and regional level. These reforms, of course, had contradictions and limitations, as well as important problems and challenges in terms of implementation. Nevertheless, there were concrete practices, laws, measures, and programs that were moving in that direction, that is, towards a rights-based and aiming at protecting those people that had to leave their country.

On the contrary, in the last few years, there are some trends that, when compared to the situation ten years ago, are more similar to challenges that the academia with other stakeholders had been evidencing in other regions. For example, in the North of Central America, Mexico and the US migration corridor, as well as in the corridors to the European Union, in particular from the Southern border, or in

Australia, where externalization policies, a security approach to irregular migration, and in particular, a narrative on migrants vs. refugees, have fueled narrow migration policies.

What I mean, thinking that role of the academia, is highlighting the relevance of how we are defining forced migration nowadays, and how these terminologies and narratives are leading to different kinds of policies and practices. And I think that, to some extent, we have been incorporating a very toxic way of thinking about forced migration as it focuses exclusively on the international framework of Refugee Law. Which I think is a mistake because what we are doing when we do that is just thinking that protecting people that had to leave their country is only about granting asylum, in spite of the fact that the international framework for protecting people is every single piece developed under International Human Rights Law. These legal tools integrate a very comprehensive framework for protecting people that are in vulnerable circumstances, understanding vulnerability in terms of human rights deprivation, as is the case of human mobility, especially when it occurs in irregular and unsafe way.

While one of the human rights to protect those who have fled their countries is the right to asylum, there are many other rights at stake, which should frame policies and practices, as well as the narrative we use for explaining this reality. Therefore, when we use a narrower terminology, which have been very widely used, for instance, in the European Union, that is, “economic migrants” -in an attempt to distinguish them from those that may end up being recognized as refugees-, we could be indirectly contributing to validating narrow and harmful policies. The concept “economic migrant” is not a legal terminology, a legal concept, is just a very wrong way for calling people that have been fleeing their countries in very vulnerable circumstances, but because of different factors, that is, for many reasons, they have not been recognized as refugees. Such concept makes invisible many structural factors in terms of human rights deprivation of people that have been forced to move. That narrative is meant to justify responses to irregular migration which are not in line with basic human rights treaties, their principles and standards. Academia should be in a position where this narrative is properly contested.

So, when we think of the reaction for instance to the Venezuelans’ migration, or Haitians, Nicaraguans to some extent, or people from Honduras, El Salvador, Guatemala in the last five, ten or fifteen years in the region, I think that there is a need for strengthening and broadening the protection scope in terms of the narrative. In this regard, academia is in a critical position for strengthening a narrative that highlights the concept of vulnerability of those who are forced to migrate, and they cannot do that in a regular way due to a number of factors, mainly policy factors. Not only in the region, but in many regions for the last decade, I would say, there have been a growing trend which has built a sort of an inversely proportional relation in the sense that the more vulnerable the living conditions of people are, the less opportunities

they have to migrate in an orderly, safe, and regular way. And then, a narrative has been developed for denying the grounds that most of them should have in order to receive a protection-lens response -based on international human rights laws- (including refugee law).

Consequently, those people that were in the worst or a very vulnerable circumstance in their countries of origin have been having less and less opportunities for fleeing the country in a regular and safe way. The response to this kind of migration in a very unsafe and irregular way have been for the last years in the direction that contributed to increasing the vulnerability and irregularity, and all the risks to abuses in transit and destination. This regressive trend has been witnessed for the last years in almost all of the Latin American Region, which was not the case until a few years ago in some countries that had been promoting progressive migration governance policies.

Hence, my point, in terms of the academic role, is that we can contribute -again, with other partners- to challenge the terminology on forced migration, to push for a broader scope, ensuring that when we talk about the international protection, we talk about the whole pieces of the International Law framework. I mean, the International Human Rights Law, Refugee Law and Humanitarian Law, in order to protect those who are fleeing in very vulnerable circumstances, ensuring that they can do that in a very protected and safe way. In the region, particularly in South America, we have moved, to some extent, from a very strong commitment even in terms of a legislative reform to recognizing that migration as a human right, to talking about economic migrants, the so-called “abuse” of asylum system, and irregular entries/stay as something to be sanctioned -that is, moving out the vulnerability and protection approach-. This is just a consequence of some regressive policy shift which was accompanied by strategies in terms of narratives. Then, again, we need to challenge that, and academia can play a role in that.

The second example for evidencing the role of academia is in terms of irregularity and regularization. I believe that the academia can and should play a stronger role in terms of thinking of irregularity with different lens. Namely, getting rid of the idea of irregularity in the sense of an illegal action, and moving to a regularity indicator of vulnerability. Plenty of evidence and analysis has been done in order to demonstrative the inseparable and increasing relation between irregular migration (exit, transit, entry, stay) and the development and implementation narrow and ineffective migration policies.

Then, academia should strengthen its work on irregularity as something that States must address with the right approach, that is, protecting those who are in those conditions rather than prosecuting them and restricting them access to very basic rights. This wrong approach pushes them to move in more vulnerable and risky conditions, as many reports from academia, civil society, international organizations, human rights protection mechanisms, and, also, some States, have evidenced.

Summing up, in these two -among many- examples that we can discuss, that is, the narrative in the context of forced migration, and to address irregular migration, the academic sector can and should increasingly provide concrete inputs for having meaningful policy discussions. I mean, serious, democratic, and participatory discussions directed to inform policies in the region. Also, aimed at ensuring that the region contributes globally to develop and implement actual good practices in the sense of human rights evidence-based policies and practices. These policies should provide real access to safe and legal channels for migrating, ensure that regularization is a matter of basic social inclusion policy, and be built on a comprehensive narrative that grants the proper protection to all who migrate in vulnerable situation.

That is what I wanted to share, firstly flagging our responsibility in terms of the academia and our responsibility for social and policy change. Secondly, providing some concrete examples on areas where we should increase our contribution to policy discussions at local, national, regional, and global level, promoting policies and practices which actually uphold the International Human Rights Law framework built by the States since the half of the Twentieth Century. I think that the region can provide actual good practices if they, again, ensure a broad approach not only in a rhetoric way but also, actual policies and practices. Due to recent regressive trends, as well as some narrow policies implemented by some countries for the last decades, in Latin America there are plenty of remaining challenges yet for getting to a new human mobility policy paradigm.

## NEW DIALOGUES: INTERDISCIPLINARY DIALOGUES

### **Migration is a total social fact and necessarily interdisciplinary**

*João Carlos Jarochinski Silva<sup>60</sup>*

First of all, I would like to thank the organizers, especially Professor Liliana Jubilit, for the invitation to be part this keynote session in which I have the space to discuss Interdisciplinary Dialogues. I wrote this presentation in order to better organize the ideas that I will propose here and try to make it easier for the audience to understand. The title of my presentation is *Migration is a total social fact and necessarily interdisciplinary*, but how do this?

Migration (he wrote immigration) is a ‘total social fact’, as the Algerian Social

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Scientist Abdelmalek Sayad (1991) has already pointed out. Almost 25 years after his death, the phrase remains current and, given the validity of its precept, has been reproduced in several contemporary academic works. Inspired by Marcel Mauss, Sayad sought to analyze the migratory phenomenon in its entirety, since it touches and transforms all spheres of societies, whether emigration or immigration, and allow me to insert one more category, the places of transit of these migrants. For Sayad, the category “migration” is central to his reflection on social life and, necessarily, implies resorting to different fields of study to properly investigate the phenomenon. (Villen & Dias, 2021)

However, despite the numerous references to Sayad in current works, little is verified in these texts about the perspective that actually contemplates this vision of Immigration as a ‘total social fact’, in which an epistemological and cognitive itinerary is necessary that takes place at the intersection of social sciences with a meeting point in numerous disciplines such as History, Geography, Demography, Law, Sociology, Social Psychology, Anthropology, Linguistics, Political Science.

As Natalia Ribas Mateos (2004) wrote, a topic such as migration is approached from a wide range of fields: the importance of the economic functioning of labor markets for economists, the revision of the concept of identity for social psychologists, the vote of immigrants in political sociology, the cultural challenges of immigration for anthropologists, low fertility rates for demographers, etc. These are examples of how immigration is being addressed from multiple fields, such as the different social science disciplines.

However, today, what is observed is that the studies of human mobility, in which forced migration, the theme of our event, is inserted, is that it goes beyond these large areas of knowledge production and are responsible for the very expansion of these disciplines.

In this sense, how can we account in our research for everything that involves migration, when from the scientific point of view we have an academic dynamic, which is repeated in institutional, governmental and international organizations inserted in the theme. These approaches are increasingly specific, with views focused on specialties and specificities, in which other disciplines enter as elements of analysis that, in some cases, even become elements of disputes over the field, as is presented in the literature with analysis of the dispute between International Organizations for the space of action and resources.

Thinking in this way, is this interdisciplinarity possible? This question is because in face of new identity dynamics, power struggles, the search to give voice to the research subjects and the attempt not to place State rules as the most important parameter of the analysis.

Some will say that turning to Philosophy can be a path, because the search for essence is part of this form of knowledge construction, which necessarily requires dialogue with scientific production in its prepositions. Despite fundamental reflec-

tions for the understanding and analysis of the migratory phenomenon and its consequences, including in the ethical field, the perspective I defend is that in this search for the essence there are a series of gaps that are difficult to overcome, as when we see that the established definition of refugee in some reflections has little dialogue with the legal category that defines the condition of refugee person. Or, in another example, the cases in which ethical and moral aspects are presented on the subject that focus on social or State dynamics and that have little dialogue with elements such as budget to think about the actions developed and that should be developed for migrants. Therefore, despite the substantial contributions of Philosophy, from my perspective, Philosophy alone cannot handle an interdisciplinary perspective.

I inform the audience that I am neither a Schopenhauer believer nor a pessimist. I am just pointing out some difficulties that I have been experiencing in my trajectory as a researcher of human mobility and as someone who has been trying to collaborate in the construction of public policies and responses to the difficulties faced by those who move, especially when this happens in a forced way. Having made this warning, we must return to interdisciplinary dynamics.

There is no greater interest and space for the study of migration in its various elements than nowadays, which means that there are greater contributions and perspectives, which, while enriching the analyses, make research difficult for those who wish to explore this subject matter more deeply. Anyone who, for example, intends to carry out a bibliographic review on any of the facets or events of forced migrations will come across an infinity of works developed. While you are doing your research, there is a lot of work being done by other researchers and more to come.

I resort to my own experience here to try to make myself clearer. My experience is not very vast, but it has already allowed me to live some situations that help me to reflect. I have lived close to the border between Venezuela and Brazil since 2013, therefore, I have followed the forced mobility of Venezuelans in Brazil since its outset, between 2015 and 2016. In the beginning, there were few works on the subject. I even believe that I contributed to these early works. In addition to the arrivals of these migrants, which varied in numbers over time, apart from the social issues of their own origin, such as the arrival of groups belonging to different classes, the cross-border mobility of indigenous and non-indigenous persons, the change in the age range of those on the move over time, I could also observe the arrival of Civil Society Organizations, State authorities and International Organizations to deal with this mobility, which obviously expands the range of analyzes to be carried out. At this point, the situation has changed from a few works produced on the subject to a context in which I can no longer follow all the academic production on the mobility of Venezuelans in Brazil, as it is increasingly vast in quantitative and disciplinary terms. Even in the Masters' program I teach, I admit that I have difficulties in understanding the various aspects that have been produced, so, you can imagine having the intention of following everything that is being done in different places.



No matter how much effort I make, my lack time and repertoire, makes it difficult to fully understand what has been produced. In this sense, I need support from other researchers to understand the approaches. Moreover, this also happens because we are experiencing a moment in which Academia, and here I mean the University, becomes increasingly specialized, contradicting the very same idea of a University. How to be interdisciplinary in this context? How to attend to Sayad's precious teaching? How to think in a less fragmented way?

It seems to me that the first requirement is that we academics, engaged in the field, and authorities acting in governments, international organizations and organized civil society, accept our limitations. Given the complexity of the subject and of migrant people, here thinking about all the different migratory categories, but always emphasizing that they are people and this already represents an enormous complexity, a fundamental element is to accept that we will not be able to handle everything, it also shows that we need strategies to overcome our limits. But, at the same time, it is a fundamental precept for all those who deal with human mobility that we must seek to exceed our limits in terms of knowledge, as well as a commitment to the search for improving the living conditions of those on the move.

After this first attitude, and the term attitude here is intentional, it is essential to establish a collaborative dialogue with other outputs and entities, seeking to know, value, point out flaws and see merits in other outputs. The greater the collaboration, the better the conditions for us to be able to seek in migration the interdisciplinarity necessary to understand the theme. Allow me another small philosophical incursion here: migration in this case would be our thing-in-itself. In this sense, spaces such as this event, IASFM, are very relevant. I can say that I learned a lot from the debates I followed and that part of the reflections proposed today were the result of the presentations I was able to follow during this week. I had the opportunity to get in touch with innovative and provocative perspectives that led me to reflect and, above all, to question certain positions I have in relation to certain subjects. Undoubtedly, opening space for other approaches and actions is a requirement to overcome our limitations so that we can try to achieve the highest possible degree of interdisciplinarity.

Another relevant point that can be observed for better interdisciplinary practices is the establishment of more intense links between those who are in the field, researching or acting empirically, with those who carry out their reflections from these reports, reflecting from theoretical or of production reviews. In many cases, researchers try to carry out both actions, which is a very interesting initiative, but which is not always possible, as the Pandemic showed us in the last two years, apart from the fact that carrying out both actions, the field and the revision of the production in order to give more information to the reflections, does not mean that we are free from limitations and misunderstandings. Furthermore, the field is essential for giving voice to the subjects (persons) and can become an interesting element in the fight against one of the greatest difficulties that affect academic production and poli-



cies for immigrants that is colonialism, another topic that has been widely discussed in our event.

Finally, I reiterate the need to be collaborative. There is no complete interdisciplinarity in a single person or institution. Knowledge, even more in this broad perspective, is not the property of a person or entity. We have to fight against selfish and competitive postures that forms real walls between us. How can we criticize the construction of walls that affect so much the people forced to migrate if we ourselves establish walls with our colleagues and between institutions?

Budget, prestige or publications cannot be more important than the responsibility to those on the move. Forced migrations affect the lives of many people around the globe, if we cannot be collaborative, how can we wish to point out solutions or perspectives on the reality of these persons?

Some will say that Sayad managed to produce so many reflections because he himself was a migrant subject. I do not think this is a necessary requirement. I believe that empathy with the research subject, with another researcher, with another institution is enough for us to realize that we are not unique or that we do not have the final word on the topic. Empathy allows for dialogue and dialogue is always inter, trans, multidisciplinary.

Thank you very much!

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## NEW DIALOGUES: INTERCULTURAL DIALOGUES

### Inter- and Intracultural Dialogues: Critical Reflections on Power in Researching Forced Migration

*Rose Jaji<sup>61</sup> and Ulrike Krause<sup>62</sup>*

**Ulrike:** Thank you, thank you very much for the warm introduction and welcome, it is a pleasure for us to be here. For me personally it is such a big pleasure to share this speech with Rose. Considering the title of the keynote, “New Dialogues”, Rose and I got together in the past weeks and decided to actually proceed in a form of dialogue in our keynote. For that, we want to focus on power issues in researching forced migration, engage in critical reflexions and raise three guiding questions. Time is limited, and in case there are any questions, please feel free to raise them in the chat. Rose and I will do our best to answer them later or via email as mentioned at the beginning. Again, thank you so much.

Here is the first question that I present to Rose: how can we ensure intercultural and intracultural sensitive research?

**Rose:** Thank you, Ulrike, and thank you so much everyone for being here to listen to us. As Ulrike and I have been sharing ideas for quite a number of years now, we have talked about a number of issues in migration and forced migration research. One of the issues is that when we look at migrants and refugees, we tend to think these are the overarching categories. We forget that these people also have cultural backgrounds in which they make meanings; in which they name things. In view of this, we spoke about how we do research and some of the issues that we sometimes do not even consider. One of these issues is the very idea of concepts and categories. We need to remember these are formulated or created within specific cultural contexts,

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and, as we do research, we need to ask ourselves, to what extent do the concepts and categories that we use in forced migration research apply across cultures, and how are they interpreted in various cultures? We need to think about this instead of simply pretending that our understanding of these concepts and categories applies across the board so to speak.

In thinking about cross-cultural research, we are also looking at the issue of mutual curiosity. We are not the only people engaging in research in the researcher-researched interface. The people that we do research with, that we engage in the field, also want to know who we are. They also provide information based on what they think about who we are as we do research. This encounter is a negotiated interface, which means that we keep asking for permission, we keep asking these people whether what we are doing is still fine with them much as they have said yes at the beginning. We have to have these conversations in terms of our presence in the field. We are also co-producing the narrative. Hence, we are not only obtaining information from research participants who happen to be forced migrants in this case but also providing information when we have conversations; this is not a one-way street kind of conversation where we ask questions and they provide answers. We also provide information because they ask us questions too.

And we would like to emphasize that when we talk about intercultural research, we are also aware of the challenges of intracultural research where you cannot say just because you are a member of a particular culture, then you do not need to reflect on a number of issues. Culture is multi-layered and belonging itself is also very fluid so one may be a member of this culture but one may be an outsider because one does not share this particular experience. For example, the experience of being a migrant. If you follow people, your compatriots in the destination country and then you start doing research, honestly, you may not understand how they live their lives in the destination country as migrants.

This brings me to the issue of cultural singularity and how it mutes people. I think you are familiar with the work of Spivak and the issue of epistemic violence where we need to always remember, when people speak – are we listening to what they are saying? Yes, we may be asking questions and they respond – but are we really listening to what they are saying? Lastly, on this particular question, we also wanted to talk about the issue of boundaries. We normally say that we do research for academic purposes. What exactly are academic purposes? Do we explain? When we record videos during fieldwork, do we tell these people how exactly we are going to use the videos? For example, that we are going to show them at conferences? Or we simply subsume everything under informed consent? Ulrike, it's back to you.

**Ulrike:** Thank you so much. Exactly, drawing on the reflexivity that you pointed out, I also think it is important to place the people at the core of our work. This is particularly crucial considering interdisciplinary research. Research about forced migration and displacement can take place in various disciplines whether it is International

Law, Political Science and Sociology, Religious Studies and so on; it can focus on various levels such as international organizations, humanitarian aid, refugee camps, agency; how refugee camps are run, how refugee law is interpreted, and how the people experience local conditions. Each disciplinary perspective is relevant; however, if we work with people who have experienced displacement, then, exactly what you pointed to is central – not only asking questions but mainly listening to their own understandings of life in exile, which can go beyond the questions.

Part of that is our own responsibility as researchers – especially if we want to carry out ethically responsible research – is to “leave some stones unturned” as Liisa Malkki said in her book, I think twenty years ago or more. Understanding forced migration studies on ethical terms means essentially not to ask all the questions we are curious about, that we want to know about. This would ultimately translate into spying on people – and not carrying out sensible research. We must consider the people and respect their rights and this includes, of course, our respect of their privacy.

Finally, I would like to add one more aspect: language. If we want to work with people, of course we need to speak their language. But from an intercultural perspective, it is not only a matter of the language we speak and listen in and that we write – academic writing being a whole different form of communication compared to spoken languages. Moreover, it is also customs, navigating the surroundings, taking people’s privacy seriously. Basically, knowing your way around and respecting the conditions in which the people live, and we carry out research. I am German, a white, Western-trained researcher with a focus on displacements globally as well as in Uganda and Kenya. I am often asked; how did I carry out research in contexts like Uganda? I did so by having lived there for several years and learning to appreciate the differences. Am I aware of everything? Of course not. But I am trying to learn; to adjust. And I think this is important if we place the people at the core. And I remember Rose, you have mentioned in one of our many discussions, one experience of a scholar at a conference who showed photos. Would you like to perhaps briefly reflect on it?

**Rose:** Yes, sure. Actually, it was a video clip. This researcher had been researching with Zimbabwean migrants and I happen to come from that country myself so I am aware of the cultural issues that, usually, people do not allow strangers to enter their bedrooms because this is private space. She was allowed because, in terms of politeness, we do allow people into this space if there is no other indoor space to accommodate them and we are thinking they will use their own discretion. But in this case, she must have thought: “They allowed me to record this video, walk into this room, so I can use it.” I was a bit bothered when I saw this woman show the video at a conference because I understood the cultural context in which they had allowed her in.

This is just one of the critical examples marking the boundaries of people’s consent; there is a limit to what they are saying yes to, so it is important to ask the next question, “Can I show this to the world?” Or something like that. Back to you, Ulrike.

**Ulrike:** Thank you so much. Exactly, these boundaries are non-exact boundaries and they bring me to my next question: What issues can arise in researcher-researched relations?

**Rose:** We must consider methodological and epistemological issues in relation to positionality. How do we do research and how do we come to the conclusion that what we now have is knowledge? What happens in that kind of situation or context? And also, looking at the issue of contestation of knowledge and meanings. When we interpret people's experiences, whose interpretation are we providing? Is this their own understanding or our own understanding of what is going on there? So, sometimes we render certain categories invisible especially those that are non-essentializing. If we look at forced migration, usually we subsume everything under the category refugees. Do we ever think about these people as political activists? These are people who have political agency, and they fled their countries because they took their oppressive governments on. Considering the overarching debates in forced migration research, we rarely think about that capacity when we talk about refugees; we instead tend to think about the people as helpless. So, the question is, what is the primary identity of these people: is it being refugees or is it being political activists? We need to look at these and other invisible categories and maybe the categories that tend to be obscured by this category of forced migration or forced migrants. We need to also move away from essentialist categories because these categories pathologize people and obscure their agency.

Sometimes we as scholars talk about helping people and, meanwhile, the same people are telling us that they are the only ones who can change their situation. Already, there is no communication in those kinds of scenarios. This prompts the question: why do we tell people what we intend to do, instead of simply listening to what they are saying, when they talk about, "we are the only people who can change our situation"? Based on that, I would say that the mission of social science research should be to challenge existing categories instead of reinforcing them. We need to challenge not only categories such as refugees or forced migrants but also categorizations according to where they come from. When people say 'African refugees' are the real or genuine refugees, what exactly is that supposed to mean? Ulrike, back to you.

**Ulrike:** Thank you so much, Rose. Yes exactly, it is important to enter into reflections and discuss critically how we produce knowledge and whose knowledge counts. When I think about the relationship between the researcher and the 'researched', I immediately think of risks. The risks that we can produce by carrying out research, by writing in a certain way, by highlighting some knowledge but not other knowledges, by not considering the various different perspectives and developments, and by potentially actually increasing or reinforcing risks for the people. For example, I worked in a project about gender-based violence a few years ago. The project focused on women in refugee camps; we wanted to explore the scope, conditions, and forms of gender-based violence that especially women are confronted with. From the

beginning of the project, we were interested in gender-based violence against men too, which is still a topic that is taboo in many countries worldwide. However, in Uganda, at the time of the project, the anti-homosexuality bill was enacted. Media and political discourses were critical and public outrage and violence became widespread. Had I carried out research with men and had it become known that I would be working specifically with men, I would have – not could have but would have – put the interlocutors in danger, because for men to be raped was broadly understood as to be gay. So, I could not try to actively work with them since I took do no harm seriously.

The question about the relationship between the researcher and the ‘researched’ also brings me to the aspect that in the past, refugees were often treated merely as ‘data sources’ in research projects – people who might have been interviewed, but not really involved in the research. For several years now, we see a hype about participatory approaches in research. However, these approaches are not automatically more ethical, better or more insightful. Corresponding with the argument of Rose about labels and categories, we need to reflect on how we do the research. By using the label of participation, me as a researcher or you, Rose, as a researcher, decides who participates, how, when, under what conditions, where, for how long, and so on. Of course, if we have a research project, we are responsible for it but this includes our responsibility to find a way to carry out the research in a responsible, in an ethical way. While there are also transdisciplinary approaches that focus on collaboration, from conceptualizing the guiding questions up to generating the findings, ‘collaboration’ carries a different connotation than ‘participation’.

Finally, there is a very recent and new hype about refugees as peer-researchers. I wonder and worry that this is all too often only a ‘feel good’-label for researchers. I think that collaboration is frequently not taken seriously enough; people suddenly become peer-researchers, although they only assist in data collection. Means and aims of collaborations are rarely discussed in detail and so I think we are rarely aware whether the ‘peer-researchers’ are interested in going through a peer-reviewed process for several months or even years to get a paper published, a paper that is likely to be fifty percent about methodology or theory. This is certainly a major part of academic work. If we want to consider sensitive approaches to how people can work together and how we can conceptualize research that merges the varying interests of those involved, then we should not only create new labels or simply reproduce old ones, but be open, accept some boundaries and ensure to do no harm.

This brings me to the last question, Rose. What audiences do we research and write for?

**Rose:** Yes, Ulrike, here I think it is important to reflect on prepositions in relation to this question: speaking to, speaking about, and speaking with. When we consider these prepositions as we write, I think we can clearly see who our audience is. When we write, are we writing for the research participants-who gave us the in-

formation; the data that we are using? We need to look at the lens through which we are interpreting the lifeworlds of the research participants, in this case, the forced migrants. We also need to think about the fact that we do not have the mutually exclusive categories where we have researchers on the one hand, and forced migrants on the other hand. Instead, we have people who are both: people who left their countries and maybe were professors themselves studying forced migration. Many find themselves outside their countries because of insecurity. So again: When we write, are we thinking about these people, as members of our audiences? Or are we thinking they are just refugees, and we are writing for fellow academics? There are two possibilities in relation to this. One, if people have access to what we write and they read it, what do they think about the way we present them in the text? And, the second possibility, if they do not have access, which means they cannot question or comment on how they are presented in our work, do we ever remind ourselves that we have an obligation not to betray the trust they put in us? After all, when people say yes to participating in our research, they are doing so because they trust us; because they have faith in us that we will present their stories as faithfully as possible.

These are issues that we need to take into account; whether or not they read what we are writing, we have an obligation to them, especially when we consider that they are providing the data for free, and they are not making any demands on us. So, what do we give them in return? We give our best by presenting them with this idea in mind that if they come across what we have published, they must be able to identify with it, and, at least, feel that this is a faithful representation of their stories. Back to you, Ulrike.

**Ulrike:** Thank you so much, Rose. Yes, how do we present people? I would love to now go to the books behind me to take some about research ethics. I think it was Pittaway, Bartolomei and Hugman who wrote a paper a while ago entitled “Stop Stealing our Stories”, in which they discussed complaints of interlocutors about how researchers came, asked questions, and then they found news articles published about the people and their stories with photos – without the people knowing that this would happen. Rose, I entirely agree with both of your points that research often stays within the academic circle, and we must consider how people would perceive publications.

Moreover, it is extremely costly to get books. We have an academic publishing industry in which books cost as much as some people’s monthly earnings. I do think we need a fundamental debate about how we can share knowledge, about how we can produce an atmosphere of sharing research findings, and I think there is no one-size-fits-all solution on how we can do that. For example, the research project I mentioned earlier about gender-based violence: what good would it do if I go to the camp in Uganda, sit down with the people and tell them, “By the way, gender-based violence is an everyday phenomenon and your life is really in danger”? This approach would not help them. So, another approach on how I can share the findings in a meaningful



way is necessary.

Getting back to the idea of the ‘feel good’-label, I think we need to reflect on who do we write for, if we want to share results with the people that we worked with. Is sharing results a way for us to feel good? Is it for us to show how proud we are that the work is finally published? Or is it really to enter into dialogue with the people and share something that is meaningful to them, not meaningful in how we define meaningful, but meaningful to them?

With that said, I would like to close, and I would like to ask you, Rose, if you have any final words.

**Rose:** In the interest of time, we can leave time for questions. Otherwise, we would like to say thank you very much for your kind attention.

## NEW DIALOGUES: INTER-RELIGIOUS DIALOGUES

*Father Fabio Baggio*<sup>63</sup>

Today, migration is one of the most important human phenomena of the third millennium and affects all the dimensions of human life, including the spiritual one. Religion, in fact, represents an essential element in the migrant’s life, in the various phases of the migration process (departure, journey and arrival/residence) and under different aspects (personal faith, reference role of religious communities, preservation of identity, etc.). Even though it is hard to prove the spiritual dimension of migration, I would like to mention the 2012 statistic by the Pew Research Centre, reporting that only 9% of international migrants say they have no religious affiliation, while many of them claim to be believers.

Pope Francis has also emphasised that religion is an essential dimension of the Integral Human Development. In his 2018 Message for the World Day of Migrants and Refugees, titled “Welcoming, protecting, promoting and integrating migrants and refugees”, he said:

Promoting essentially means a determined effort to ensure that all migrants and refugees – as well as the communities which

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welcome them – are empowered to achieve their potential as human beings, in all the dimensions which constitute the humanity intended by the Creator. Among these, we must recognize the true value of the religious dimension, ensuring to all foreigners in any country the freedom of religious belief and practice.

## Connection between Religion and Migration

Religious dimension is an important aspect in the life of most migrants. Various studies have recently focused on the connection between religion and migration. In some regions, people turn to religion in the preparatory stage of their journey. Many Catholics in Guatemala and Mexico make pilgrimages to shrines, carry out devotional practices and offer *ex voto* objects in exchange for “spiritual travel permits”. We also know that the Gkaleca, an indigenous group of South Africa, already in 1980 used to perform special propitiatory rites before the departure of migrant workers, in order to obtain protection from the spirits.

During their journey, migrants can find comfort, hope, consolation and strength through prayer and other religious practices. I personally heard testimonies of faithful abandonment and confident recourse to prayer from many migrants and refugees who braved the Sahara Desert and the waves of the Mediterranean Sea. Especially when their journey involves a long stay in countries of transit, migrants often create real places of worship. This is the case of Orthodox Christian and Muslim migrants in the so-called “jungle” of Calais, who wanting to entrust their dreams to divine providence built a church and a mosque with their own hands.

Most of the studies highlight the positive contribution of religion at their arrival and in the following process of integration. Firstly, religion enhances the preservation of the migrants’ original identity, which is necessary to start building a dialogue during the integration process, without easily giving into assimilation pressures. As Pope Francis explained in 2017, “Integration, which is neither assimilation nor incorporation, is a two-way process, rooted essentially in the joint recognition of the other’s cultural richness” (POPE FRANCIS, 2017a). For example, Maya migrants in the United States exchange photos with their relatives in Guatemala, taken during moments of fasting and prayer, thus maintaining a strong bond with their country of origin. In addition, the welcoming that newcomers receive from their religious communities abroad helps them maintain the traditional home feeling and its religious practices, in addition to getting social support.

During the residence and integration process, the religious practice of migrants has also a significant impact on the religious experience of host societies. In certain geographical areas, some religious confessions are currently still present because of the massive arrival of immigrants, who have produced a deep change in the religious

landscape of such countries. This is the case for Hinduism in Britain and Canada. Christianity is present in the Gulf countries thanks to Filipino and Indian migrants. In addition, religion has slowed down the process of secularisation and regained a public space in Europe, thanks to migrants, who have revitalised and enriched host communities' religious life.

Religion can also have a positive effect on the inclusion of migrants into religious communities in host societies, which often provide a fraternal environment already experienced in their own homeland (DUPRÉ, 2007). At the same time, this context might facilitate the recognition of common religious values which, translated in ethical terms, promote peaceful and convivial cohabitation. In addition, religion sometimes works as a driving force for the emancipation of minority migrant groups from particularly stringent political, social and economic structures in immigration countries (TAYLOR, 1991).

Religious organisations play an important role in accompanying migrants. In my missionary experience, I had the chance to get to know many religious organisations and foundations that have made assistance to migrants their specific mission. By providing cultural services, appropriate locations, and spiritual counselling, they assist migrants in nurturing their faith. Moreover, they offer concrete assistance and prepare those who are leaving with useful information in their countries of origin. They also provide migrants with assistance and refuge in transit countries, and promote integration between migrants and native people in the destination countries.

### **Migration and Interreligious dialogue**

Religion can significantly contribute to building paths of brotherhood and tearing down the walls of indifference through dialogue. As Pope Francis said in the Encyclical *Fratelli Tutti*, “The different religions, based on their respect for each human person as a creature called to be a child of God, contribute significantly to building fraternity and defending justice in society” (POPE FRANCIS, 2020b: 276). For this reason, he encourages us to foster the spirit and style of conviviality in our relations with people of other religious traditions (POPE FRANCIS, 2022).

The great religions, even in their diversity, offer a priceless common heritage of principles and values if their meeting and dialogue are encouraged. Among those values, there is certainly the duty of hospitality toward the stranger, an obligation included in the sacred sphere. Some religious traditions see the mysterious presence of God himself in the guest; others consider guests under divine protection because of their vulnerability. The main thrust is that most religions share a common viewpoint regarding welcoming migrants.

We have just mentioned the priceless work faith-organisations do. But they often operate in an individual way or without institutional support. Meanwhile,

interreligious dialogue and cooperation represent invaluable resources in handling migration issues. As Pope Francis recently stated, representatives of different religious traditions are called

[...] to be the voice of the voiceless, the support of the suffering, advocates of the oppressed and victims of hatred, people discarded by men and women on earth [...] Let us dream of religions as sisters and peoples as brothers! Sister religions to help peoples be brothers and sisters living in peace. (POPE FRANCIS, 2021a)

That is the reason why it is essential to create opportunities for dialogue and encounter among different religions, and between them and other institutions in every possible way. States should also promote inclusive and effective cooperation among different religious organisations. Meetings should be held both at the level of religious leaders, as well as among the faithful, in order to give them an opportunity for theoretical exchange on principles and values, and for dialogue on specific issues of daily life. Equally important are moments of informal, recreational, sport and artistic meetings, as well as ecumenical and interreligious prayer services.

We have already mentioned the role that religion often plays in the process of integration, and its capacity to mutually enrich multi-ethnic cohabitation. A further element worthy of consideration is the contribution of cooperation given by religions to the process of integration. A multireligious approach and the intensification of collaboration between religious organisations and communities can foster dynamics of inclusion, and the creation of a social structure that is more open and respectful of differences. When the Holy Father talks about cohabitation in the great human family, he mentions the “harmony of diversity”. And to this extent, he states that the religions’ urgent task is building bridges between peoples and cultures: “[...] A fraternal living together, founded on education and justice; a human development built upon a welcoming inclusion and on the rights of all: these are the seeds of peace which the world’s religions are called to help flourish” (POPE FRANCIS, 2019).

Interreligious dialogue can prosper only if some conditions are met. The first one is the protection of religious freedom, both in professing and practising one’s faith. As John Paul II said,

Religious freedom is a safeguard against all forms of totalitarianism and contributes decisively to human fraternity” (POPE JOHN PAUL II, 1993). In some countries it is not permitted to affiliate oneself with or publicly practice a religion that is different from that of the majority of citizens. In that sense, migrants, who often make up a large percentage of religious minorities in these countries, find themselves prevented from freely expressing their faith. In 2020, the Holy Father recalled on the importance of the “respect for religious freedom and the resolve to reject the discriminatory use of the term ‘minorities’, which

engenders feelings of isolation and inferiority, and paves the way for hostility and discord, discriminating between citizens on the basis of their religious affiliation. (POPE FRANCIS, 2020a)

The second condition is the recognition of freedom of worship, which is necessary to ensure its exercise. States must grant locations suitable for worship, and they should be treated with due respect. This would also safeguard the dignity of the various religious celebrations and would also help to eliminate all forms of religious “secrecy” that usually feed distrust and fears in the local population. In addition, policies should be in place to take into proper account celebrations and traditions of each religion. The faithful should be put in a condition to be able to carry out devotional practices based on the doctrine of the professed faith, particularly all those elements considered compulsory (e.g. rest, fasting, kind of food, etc.).

The elimination and prevention of any form of discrimination of a religious origin, pursuing any discriminatory attitude, represent the third condition. Since ignorance is frequently the source of prejudices, education programmes in schools should include teaching modules on different religions. In this regard, Pope Francis pointed out that “[...] it is particularly important to train future generations in interreligious dialogue, the main road to greater knowledge, understanding and reciprocal support between the members of different religions” (POPE FRANCIS, 2020a).

### Interreligious Dialogue and “*Missio Migrantium*”

Entering into dialogue with people belonging to different confessions or religions does not mean putting one’s faith in brackets or even denying it. For Catholics, respect for others’ belief and religious practice should not be considered a threat to their faith or identity. On the contrary, interreligious dialogue requires the deepening of one’s own convictions, in the profound understanding that every encounter with the “other” is an opportunity to proclaim and witness to the Gospel of Jesus Christ. An immediate result will be discovering how much there is already in common among people open to the transcendent and inspired by universal values. As the Holy Father remarks in the *Fratelli Tutti*, the Church is a home with open doors: “She does not claim to compete with earthly powers, but to offer herself as a family among families” (POPE FRANCIS, 2020b: 276-277).

A key document on the issue of migration and religious dialogue is the Instruction *Erga migrantes caritas Christi*, released in 2004 by the Pontifical Council for the Pastoral Care of Migrants and Itinerant People. Addressing Catholic communities receiving immigrants, it calls them

[...] to appreciate their own identity even more, prove their loyalty to Christ, know the contents of the faith well, rediscover

their missionary calling and thus commit themselves to bear witness for Jesus the Lord and His gospel. This is the necessary prerequisite for the correct attitude of sincere dialogue, open and respectful of all but at the same time neither naive nor ill-equipped. (PONTIFICAL COUNCIL, 2004: 60)

The very presence of migrants of different nationalities, which is progressively transforming the communities welcoming them into workshops of interculturality, should motivate local Churches to be more faithful to their catholicity. John Paul II said: “Migration offers the individual local Churches the occasion to verify their catholicity, that consist not only in receiving the different races, but above all in realising communion among them” (POPE GIOVANNI PAOLO II, 1987). In this regard, Pope Francis adds that such catholicity translates into recognising a universal citizenship in the Church, “In encountering the diversity of foreigners, migrants, and refugees, and in the intercultural dialogue that can emerge from this encounter, we have an opportunity to grow as a Church and to enrich one another” (POPE FRANCIS, 2021b).

Ecumenical and interreligious dialogue, which represents a key area to carry out the *missio migrantium*, is often part of the daily experience of many Catholic migrants. In fact, situations where they find themselves in close contact with people - migrants and natives, of other Christian confessions or other religions - are not uncommon, and they initiate with others dialogues of friendship and fraternity. In that regard, it is necessary to properly prepare Catholic migrants for this missionary endeavour and accompany them on their journey, with an equitable distribution of responsibilities between the Churches of origin and those of destination. Some practical suggestions might be sharing their faith with friends and colleagues, inviting them to the most important Catholic celebrations and attending in return their ceremonies, and being actively involved in the realisation of common projects on behalf of the poorest and the least.

Another relevant point of the *missio migrantium* is the revitalization of Christian communities. The migrants’ enthusiasm to be part of the religious community, the liveliness of their celebrations, the freshness of their spiritual vitality are the new lifeblood that so many local Churches need today. For this reason, their integration into parishes must be promoted and encouraged through careful pastoral planning. As Pope Francis clarified in 2017,

In recent years, many dioceses in Europe have already found themselves enriched by the presence of Catholic immigrants who have brought with them their devotions, and their liturgical and apostolic enthusiasm. From a missionary perspective, the current influx of migrants can be seen as a new “frontier” for mission, a privileged opportunity to proclaim Jesus Christ and the Gospel message at home, and to bear concrete witness to the

Christian faith in a spirit of charity and profound esteem for other religious communities. (POPE FRANCIS, 2017b)

## Conclusion

At the end of this reflection, I hope that I have been able to prove that religion is a very relevant aspect in all stages of a migrant's experience. And that is the reason why the religious dimension deserves to be taken into consideration when it comes to policies, programmes and international cooperation dealing with migratory issues. Furthermore, the role of religion in migrants' lives should stimulate the Church in implementing models of inclusion, following the many good practices of *missio migrantium* already in place. We have finally seen the potential of religious dialogue and cooperation by sharing a common journey with a specific goal on behalf of the most vulnerable. With that perspective in mind, Pope Francis has taken a path of dialogue that, more than responding to theological questions, aims at building a future where no one is excluded, including migrants and refugees.

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Apoiadores

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