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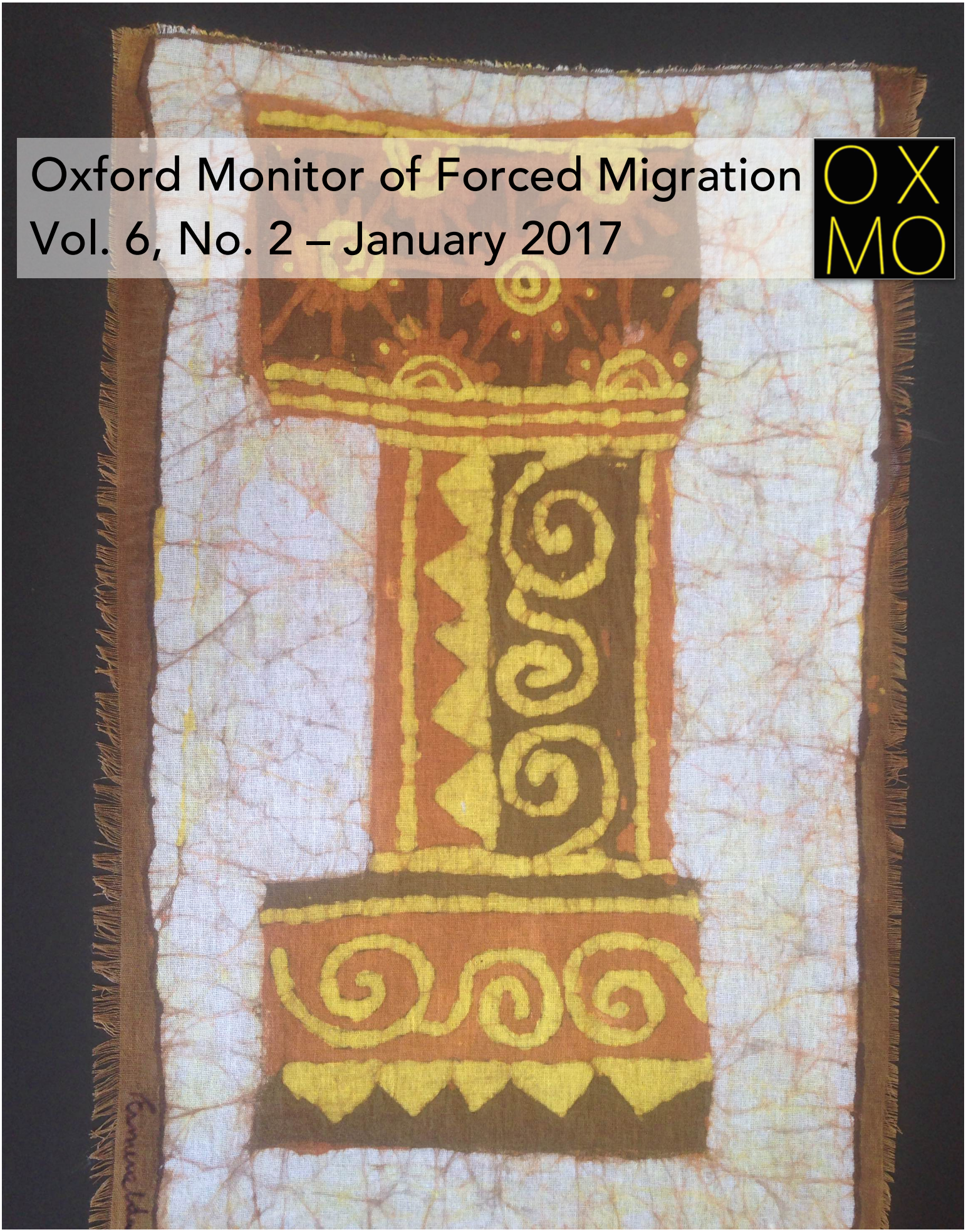

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Cover Artwork
The artwork on the front and back cover are taken from *Arte y Sanación,* or Art and Healing - a series of workshops held by Asylum Access Ecuador and the collective *Cero Minutos* in March 2016. The program brought together local artists and 11 refugee women, who were survivors of the armed conflict in Colombia, to create works inspired by the women's personal experiences in Colombia and their host country, Ecuador.

Editorial

Welcome to Volume 6, Issue 2 of the Oxford Monitor of Forced Migration!

We are pleased to introduce this issue, which reflects the global state of forced migration and presents diverse global scholarship.

We start our exploration in **Europe**. Our first stop is **Portugal**, where **Costa** and **Sousa** cover the country's receptive orientation towards refugees. Costa and Sousa highlight that this open stance towards refugees reflects humanitarian conviction and image-building, but also intends to address Portugal's domestic economic and demographic challenges. **Topouzova's** piece then takes us to **Bulgaria** where recent measures for unaccompanied minors seeking asylum highlight the need for increased safeguards for adequate representation.

Looking elsewhere in Europe, **Venturi** reflects upon her field research based in **Italy** and the **United Kingdom** to consider the benefit of using qualitative methodology within legal analysis, as well as the interplay between a researcher's identity and access to subjects. **Samshuijzen** focuses on the harsh conditions children face throughout the asylum process in the **Netherlands**, with a focus on detention.

Turning to **Asia**, **Fatima** and **Niaz's** coverage on **Afghan** refugees in **Iran** and **Pakistan** provides a lens into the gendered aspects of forced migration. They argue that, whilst issues particular to women have been historically overlooked in policy development, forced migration and the accompanying repatriation policy arena provide a unique opportunity for the advancement of the status of female refugees that international agents, donors and governments ought to seize. Next, **Zingg's** work focuses on the quandary of migrants deserting the **Syrian** army who are then subject to ambiguous and currently unpredictable consequences under international law.

We also travel to the northern tip of **South America**, where **Sandoval** examines the situation of internally displaced persons (IDPs) in **Colombia,** with a spotlight on an exciting model of resettlement, the Land Restitution Program (LRP). With 15% of its population internally displaced, Sandoval measures the strengths and limitations of the LRP for IDPs in Columbia. We then take you to **Ecuador** where two refugees, **Garces** and **Bonilla**, who have fled from Columbia, share with readers the harrowing events they have escaped as well as their new lives.

Finally, **Taylor**'s piece takes a theoretical look at the limitation of semantics in understanding migration.

We are pleased to share this issue with our readers.

Warda Shazadi Meighen and Claire Walkey
Toronto, Canada and Oxford, United Kingdom

Academic Articles

OLIVIA TAYLOR, Constructing the 'economic migrant' narrative during the refugee crisis: the neoliberal state of exception and political-economic 'bare life'

The refugee crisis has been a dominant issue in recent years. There has also emerged a narrative differentiating between so-called 'economic migrants' and refugees. This piece explores what this 'semantic slipperiness' means for understandings of migration. Implied narrative of the less worthy 'economic migrant' to Giorgio Agamben's theory of the refugee as 'bare life', asking if it is possible to be rendered less than this excluded figure. I then explain the significance of such narratives to the modalities of neoliberal governance, legitimating a migration policy driven by market logics, and constructing a 'neoliberal state of exception', which forcibly excludes certain populations from both political and economic rights. In so doing, I connect literature on migration with neoliberalism as a technique of governance, and reflect upon a need for a more appropriate and purposeful vocabulary to reassert humanity in the political and economic world.

Introduction

2015 will likely be remembered as a year dominated by the European refugee crisis. Whilst the reported numbers of migrants arriving in the EU differ between agencies, such as the United Nations High Commissioner for Refugees (UNHCR) and Frontex, the European borders and coast guard agency, the unprecedented increase is widely regarded as the largest movement of refugees since the end of the Second World War**.** Over the course of 2015, 293,000 migrants travelled to the European Union by sea (UNHCR 2015b). The numbers of refugees to formally register in Europe between January and June 2015 reached 137,000 - an increase of 83% from the same period of 2014 (UNHCR 2015b). In 2014 and 2015, Syrians have been the largest single nationality to apply for asylum in Europe, followed by Afghans and Iraqis (Eurostat 2016), demonstrating that, while the fallout of the conflict in Syria has been a major driver behind the spike in migration flows to Europe, the cause of the crisis is not confined to just one region or conflict. The policy response from Europe has been mixed, exposing the disparities between European nations. On one extreme, in 2015 Germany was the largest single recipient of new asylum applications, with 441,900 people registered over the course of the year (UNHCR 2015c). Of course, this must be considered in light of their national economic and political priorities. Germany is notable for a record of encouraging migration of low-skilled industrial labour, termed in German the *gastarbeiter* (guest-worker) – though this has historically been encouraged only when economically beneficial (Oezcan 2004). In contrast, following widespread calls for action, the UK offered asylum to just 20,000 refugees in the wake of the Syrian crisis (Gower and Cromarty, 2015). As the scale of refugee flows is close to unprecedented, the 'refugee crisis' is as much 'a crisis of international borders (and) neo-colonialism…'(Tyler 2015).

This piece takes, as a point of departure, the narrative that emerged during the crisis, which differentiates between so-called 'economic migrants', implying those who choose to migrate for economic gain, and refugees. I explore the implications connected to this differentiation that some migrants are less worthy of help than others. By engaging with examples of the UK policy response to the crisis, I argue that this differentiation is an outcome of an inadequate vocabulary for describing migrants. I then highlight two further points: I link the 'economic migrant' narrative to Agamben's (2008) seminal theory of refugees as 'bare life', the human rendered

without formal or substantive rights. I ask questions of what the 'economic migrant as a sub-refugee' category might mean and explore Agamben's compelling but controversial theorisation. Secondly, I explain this differentiation through a critical discussion of the nature of the neoliberal state – which I frame not simply in a 'thin economic conception' (Wacquant 2010: 197) but instead as a form of governance. Therefore, I connect such narratives about migration to policies driven by market logics, arguing that the lack of vocabulary for accurately describing migrants creates opportunities for such narratives to be constructed. Through this, I provide an economic angle to Agamben's (1998) 'bare life', viewing it as the political adjunct to economically 'surplus life' (Duffield 2014) in the 'neoliberal state of exception' (Ong 2006). This article therefore takes a topical debate and connects this with literature on migration theory and conceptualisations of neoliberalism both as a growth paradigm and technique of governance. My discussion concludes that we need a more nuanced vocabulary with which to articulate the complexity of migrant trajectories, as well as following Susan Owens (2009) in her call for grounding the public debate on migration through the adequate separation between human life and the political world, extending this to the political-economic world too.

The False Dichotomy – So-called Economic Migrants and Refugees

The debate surrounding the terminology used during the crisis - between refugees and the upsurge in the 'economic migrant' description - has become a symbolic issue. The furore was articulated by an Al Jazeera editorial, which stated that the network would stop using the word migrant in relation to the tragic events in the Mediterranean, arguing that this word choice dehumanised people and had been used as a 'blunt pejorative' (Malone 2015). Shortly thereafter, a string of other media organisations, including the *Washington Post*, the *New York Times*, *the Guardian* and the *BBC,* published similar articles urging examination of word choices to describe the crisis (Carling 2015). These contributions were met at the time with a groundswell of support on social media; the Al Jazeera article alone was shared over 50,000 times on Facebook (Vonberg 2015), and was championed by figures such as the musician Bono, who embodies the 'voice of mainstream, Western good conscience' (Apostalova 2015). The UNHCR (2015a) responded to this mounting debate through a viewpoint article entitled 'Refugee or Migrant – Which is right?' - reiterating the legal definition it draws between refugees and migrants originating from the United Nations Refugee Convention (1951). It concluded that, given the complexity of the refugee crisis, the commission would thus refer to 'refugees and migrants' when referring to movements of people by sea in the Mediterranean (UNHCR 2015a).

Even within academic fields of discussion, there are disparities in the language used to describe migrants and refugees. For example, within the legal sphere, it is common for the notion of refugee status to be seen as a tool to secure and protect rights. This viewpoint is exemplified by James C. Hathaway's legal exploration of refugee status, in which he argues that the category is an important distinction to signify who is the 'most deserving of the deserving' (1997). However, social scientists have often taken a more critical approach to the binary distinctions between migrants and refugees; Betts (2013), for instance, rejects the dichotomy. Betts argues that the nature of displacement has changed to such an extent that we cannot neatly draw a line between those who choose to migrate and those who are forced to do so, introducing the term 'survival migration' to better capture this complexity. Similarly, the notion of 'forced migration' as conceptualised by scholars, such as Turton (2003), who highlights the difficulty in differentiating

between compulsion and choice in the decision to migrate; subsequently Chimni (2008), sought to entrench this approach as a discipline of its own.

Nonetheless, the rhetoric of less worthy 'economic migrants' has been reflected and further shaped by the policy response to the migration crisis. In the UK, the Home Secretary – and now Prime Minister - Theresa May - made it clear in her speech to the Conservative Party Conference in October 2015 that the UK would differentiate between 'economic migrants' and refugees, stating: 'people on both extremes of the debate … conflate refugees in desperate need of help with economic migrants who simply want to live in a more prosperous society' (May 2015). This distinction was further reflected in policy, resulting in the UK accepting asylum seekers only from refugee camps in the Middle East, implying a distinction between those who have already made it to the UK or the to border at Calais as the 'wealthiest, strongest and fittest', and through a 'pseudo-Darwinian implication of queue jumpers', suggesting that they are less deserving of refugee status than those still in camps (Travis 2015). Such narratives are presently being translated into practice, as the Home Office recently announced progress on their 'Asylum Strategy', which incorporates this distinction in its rhetoric and policy breakdown (Travis 2016). This approach also affects campaigners, who argue they have been handed an artificial 'Sophie's choice' (Yeo 2015), given warnings from the Home Office that efforts on their part to advocate for asylum seekers deemed by the government not to be 'in genuine need' would damage the chances for others to successfully seek asylum;

> *'... My message to the immigration campaigners and human rights lawyers is this: you can play your part in making this happen – or you can try to frustrate it. But if you choose to frustrate it, you will have to live with the knowledge that you are depriving people in genuine need of the sanctuary our country can offer.' (May, 2015).*

A need for a new vocabulary: theorisations of migration, problems of 'semantic slipperiness' and false dichotomies

Conceptually, the distinction between migrants and refugees is a false dichotomy. It serves to oversimplify the real complexity of the reasons to migrate, which can rarely be neatly categorised into economic or security reasons, and are frequently both at the same time (Cummings *et al*., 2015; Betts, 2013). Instead, it can be argued that at the heart of the problem is the need for secure livelihood opportunities and basic human rights, which span both requirements for a basic standard of living as well as the need for political stability and safety (Cummings *et al*. 2015; Betts 2013). Moreover, individual motives to migrate may change in nature and in importance over the course of a journey, indicating the need to reflect on the 'complex and fluid reality of people's migration experience' (ibid). There have been calls for the formation of more dynamic categorisations of migration, and as explained above these have been especially pointed from the social science community. For example, Betts (2013) has argued that the changing nature of displacement necessitates the term 'survival migration' in order to expand the categories of refugee and migrant, whilst Turton (2003) and Chimni (2008) have sought to found 'forced migration studies' as a field of its own. Terms such as 'mixed flows', the 'migration-asylum nexus' and 'transit migration' have also become increasingly common in academic and some policy circles (Collyer and De Haas, 2012). Moreover, whilst the aforementioned UNHCR article entitled 'Refugee or Migrant – Which is right?' neatly avoids the crux of the issue by re-iterating the legal distinctions between the two, referring to

movements of people by sea as 'refugees and migrants', other UNHCR research papers acknowledge the need for a nuanced understanding of the issue. A 2008 paper written by the commission embraces the 'asylum-migration nexus' and the author even goes one step further to argue that 'the complexity of today's displacement goes well beyond the 'asylum-migration nexus' (Crisp 2008:2). Whilst acknowledging that the answers perhaps lie beyond the UNHCR's precise mandate with regard to refugees, it is nonetheless reflective of the drivers and objectives of the organisation that such nuanced understandings have not filtered through into their public statements, especially in the context of a refugee crisis where a sophisticated understanding was so direly needed. Clearly, there is a long way to go in mainstreaming nuanced conceptualisations of the causes for migration.

Within the realm of the media, while this debate around terminology in relation to events in the Mediterranean seemed well intentioned, it highlights the 'semantic degrading' (Taylor 2015) of the word 'migrant' due to political narratives and associations that it has become attached to. There is nothing inherently degrading in definitions of the word 'migrant'; however, the implications and associations it creates when contrasted with the word 'refugee' are obtusely negative. In this vein, Taylor (2015) contributes a number of the most common contemporary word associations we make with regard to the word migrant or refugee: as the former links to the idea of cheap labour and 'illegality', the latter alludes to temporary camps, to Palestine in the Middle East and to post-disaster contexts such as Haiti in the aftermath of the 2010 earthquake. Thus, whilst popular interventions such as Al Jazeera's stance might seem welcoming, they in fact reinforce the fabricated dichotomy of 'good refugee' and 'bad migrant', failing to meaningfully counter anti-migrant rhetoric (Vonberg 2015).

Overall, there is significant difficulty in navigating between the term 'economic migrant' and refugee, a 'semantic slipperiness' whereby the distinction between the two is understood by some to be such a grey area that the actors involved either simplistically or tactically converge the two. This approach is exemplified by the UNHCR framing of 'migrants and refugees'. Alternatively, others construct a false dichotomy through which the terms are forcibly divorced, as can been observed in UK migration policy. Both approaches are mired in difficulty because of the loaded connotations attached to these words, most obviously in the case of the 'economic migrant'. Betts (2013) points out that, when 'survival migrants' do not qualify for the traditional terminology of a refugee, institutions and states are thus not obliged to assist them, highlighting that they have a large degree of discretion and room for manoeuvring around assistance and engagement. Crucially, this ambiguity creates opportunities for political leveraging, through processes of categorisation and rendering complexity legible.

Agamben's 'Bare Life', so-called economic migrants and refugees

Turning to migration studies literature, Giorgio Agamben is a scholar whose accounts of how the refugee is excluded from society are notable within the field of migration studies. Moreover, his work provides a counterpoint for where this leaves the framing of the 'unworthy refugee' in the so-called economic migrant description; whereby the subdivision of refugees into the 'economic migrant' versus 'genuine refugee' strongly challenges Agamben's theorisation. Agamben's theory originates from a particularly legal reading of biopolitics, drawing on Foucault's theories about the techniques through which government regimes manage human life processes (1997). Specifically, where Foucault's approach to biopolitics focuses on the ways in which human life

processes are controlled by regimes of power through knowledge and authority, especially throughout the neoliberal era, Agamben's primary concern is for 'human rights' and the limits of this concept (Schuilenberg 2008). Indeed, since the turn of the millennium, a constellation of events in the aftermath of 9/11 and the deepening of neoliberal governance have led many in the academic community to a more human rights focussed notion of biopolitics. Specifically, this means not simply understanding power struggles but theorising the mechanisms through which ordinarily illegal acts are committed in the name of optimising other human capabilities (Lemke *et al*. 2011). In viewing biopolitics as a method of optimising human capabilities, it can also be understood as the politics of 'make live or let die' (Li 2010); a theme increasingly identified in the European response to the refugee crisis. For example, Baele (2016) points to the hypocrisy of 'European societies investing so much in health at home and, at the same time, erecting ever more impermeable …barriers to keep refugees at bay'. This also points to how market logics pervade neoliberal migration policy in aiming for the 'greater good' of economic gain at almost any cost, a point that I shall develop further. This understanding of biopolitics as the politics of 'make live or let die' has also been termed 'necropolitics' by Mbembe (2003) and is increasingly being used in migration studies literature to theorise the abandonment suffered by migrants during the ongoing refugee crisis and displacements.

In this vein, Agamben's work on 'bare life' argues that we understand human life as either the fully political life *bios* and the 'bare life' *zöe*, the merely alive human without rights to act politically, drawing parallels to the Roman figure of *homo sacer* - a person anyone can kill without the act amounting to murder. Given this distinction, he challenges the very definition of human rights because it assumes that everyone has equal political and human worth; as in the 1st Article of the Universal Declaration of Human Rights, 'all humans are born free and equal in dignity and rights' (UN General Assembly 1948). Therefore, in viewing human rights as redundant he is sanguine about their failure;

> *'...each and every time refugees no longer represent individual cases but rather a mass phenomenon (as was the case between the two world wars and is now once again), these organizations as well as the single states – all the solemn evocations of the inalienable rights of human beings notwithstanding – have proved to be absolutely incapable not only of solving the problem but also of facing it in an adequate manner.' (Agamben, 2008: 92).*

His theorisation certainly presents a compelling framework and is perhaps so widely used because of the way the excluded figure of *homo sacer* is placed at the centre of his analysis. However, Agamben's ideas are not without critique, the most compelling of which being the overlook of refugees' subaltern agency (Ramadan 2012), as well as taking the reduction to 'bare life' too far, thus failing to build an appropriate distinction between human life and politics (Owens 2009). Such criticisms are relevant to my own argument for a more nuanced and humanising migration vocabulary.

Nonetheless, what does Agamben's theory of 'bare life' elucidate for the recent debate over refugee terminology during the crisis? If, according to the notion of 'bare life', refugees are wholly excluded and denied rights of any sort, is it possible for further degradation through the casting of the 'less worthy' refugee? Certainly, the conditions faced by many across the

Mediterranean in Europe's unofficial camps from Lampedusa to Calais could be a new low in the response to refugees, a deliberate disgrace 'designed to force migrants back along their pathways of expulsion' (Rygiel 2011:5). Alternatively, however, does the fabrication of a category of even less worthy refugees underline how the degree of exclusion we see in 'bare life' is constructed and regulated? For sure, from a conceptual standpoint it is impossible to become less than the state of 'abstract nakedness' (Owens 2009:569) presented in Agamben's concept of 'bare life'. The subdivision of refugees into the 'economic migrant' versus 'genuine refugee' presents an interesting challenge to Agamben's theorisation, exposing the simplicity of his polarising argument. Whilst my interpretation suggests that the 'economic migrant' narrative is a specific mechanism through which their exclusion can be constructed, regulated and maintained, it certainly underlines the lack of granularity in the Agambenian approach. In remedying this, I suggest that the specific nature and mechanisms through which the construct of 'bare life' has occurred are unique to the neoliberal state. Specifically, the aforementioned 'semantic slipperiness' and absence of appropriate vocabulary with which to describe people creates an opportunity for the construction and propagation of simplifications and false categorisations. Moreover, I argue that, while these developments are intricately connected to the nature of the neoliberal state, they are certainly not novel.

A neoliberal state of exception: political-economic 'bare life' and 'surplus life'

In the *State of Exception*, Agamben (2005) argues that attacks such as 9/11 have been used by the state as a tool to justify extraordinary extensions of state power and security measures, permitting more aggressive tactics of exclusion and persecution than ever. Notably, Agamben does not view this phenomenon as an aberration but instead historicizes these practices and connects them to Roman law and a ritual known as *iustitium*, which translates as similar to the suspension of *habeas corpus*. In so doing he sees this action as deeply inscribed into the history of legal and constitutional practice. I suggest that recent developments in neoliberal governance have deepened and extended the capacity for extraordinary departures in governance exemplified by the 'state of exception' and help to explain the construction of the 'unworthy refugee' narrative during the refugee crisis of 2015. It is important to note that the terminology for 'extraordinary' extensions of state power is something of a misnomer, given that these measures have become increasingly commonplace. For example, it is expressed in Duffield's 'permanent war' (2014) – which further emphasises Agamben's point that such policies are not an aberration but instead emerge from deeply inscribed state practices. Thus, a situation emerges whereby such practices are not only omnipresent but have been further sharpened as tools of the neoliberal state.

In theorising the nature of neoliberalism as a system, it is important to view it not in a 'thin economic conception… as market rule' (Wacquant, 2010: 197) but as a form of governance. It is especially important to focus on the mechanisms through which 'public consent is secured for unequal policies' (Tyler 2013:5), most often through the production of fear and anxiety such as alarmist narratives about migration. Another key element in the procurement of public consent by the state is the power of categorising (Foucault 2009) or otherwise 'rendering legible' complex situations through abstractions and simplifications (Scott 1998), both of which strongly relate to the practices of simplifying the complexity of the aforementioned migrant-refugee nexus. It is also important to move away from the misconception of neoliberalism as a *laissez-faire* approach and instead view it as a deeply biopolitical form of governance, characterized by

'permanent vigilance… and intervention' (Foucault 2008). Indeed, Foucault (2008) attributes the birth of biopolitics to the advent of the neoliberal epoch. Linking neoliberalism as a form of governance to Agamben's 'state of exception' points to Aiwah Ong's work on the *Neoliberal State of Exception,* in which she gives a uniquely economic reading of Agamben's *State of Exception* and asserts how the economic globalization of neoliberal capitalism today is deeply associated with growing numbers of the globally excluded with the most minimal of rights. She argues therefore that neoliberalism as exception 'excludes populations and places from neoliberal calculations' of the market (Ong, 2006:4).

It is important to understand why the neoliberal state sees migration in such an alarming light as to control it through exceptional mechanisms. One key reason is the drive to govern according to market logics, prioritising economic growth at almost any cost and, in so doing, optimising conditions for some at the expense of others. Further to this, the neoliberal state requires control over its borders – and therefore its labour pool, which in an increasingly globalized world can be seen as a 'last bastion of its sovereignty' (Dauvergne 2008). The Marxist theorist Louis Althusser argues that both a domestic labour and goods market is a prerequisite for capitalism (2006) and therefore, in economic terms, 'the border brings order to capitalism' (Stratton 2009: 681). Imogen Tyler's (2013) analysis of the fabrication of another 'refugee crisis' of the early 2000s in the UK, following the opening of EU borders, further exemplifies the importance of a controlled border, or the perception of control, to neoliberal capitalism. Tyler points to the construction of a narrative of 'bogus asylum seekers' – through very similar means to the construction of the 'economic migrants' and refugee dichotomy. In so doing, not only did the myth of 'marauding asylum seekers' distract from the arrival of significant numbers of predominantly Eastern European migrant labourers but they also justified the move towards a more punitive border regime. Finally, as a corollary to the requirement for controlled labour inflow at the border, there is a desire for an external reserve labour pool, exemplified by David Harvey's proposal that capitalism 'must perpetually have something outside of itself in order to stabilise itself' (2003: 140). In the context of migration, this translates to potential migrant labour that is maintained 'outside of itself': beyond the border, for example in the (former) jungle camp of Calais - which presents a cheap labour reserve pool that could be called upon if needed but does not otherwise tax the state in any significant way.

The neoliberal state is also deeply concerned over migration for labour supply, and specifically, the supply of labour with what are perceived as the right skills for the economy. For example, the tightening of migration policies in Australia towards the punitive approach taken today as well as the legitimating political narrative of migration anxiety – both of which reflect similar policy shifts in the United Kingdom - have been linked to a decreased need for unskilled labour. Stratton (2009) argues that the key reason for this tightening of migration policies is the market logic of neoliberalism in Australia, which sees refugees and asylum seekers as useless surplus labour; too expensive to skill in the areas where Australia has labour shortages. Similarly, EU migration policies are seen to differentiate and regulate between four types of labour: from highly qualified through to low-skilled guest workers, the illegal trans-national labour force, and at the bottom of this hierarchy, to 'economically superfluous' refugees (Euskirchen *et al.* 2007) – though of course this overlooks the fact that many refugees are in fact highly skilled. This notion of the 'economically superfluous' is an important concept that evokes Mark Duffield's (2014) arguments that 'surplus life' is inherently a by-product of capitalist growth, through the

mechanism of 'accumulation by dispossession' (Harvey 2003), which refers to the centralization of wealth in the hands of few by dispossessing others of their livelihoods.

The idea of 'economically superfluous' is also a key connection back to migration literature and Agamben's 'bare life', groups who are not just politically excluded but - as in Aiwah Ong's (2006) conceptualisation of the term - are also economically redundant. These two forms of exclusion go hand in hand, 'just as economically superfluous life is… produced and consumed in the maintenance of capitalism, so a politically surplus life is produced and consumed as a necessary adjunct of political order' (Agamben 1998: 27-28). Such exclusion is perhaps then the ultimate biopolitical act – the abandonment of populations in the interest of optimised economic growth, their labour understood as surplus in relation to the utility of capital (Li 2010). Yet as much as their 'surplus labour' is redundant and politically disempowered, it also presents a threat to order and it is for this reason that it is subject to such punitive exclusions. Ironically then, 'surplus labour/life' is rejected by the state and yet subjected to the full force of its powers, as in the nature of the hinged 'state of exception', making extraordinary departures in policy both to include as well as exclude (Ong 2006).

Conclusions: Going beyond Agamben and political-economic 'surplus life'

> *'If refugee populations are not to face some inexorable trend toward a rule of 'exception', then it will not be through reclaiming 'bare life'. It will be wholly dependent on the ability to forge a public realm grounded on the appropriate distinction between … human life and the political world.' (Owens 2009:567)*

Whilst 'bare life' is a useful theory for critiquing failures to adequately respond to refugee crises, it is much less useful for shaping what might be possible in the future. Agamben's (2008) dystopian analysis and brutal dichotomy between political and 'bare life' is unsurprisingly criticised in much of the migration studies literature. While both compelling and unsettling, its basis in such a brutal dichotomy is no better than some of the divisive rhetorical politics it intends to counter and, as we have seen, it fails to take account of the complex, shifting and imaginative mechanisms through which abandonment is legitimated and carried out by the state. This is particularly relevant to my argument, which has shown how the construction of false dichotomies and 'semantic slipperiness' creates opportunities for new sub-categories of more and less worthy, and for justifying their exclusion.

Thus, one of the most significant criticisms of Agamben suggests that instead of improving the condition of 'bare life' by trying to reclaim the category of the excluded, our ability to move forwards will be dependent on 'forging a public realm grounded on the appropriate distinction between human life and the political world' (Owens 2009: 567). To make this argument, Owens draws on the philosopher Hannah Arendt to distinguish between the political and 'bare life' and adopts the case of refugee lip sewing to demonstrate that even the most powerless refugee still retains agency for political acts, such as the choice to self-martyr. In the case of the neoliberal states of exception, constructed in order to exclude unwanted 'surplus life', Owens' argument reminds us: not only do we need a public realm grounded on an appropriate distinction between human life and the political world, we also need a better distinction between humans as life and humans as labour or an accessory to economic growth. The numerous examples of migrants and refugees asserting their humanity and agency through acts of solidarity, protest and reworked

citizenship across excluded spaces of Europe from Lampedusa in Italy to Calais in France (Davies and Isakjee 2015) remind us of the persistent challenges they present to Agambenian theorisations of their 'powerlessness' to the state as well as the state's own efforts in abandonment and exclusion. The emerging examples of survivalist 'campzenships' (Sigona 2015) underlines the significance of their contested political agencies.

Moving forwards, it is essential to go beyond the Agambenian approach. In parallel with Owens' (2009) call for grounding the migration debate on an adequate separation between the human and political world, this discussion calls for developing and mainstreaming a nuanced and purposeful vocabulary for understanding the complex reasons people migrate. It is through the 'semantic slipperiness' and false dichotomies surrounding migration that gross simplifications propagate and empower policy makers to take advantage of this. In such contexts, the neoliberal state, driven by biopolitical market logics, and with the opportunity to reframe migration in a light that justifies its 'exceptional measures', renders migrants as both political and economic 'surplus life'. Whilst approaches such as Al Jazeera's refusal to use the word 'migrant' in the context of the refugee crisis are well-intentioned but what they in fact do is perpetuate the lack of appropriate vocabulary. Indeed, in February 2016 as the EU debate about how to manage refugee movements between Greece and Turkey rumbled on, the Greek Prime Minister Alexis Tsipras made a statement urging that Greece could not become a 'permanent warehouse of souls' (McVeigh and Smith 2016) – language that pointedly evokes my argument that the state has situated human life as economically and politically redundant. At the same time, Tsipras sought to reassert humanity in his statement by challenging this, with the sharply contrasting and evocative language of a 'warehouse of *souls'* (emphasis added). Ultimately, such voices urgently need to be empowered by a nuanced, and much more intentional vocabulary in order to reassert humanity in the political and economic debates emerging from the refugee crisis.

Olivia Taylor has an MA in Environment, Development and Policy from the University of Sussex and a BA in Geography from the University of Cambridge. She has previously written about migration in the context of climate change.

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Field Monitor

DENISE VENTURI, Reflections on empirical research with LGBTI refugees - a legal scholar's perspective

This paper seeks to reflect on the challenges related to conducting research with vulnerable persons. Specifically, it focuses on the case of lesbian, gay, bisexual, transgender and intersex (LGBTI) asylum seekers and refugees, drawing on preliminary findings of ongoing fieldwork in the United Kingdom (UK) and Italy. After an outline of the research aims and methodology, this paper explores the challenges related to the researcher's positioning vis-à-vis the fieldwork participants. The fieldwork underpinning this piece began in 2016 and is ongoing, and as such, this paper veers away from definite conclusions, rather advocating for the development of qualitative methodology in legal research.

Introduction

The current scholarship on LGBTI refugees is fragmented but growing, having received contributions from several disciplines, ranging from legal studies (Jansen and Spijkerboer 2011; Ferreira 2015), political science, sociology (Manocchi 2011), anthropology (Murray 2014) and social work studies (Alessi and Khan forthcoming). However, the great bulk of the literature on this topic deals with the issues related to refugee status determination (RSD) (Kapron and LaViolette 2014), in particular, how to assess these types of claims. RSD is a judicial or quasi-judicial process; therefore, the analysis of pertinent legislation and case law constitutes the starting point of the examination. However, law and legal methodology by themselves do not suffice. Arguably, the complexity and the multifaceted nature of such queries cannot be answered only by referring to legal instruments; there must be more.

On the basis of this premise, the present paper aims to shed light on the challenges related to conducting research with LGBTI asylum seekers and refugees. More specifically, it draws on questions which have arisen from the author's ongoing fieldwork in the UK and Italy. The paper is divided in two parts: first, it presents the aims and the methodology of the research and second it focuses on the problems related to the positioning of the researcher, providing also some observations on conducting empirical legal research.

Aims and methodology of the research

As mentioned, RSD has proven to be, so far, the area of most interest for the scientific community regarding the study of LGBTI refugees. Issues of evidence, credibility and the use of stereotypes in RSD have long been debated among scholars and practitioners (Jansen and Spijkerboer 2011).

On this account, the present research is a doctoral project aimed at understanding how human rights law could provide arguments to improve the assessment of asylum claims based on sexual orientation and/or gender identity (SOGI) in Europe and particularly, in the context of the common European asylum system. Notably, the research looks at how the concept of vulnerability could be used in the RSD process and in legal reasoning, in the context of appellate procedures against the rejection of an asylum application. The research combines legislation and case law analysis with qualitative methodology, specifically interviews and participant observations.[1]

[1] Participant observations are not discussed in this paper.

The interviews informing this research have been conducted with both asylum seekers (individuals who have applied for international protection and are still in the process of obtaining same) and refugees (those who have been formally recognised as refugees).[2] Participants were reached through an adjusted version of the snowball sampling technique. This author contacted Non-Governmental Organisation (NGOs) and associations devoted to LGBTI refugees, which, in turn, referred to individuals who were willing to be interviewed. The actual participants were randomly selected among those available. Despite its shortcomings, the snowball sampling technique proves to be effective with regard to hidden and vulnerable population, where issues of trust and access may emerge (Atkinson and Flint 2001). So far, it has been possible to gather only participants self-identifying as lesbian, gay, bisexual and transgender but not intersex. Currently, 19 interviews have been conducted in the UK and 2 in Italy.[3]

Locating the researcher

> *'One question, if I may. Please feel free to ignore it if you feel uncomfortable. Are you a lesbian or a straight woman?' (Participant I, 'personal communication', May 2016).*[4]

This is a text message that one of the UK interviewees sent me after I interviewed her. Before embarking upon this fieldwork, my decision had been not to reveal my sexual orientation, as I did not want to exercise any undue influence on the participants. In other words, I (perhaps naively) wanted the individuals to take part in the interviews not merely because I was being considered close to them for my sexual orientation or gender identity. Rather, I wanted to trigger their genuine interest in narrating their stories of forced migration. While the question of my sexual orientation was expected, it was not raised until I received the aforementioned text message, which was sent after ten interviews had been conducted. I replied stating I was a straight woman, which then led the participant to ask why I decided to engage with LGBTI people if I was not a part of the community myself. On this account, two aspects will be discussed: my role as an outsider researcher and, at the same time, as a 'human rights lawyer'.

Scholars have long debated about the inside versus the outside researcher, especially regarding LGBTI individuals (Bettinger 2010). At first, the advantages of being an inside researcher – namely being non-heterosexual and non-cisgender – may seem immediate, for instance in terms of access to population. Being an inside researcher can create trust and therefore facilitate initial contacts. This can stimulate 'chain referrals' (Atkinson and Flint 2001) and thus help reach hidden and vulnerable subjects.

Nevertheless, the reality of LGBTI refugees is not limited to their SOGI, but it is multi-layered: it involves elements such as ethnicity, cultural and educational background, as well as experiences and expectations in relation to forced migration. During fieldwork, I found that the participants were not much interested in my sexual orientation. Conversely, they were driven by

[2] Participants were required to have already undergone at least the first stage of the asylum process (i.e. the interview with the asylum authority).

[3] More interviews are going to take place in Italy. Another set of interview will instead take place in Poland. These numbers only consider interviews with asylum seekers and refugees, but other interviews were conducted with members of NGOs, legal advisors and a judge.

[4] The names of the interviewees have been omitted due to privacy concerns. Each participant has been assigned a code: a letter of the alphabet for the UK participants, a number for those in Italy.

the willingness to understand how I would have portrayed them and their stories. The overwhelming majority of the interviewees referred that they took part in the interview because they wanted to raise awareness of the situation of LGBTI refugees, while one participant expressly stated that, since I was studying human rights, he was confident I could make a difference with my research.

This argument leads to the second aspect mentioned above: my position as a 'human rights lawyer'. I include this expression within quotation marks because that is how I believe I was understood and perceived by the participants. Before the interview, I inform participants that one of the purposes of the research is to analyse RSD from a human rights point of view, in order to understand how asylum seekers' rights could be fostered. Considering the attitudes and the responses I received, this is what provided the link and enabled a fruitful participation, despite not being an insider researcher in the sense explained before. More specifically, given my position, I was considered as someone who could bring to the 'outside' their claims and needs for human rights' advancement.

Thus, even though issues remain regarding accessing an in-depth understanding regarding the thoughts and experiences of research subjects, it has been possible to find ways to build trust and meaningful engagement.

The qualitative side of legal research

For the purposes of the present project, empirical legal research – defined by Burton (2013: 55) as including 'the study of law, legal processes and legal phenomena using social research methods, such as interviews, observations or questionnaires' – has been deemed necessary in the light of the aforementioned research questions. In fact, limiting the research to case law and legislation analysis would have prevented the author from having a comprehensive understanding of the issues related to status determination. On this account, the use of interviews has been motivated by the need to explore aspects that may not explicitly emerge from the case law; this is the case, in particular, of issues related to the burden of proof, credibility and the correct implementation of the low threshold of standard of proof (UNHCR 1998). Notably, regarding credibility, it has been considered necessary to analyse the position and the arguments of the applicants *vis-à-vis* the asylum process. Most importantly, qualitative fieldwork has served to witness how the law in action differs from the law on the books (Clune 2013) and therefore to better identify gaps and inconsistencies that can be detrimental to the asylum seeker's human rights.

Conclusion

Within the legal discipline, interviewing techniques are generally unfamiliar (Burton 2013); their use in legal scholarship, although increasing, is still not full-fledged. Nevertheless, the use of empirical methodology proves to be relevant in order to provide a full picture of the topic, especially when certain issues risk being overshadowed within the confines of desk research. The findings of the interviews are useful in the legal context as they can actually be transposed into legal arguments and enrich legal analysis.

With specific regard to LGBTI persons, it should not be thought that only non-heterosexual researchers are necessarily better positioned; this would in fact further accentuate differences and

divisions (see Bettinger 2010). On the contrary, it is necessary for researchers to reflect on their perspective and positioning, by analysing their hidden biases and being open-minded. Such attitude allows to build bridges between the participants and the researcher and to mutually recognise their common humanity.

Denise Venturi is an Italian national who holds a Master's Degree in Human Rights and Democratisation from EIUC Venice (Italy) and KU Leuven (Belgium) as well as a Post-Graduate Diploma in Immigration and Asylum Law and a Master in Law from the University of Florence (Italy). Having worked previously as a criminal defence and immigration lawyer, Denise is currently a PhD Candidate at Scuola Superiore Sant'Anna (Italy) and KU Leuven (Belgium). Her doctoral research focuses on the compliance of evidence assessment with human rights law and on how vulnerability can be used in the legal reasoning in the case of LGBTI asylum seekers.

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DHJANA SAMSHUIJZEN, Family locations in the Netherlands: conditions for children

Many children whose families' asylum applications have been rejected by the Netherlands, now live in camps spread over the country known as 'family locations'. More than one thousand children now find themselves spread across seven camps. Over the past few years, studies have pointed out the intense emotional harm these children face due to weekly police raids, harsh living conditions, constant threats of violence, arrest and detention. The Dutch state, however, has not taken the initiative to address these conditions. In fact, it only has built the additional prison at Camp Zeist for refugee families who are about to be deported. To fill the vaccum, several families have now formed a grassroots collective with political Dutch activists. The campaign, with the title 'No child to the side', is calling for international support to pressure the Dutch state to end the violations of the children's rights and those of their families. Dhjana Samshuijzen, one of the initiators of the campaign and author of this paper, combined in-depth interviews with the refugee families together with information obtained from governmental documents, NGO reports and academic research to produce a clear image of the treatment of refugee children and call for a stop to the violation of these children's rights.

Despite the image of a tolerant and progressive Dutch nation, human rights organisations have expressed concerns regarding the rights of minors held in pre-trial detention being unsufficiently protected within the Dutch legal system, as these pre-trial detentions 'exceed the legal duration, are applied too often and judged according to criteria for adults' (Van Creij 2011). Furthermore, the Committee on the Rights of Children noted in their last report (2013) that there is systematic detention of children in police custody (up to 16 days), children younger than 12 years old do not receive legal aid during police interrogation and that there are high numbers of children being held in pre-trial detention for lengthy periods of time. Many elements in UN reports, for instance, state concern with the treatment of refugees, in particular, regarding detention. In the Netherlands, immigration detention continue to be used excessively. In a 2013 report of the Committee against Torture (UNCAT), the Committee states:

> *...The Committee further notes with concern that the legal regime in alien detention centres in not different from the legal regime in penal detention centres. The reports received by the Committee with regard to the confinement in cell for 16 hours, the absence of day-activities, the use of isolation cells, handcuffs and strip searches of aliens detained under migration law who await expulsion to their home country have been of particular concern (Committee Against Torture 2013).*

Those seeking asylum are confronted with excessive procedural demands including the obligation to hand over birth certificates or identity papers even if they originate from countries where national authorities do not provide such documents or register such data (for instance, Afghanistan, Somalia and South-Sudan). In addition, 'appeals procedures for rejected asylum applications do not always provide for a substantive review of the facts' (Committee on Forced Disappearances 2014) and 'during medical examinations that form a part of asylum procedure, individuals are primarily assessed on their ability to be interviewed while disregarding their eventual needs of treatment and support due to ill-treatment, torture or trauma suffered' (Committee against Torture 2013).

Within this framework of systematic violations of the rights of refugees, refugee children are not immune. Though the Netherlands signed the Convention of the Rights of the Child in 1995, recent criticism shows how these rights are being violated by the state in the case of refugee children.

More than one thousand refugee children live in the Netherlands as undocumented minors. These children live with their parents in so-called 'family locations' that are spread over the country. The facilities are specifically designed for refugee families whose initial asylum application have been turned down by the Dutch state and who await deportation to their countries of origin. In-depth interviews[5] with the refugee parents and children at the family locations reveal that the conditions at the family locations are harsh, especially compared to Dutch living standards.

The families are housed in single rooms without any privacy and are provided with weekly allowances below minimum state standards. The parents' freedom of movement is heavily restricted and the families are submitted to daily in-house registration. If one of the parents misses the in-house registration (for example due to medical or legal appointments or a visit to the court), the weekly allowance is reduced with a 'fine'.

Significantly, interviews clearly show that, more than the living conditions, the constant threat of arrest and detention is ultimately disruptive to the well-being and development of the children at these facilities. Once or twice a week a team of the Migration Police, the official police force responsible for arrests and deportation of refugees, will raid a family location. With no prior notification or warning, up to ten officers will enter into a room just before dawn, to arrest one of the refugee families. While neighbouring families are kept at a distance by force or intimidation, the arrested family is granted just five minutes to pack their belongings. What is not packed has to be left behind (S. and M. 28 October 2015; I. 17 June 2016).

There are testimonies from refugees within the family locations of pushing, pulling and hitting, but also of the deployment of police dogs and stun guns, even if young children are amongst the arrested refugees. Sixteen-year-old M. explains:

> *Many of my friends have been arrested and deported. The images of how this happened still haunt me. How police officers arrested a little seven-year-old girl. She held on to her teddybear and screamed for help. Her father cut himself, but the police didn't care. How the police tasered a girl of my age so that she would stop panicking. (M. 2015)*

Once arrested, the children and their parents are transferred to the family prison. There have been times where teens are handcuffed or children are separated from their parents during transportation.

In 2013, UNCAT expressed concern regarding the reported incidents of excessive use of restraints during forced returns and urged the State to only use restraints in accordance with the principle of proportionality.

[5] Interviews took place between October 2015 and July 2016. I express my sincere gratitude towards the parents and children who, despite their fear of repercussion measures, overtly talked about the conditions at the family locations and the (often traumatising) experiences they went through.

According to international migration laws, detention is only to be used as a last resort and many EU countries succesfully search for more humane alternatives. Despite multiple recommendations by UNCAT to the Dutch state to ′ensure that the detention of asylum seekers is only used as a last resort, and, where absolutely necessary, for as short period as possible and without excessive restrictions', the use of immigration detention is still the default option in the Netherlands with no exceptions or alternative procedures made for children. The newly constructed family prison at Camp Zeist is one of three detention centers in the Netherlands. Although the Ministry of Safety and Justice, responsible for operating these centers, emphasizes a 'child friendly' environment by calling the facility a 'closed family facility' instead of a 'prison' and by publishing promotional videos in the media, testimonies from children who were detained at Camp Zeist make clear that the experience is that of a prison nonetheless. This is due to the walls, the electric wires, the camera surveillance and the guards. From Camp Zeist the families are deported, even though the children have spent the majority of their lives in the Netherlands and have virtually no connection to the countries their parents once fled from.

Studies clearly show that the stay at the family locations, as well as the constant threat of raids, detention and deportation, have a harmful impact on the well-being and development of children and teens. The *Werkgroep Kind in AZC* (Working Group Child in Asylum Seekers Centre), a coalition of, amongst others, UNICEF Netherlands, Defence for Children International and War Child, states:

> *All children with whom we have spoken in the frame of this research, indicated that the conditions in which they have to live have negative consequences on their basic sense of security, their self-confidence and their possibilities for development.*

Defence for Children, UNICEF and the Children's Ombudsman have campaigned since the establishment of the family locations in 2011 against the violations of the rights of children at these facilities, urging the Dutch authorities to close down the family locations completely (*Werkgroep Kind in AZC* 2014). Until now, no family location has been closed and the total capacity has been increased by 450 places.

The situation is so dire that in early spring of 2016, refugees from the family locations felt compelled to form a collective, together with external political activists, to protest the inhumane treatment in family locations. The campaign, 'No Child to the Side', focuses on raising national and international awareness about the situation at the family locations and, at the same time, strives to empower the refugee families. It invites international journalists and researchers to investigate and denounce the violations of the Convention of the Rights of the Child that are committed at the family locations.

Conclusion

The Dutch state contributes to numerous violations of human rights within its own borders, in particular the rights of refugee children. Living under harsh conditions at the family locations and being confronted with the constant fear of raids, arrests, detention and deportation, the well-being and safety of children is systematically threatened. In addition to overwhelming criticism

by different UN bodies, more international awareness and pressure on Dutch policy makers is needed to bring the best interests of children to the forefront of Dutch laws and policies.

Dhjana Samshuijzen is a Netherlands-based activist and trainer. She is a founder of the 'No Child to the Side' campaign.

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[6]For security reasons, the names or initials of the interviewed refugee parents and children can not be published.

Law Monitor

ANDRES SANDOVAL, Forced displacement in Colombia: obstacles to safe resettlement through the framework of the *Land Restitution Program*

By 2014, Colombia had the second largest number of forcibly displaced people inside its borders, only surpassed by Syria (NRC and IDMC, 2015). More than 50 years of internal war has left over 5 million internally displaced persons (IDPs) seeking restitution, reparation, and safe resettlement. In 2011, the National Government of Colombia, and the Senate, approved Law 1448 to assist IDPs. One of the strategic policies associated with the law was the Land Restitution Program (LRP). This paper explores the obstacles faced by IDPs in Colombia in terms of resettlement including the capabilities and limitations of the LRP. Ultimately it argues that security issues fail to guarantee a safe return and non-repetition of displacement, and therefore the National Government of Colombia must establish a framework for a suitable durable solution in order to uphold the rights of this forcibly displaced population.

Introduction

By the end of 2015, there were more than forty million people internally displaced worldwide as a result of armed conflict and other forms of violence. Colombia's IDPs make up a significant proportion of this number. Human Rights Watch states that by 2013 more than five million people were displaced from their own lands in Colombia due to the internal conflict in the country. According to Amnesty International, by 2015 more than 6 million civilians were registered as displaced (Amnesty International 2016). This paper sets out the causes and consequences of forced displacement in Colombia, the national response to the issue, and the current challenges posing significant problems for achieving successful restitution and resettlement. Although it is difficult to measure the exact impact of the displacement or determine the best way to address it, this article highlights some of the causes and consequences of forced displacement in Colombia, the current national response to the issue, and some important challenges that affect the process of restitution and resettlement.

IDPs – development of a status

An internally displaced person (IDP) is an individual who has been forced to migrate within their nation's boundaries, leaving aside his residence and habitual economic activities (IACHR 1999; UNHCR 2007). Although IDPs only became a discrete category of migrant a few decades ago, due to growing academic and political interest, international documents were produced with the intention of promoting IDPs' rights and creating a new category of forced migrants that could help to elaborate more efficient programs, thereby putting IDPs on the global agenda (Mooney 2005). The *Guiding Principles on Internal Displacement* define IDPs as follows:

> *…internally displaced persons are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized state border (UN 2004:7).*

The *Guiding Principles on Internal Displacement* is the most elaborate document addressing how governments should address the issue of IDPs in their countries. During the last decade the impact of these principles has been remarkable. In the case of Colombia, for instance, almost all

of the legal framework constructed by the Constitutional Court and the laws promoted by the National Government address the principles, at least in the production of documents. The Guiding Principles filled a significant vacuum, as Cohen remarks, 'the *Guiding Principles on Internal Displacement* filled out a big gap in the international protection system for uprooted people. Although its development gave us a number of lessons for those seeking to develop standards in the field of migration it remains a subject of study' (Cohen 2014:12).

IDPs in Colombia

Forced displacement affects 15% of the Columbia population. Forced displacement in Colombia is a never-ending story. Due to the internal conflict, farmers have been systematically displaced since 1985 when the first mass displacement was registered. During 2016 more than 6000 people were displaced again in Choco and more than 7000 are currently trapped in the middle of conflict (ACNUR 2016). Data is inaccurate and while the national government and independent organisations discuss the numbers, IDPs remain in precarious situations without access to basic goods and services. Despite efforts made in the last decade, IDP-related challenges for the coming years are enormous.

As most IDPs in Colombia inhabited rural areas prior to their displacement, they generally do not have a high level of education or skills beyond growing food on their land. They arrive in the cities without the possibility of return and are exposed to discrimination (Cohen and Deng 2008), trauma and social invisibility (Springer 2007), loss of citizenship (Villa 2006), poverty and violence (Ibañez 2006; 2009), gender discrimination (Marteens, D. and Segura-Escobar 1996) and fear (Jaramillo and Villa 2000). To be a displaced person in Colombia is to be part of the most marginalised sector of the population – vulnerable to a lack of human rights protection, welfare loss, and lack of access to the legal system and fundamental rights. This is a particularly overwhelming issue, one that the National Government has been dealing with for the last few decades.

The concept of 'displaced' was included under the principles of the Supreme Court of Justice of Colombia in 1998 and defined as any person who had been forced to migrate within the national territory. Circumstances can change but in all cases, the National Government has the responsibility to attend to the basic needs of the displaced and prevent new forced displacement occurring within the country (Corte Constitucional SU 1150 de 2000). The role of Colombia's Constitutional Court in the recognition of the human rights of IDPs in the country is particularly significant as in 2004, it issued a landmark decision declaring that the disregard of IDPs' fundamental rights was an 'unconstitutional state of affairs' (UNHCR 2012; Corte Constitucional, T-025 de 2004. A number of orders were issued to improve the situation of IDPs in the country (UNHCR 2012; Corte Constitucional, T-025 de 2004). The Constitutional Court has recognised that IDPs are entitled to a number of rights, including the right to hold property and land, access to justice, the right to liberty and personal security and the right to physical, mental and moral integrity (Constitutional Court T-239 de 2013).

LRP: National Response to Forced Displacement

With the purpose of establishing a solid juridical framework that guarantees reparation and restitution for Colombian IDPs, in 2011 the National Government presented the *Law of Victims and Land Restitution 1448* (Law 1448) to the Congress for approval. This law, as well as the

LRP that followed it, was introduced on the basis that more than 6.6 million hectares of land had been abandoned during the period 1980 – 2010 (Amnesty 2012).

When Law 1448 was passed in 2011, the associated policy (the LRP) was launched but was met with resistance in several political sectors of the country. Some criticised its operational gaps and limited view of the complex problems faced by IDPs. Others opposed it as the Law represented an economic threat to them as some accumulated their wealth by exploiting the IDPs' situation, for instance, by appropriating their abandoned lands. In other words, forced displacement became a business for armed actors such as guerrillas, paramilitary members and corrupt politicians who were able to find and utilise a lucrative opportunity during the war.

Law 1448 states that the land restitution process must be implemented 'gradually and progressively, taking into account the security situation, the historic density of land dispossession and the existence of conditions for return. Land restitution, as well separation generally, will therefore be implemented over a 10-year period, through a process that will prioritise land restitution for specific geographical areas' (Amnesty International 2014). Some key elements were incorporated in order to make the document a procedural guide for those who are required to implement it. The focus on particular areas for restitution, the extension of the concept 'victim', the incorporation of new rights, and the principles outlined to be applied in the restitution process were some of the new innovations contained within Law 1448.

Obstacles and limitations of the LRP

Three obstacles exist which limit the extent to which Law 1448 and the LRP can be implemented and utilised to achieve effective resettlement. The first one is the *slow process of restitution*: by 2014, just 58,500 hectares of land were claimed by farmers, 50,000 hectares claimed by indigenous people and 71,000 hectares claimed by African descendants. Today, most of this process remains unresolved, as some of those who claim rights to land have not received legal title to the land, whilst others who have received legal possession do not in fact occupy their lands, as they remain occupied by armed actors who prevent farmers' resettlement.

The second obstacle to safe resettlement is the *lack of security to ensure a safe return*. Given that conflict continues to affect considerable territory, ensuring a safe return is one of the biggest challenges. According to Amnesty International, 'many land claimants have been threatened or killed. Those leading land restitution efforts and representing displaced communities, human rights defenders accompanying them, and state officials have also been the target of attacks because of their work' (Amnesty 2014:32). The Colombian Government has the primary duty and responsibility to establish conditions, as well as provide the means which allow IDPs to return voluntarily, or to resettle voluntarily in another part of the country (UN 2004). This is a key issue as IDPs' decision to return to their homelands or to resettle, depends on the capacity of the state to protect them.

Additionally, some claimants[7] and human rights defenders have been killed, whilst others have suffered double displacement[8] or threats during the process (CODHES 2013). As a result, forced

[7] One of the most problematic issues in relation to IDPs in Colombia is determining the category they belong to. The most common concept is ¨displaced¨, but in Law 1448 they are named "victims¨ and "claimants". This generates confusion about the status that IDPs have in Colombia. Ferris says: ¨the original law recognizing internal

displacement remains out of control in Colombia and the State is unable to provide safe resettlement and non-repetition[9] guarantees for IDPs. If IDPs consider that return will result in a lottery of threats, it is unlikely they will make a claim for restitution through the LRP. On the contrary, guaranteeing safe return will encourage them to assert their rights and therefore start the process of restitution.

The third problem is the *failure to guarantee non-repetition*. Displacement is an on-going process and there are many claimants who have been displaced twice, first by the open conflict between guerrillas and armed forces of the State and secondly by some illegal groups which resulted from the previous peace deal with paramilitary forces - now known as BACRIM (Criminal Gangs), or by transnational companies that have occupatied their lands and have the power to intimidate and threaten those who want to recover them (Amnesty, 2008; 2015). BACRIM are spread throughout the country. Their illegal activity includes extortion and control over the production and movement of illegal drugs to the seaports, and therefore have become a central actor in forced displacement in some important areas of the territory like Cauca, Chocó, Valle del Cauca, Nariño, and Antioquia. Further, transnational companies have taken advantage of the conflict and purchased large territories for monocrops, establishing alliances with both BACRIM and guerrillas, and thus also contributing to forced displacement.

Conclusions

This paper has examined the serious issue of forced displacement in Colombia. First, it presented a general summary of IDPs in Colombia - 15% of the population has been affected by the internal war - exposing them to all kinds of violence, marginalisation, poverty and abuse. Second, this paper discussed the national response to forced displacement contained within Law 1448 and the LRP. Most of the reports presented by independent and international organisations approve the ongoing use of the program and consider it an advancement for the rights of IDPs in the region. However this paper illustrates that there are several obstacles and limitations to the national response. This includes the on-going problem of a slow process of restitution, lack of

displacement, Law 387 of 1997, presents a much broader definition of internal displacement than that contained in Law 1448: disturbances and internal tensions, generalized violence, massive violations of human rights, infringements on international humanitarian law, or other circumstances deriving from the aforementioned situations that altercate the public order. In explicitly excluding victims of "common crime," Law 1448 was criticized for denying rights to intra-urban IDPs and to those who were forcibly displaced by the BACRIM [Criminal gangs composed by paramilitary forced demobilized in 2004 that were rearmed in order to control illegal drug routes and production [Can you please re-word this sentence – do you mean 'criminal paramilitary gangs who were forcibly demobilised in 2004 but who subsequently re-armed themselves [or were they re-armed by someone else] in [insert year]] and now control illegal drug routes and production]. However, the Constitutional Court ruled in Award 119 of 2013 that IDPs from BACRIM should be included in the Victims' Registry and counted as victims¨ (Ferris, 2014:25). In sum, IDPs in Colombia are both victims and displaced so they deserve double reparation; they lost not only their land and goods but also their families and friends during the conflict. See also: Meier, J. R. (2007*). ¿Por qué son víctimas las personas desplazadas?* Boletín Hechos de la Calle. year 3. PNUD publications.

[8] Persons forced to abandon their lands several times and very often after they have received a piece of land in compensation through the LRP.

[9] Guarantees of non-repetition are measures that the State must implement in order to ensure that IDPs and other victims of the conflict will not be affected again through the violations of human rights or breaches or any other kind of generalised violence. Guarantees of non-repetition are referred to in the Preamble and Articles 2, 29 and 229 of the *Political Constitution of Colombia.* Articles 1, 8, 25 and 63 of the *American Convention on Human Rights* (ACHR); and 2, 9, 10, 14 and 15 of the *International Covenant on Civil and Political Rights* (ICCPR). They are also referred to in the *Guiding Principles on Internal Displacement* (Deng Principles).

security for safe resettlement, and failure to provide guarantees that non-repetition will not occur. As a result Colombia is currently facing a significant human rights challenges as it fails to provide safe and successful reparation for these victims of internal conflict.

Andrés Sandoval Sarrias is a Colombian national who holds a Master in Global Development and Social Justice from St. John´s University, where he concentrated on Forced Displacement in Colombia and peace building. He holds also a Master in Philosophy from Universidad del Valle, where he concentrated on Integral Human Development and Human Rights. He is an Instructor Professor at Pontifical University Javeriana-Cali, working also as co-researcher in areas of migration at St. John´s University.

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GENEVIEVE ZINGG, No man's land: Syrian asylum seekers and the status of military deserters under international refugee law

Since 2011, an estimated 100,000 soldiers have deserted Syria's national army, a conscripted force for men over the age of 18. The majority of Syria's military deserters are suspected to have fled the country to seek international protection abroad, raising several critical questions about the status of former military personnel under international refugee law. Using the Syrian army controlled by President Bashar al-Assad as a case study, this article examines the laws governing military desertion and draft evasion, and investigates relevant issues including forced recruitment, military service that involves war crimes or 'acts contrary to the basic rules of human conduct', and the use of torture as a penalty for disobedience or desertion. This paper argues that the right of former military personnel to successfully claim international protection is compromised by unclear and ambiguous laws. Developing a clear and specific legal framework for military deserters claiming asylum is imperative in order to ensure that groups vulnerable to forced military service are adequately protected under international law.

As the Syrian civil war progresses into its sixth year, the protracted and brutal nature of the conflict has caused upwards of 100,000 men to desert the Syrian Arab Armed Forces (Washington Post 2015). Coupled with high rates of death, defection to rebel factions and draft evasion, the numbers are significant. Overall, it is estimated that the Syrian army has shrunk from 300,000 personnel in 2011 to between 150,000 and 180,000 in 2016; by approximately 30-50% *(*Reuters 2014). The majority of deserters and draft evaders have presumably fled the country to seek international protection abroad, though precise figures are elusive. According to a fact-finding report published by the Finnish Immigration Service in 2016, Syrian deserters generally abandon or destroy their military books, tags, and identification as a protective measure in case they are stopped by Assad forces, and further to present as civilians when applying for refugee status so as to avoid any potential security concerns.

The high volume of military desertion in the context of the Syrian refugee crisis raises several critical questions about the status of former military personnel under international law. While the topic has been addressed within jurisprudence[10], former military personnel nonetheless remain unrecognised as a discrete, specially recognised group under international refugee law. Rather, military deserters and draft evaders fall into the broader category of political persecution, one of five grounds for refugee status as stipulated by the 1951 Refugee Convention. To successfully obtain international protection as a refugee, military deserters must establish a nexus with one of the five Convention grounds rather than relying on a broad category, such as compulsory

[10] See: *Ates v. Canada (Minister of Citizenship and Immigration)* , 2004 FC 1316, Canada: Federal Court, 27 September 2004, available at: http://www.refworld.org/docid/47177d36d.html [accessed 20 November 2016]; *Ayegh v. Sweden*, 4701/05, Council of Europe: European Court of Human Rights, 7 November 2006, available at: http://www.refworld.org/docid/45d5c67e2.html [accessed 20 November 2016]; *Azaab v. Minister for Immigration and Citizenship*, [2009] FCA 248, Australia: Federal Court, 27 March 2009, available at: http://www.refworld.org/docid/4b2915912.html [accessed 20 November 2016]; *B. A. c. France*, Requête no 14951/09, Council of Europe: European Court of Human Rights, 2 December 2010, available at: http://www.refworld.org/docid/4d42ad7a2.html [accessed 20 November 2016]; *Said v. The Netherlands*, 2345/02, Council of Europe: European Court of Human Rights, 5 July 2005, available at: http://www.refworld.org/docid/42ce6edf4.html [accessed 20 November 2016]; *Savda c. Turquie*, Requête no 42730/05, Council of Europe: European Court of Human Rights, 12 June 2012, available at: http://www.refworld.org/docid/4fe9a9bb2.html [accessed 20 November 2016]

military service. According to a 1999 UNHCR report regarding deserters originating from the former Yugoslavia, it is generally accepted that States are entitled to request their citizens to perform military obligations and that citizens have a duty to do so (UNHCR 1999). Though they are expected to abide by overarching principles of international human rights law, conscription and punishment for draft evasion or desertion fall under the national jurisdiction of a state. As such, a claim for refugee status on the basis of avoiding mandatory military duty or fear of being punished for failing to comply with compulsory duties does not itself amount to persecution.

In 1995, the United Nations Commission on Human Rights resolution 1995/83 recognized the right of individuals to have conscientious objections to military service in the context of conscription. This was further developed in 1998 when resolution 1998/77 recognized that 'persons [already] performing military service may *develop* conscientious objections' (OHCHR 1998) and further implored states to grant asylum to conscientious objectors fearing persecution for their refusal to bear arms. To obtain asylum on these grounds, an individual must first prove the genuity of his beliefs and clearly demonstrate how participation in military action would be acting in a manner contrary to sincerely held political, religious or moral convictions. Second, in demonstrating the forced nature of the military service, the applicant must show that the State provides no accommodation for conscientious objectors, such as the option of administrative duties. Despite encouragement from international bodies to recognize the right of conscientious objectors to protection, many states have established 'jurisprudential barriers' blocking objectors from successfully claiming asylum (Musalo 2007). In practice conscientious objectors are often denied protection due to the ambiguous nature of the law in this area, with the US for instance employing 'an overly formalistic nexus analysis' and Canada adopting 'a troubling approach to determining whether the military service is condemned by the international community…' (Musalo 2007).

However, refugee status is attainable when the avoidance or desertion of compulsory military service stems from political views held by the individual. In the context of the Syrian civil war, individuals who have actively evaded their draft call or deserted their post would subsequently be perceived as opposing the government. According to the UNHCR's *International Protection Considerations with Regard to People Fleeing the Syrian Arab Republic, Update IV*, persons perceived to be in political opposition to the government are considered 'high risk' and therefore 'likely deserving of international protection' (UNHCR 2015). Individuals that fall into this category include members of political opposition parties; protesters, activists, and others perceived to be sympathising with the opposition; members of anti-government armed groups; draft evaders and deserters from the Armed Forces (UNHCR 2015). In order to successfully obtain refugee status and protection, then, military deserters must prove that members of the political opposition are subject to persecution by the state. In the Syrian context, the risk of persecution for desertion would not be difficult to establish. Several reports published from 2012 onward by the UN Human Rights Council's independent international commission of inquiry on the Syrian Arab Republic and prominent NGOs including *Amnesty International* and *Human Rights Watch* have documented the Assad regime's use of torture, execution, and arbitrary detention against deserters (OHCHR 2012).

Military service is evidently not in itself grounds for obtaining international protection. However, when the service is of a forced nature like conscription or compulsory duty, desertion becomes

an act of political defiance. It is imperative to view the desertion of a conscripted force, like the Syrian army, for men over the age of 18, as a conscious political decision defying the authority of the state. When desertion is viewed as a type of conscientious objection, claimants can be found in danger of persecution based on political opinion and can therefore claim international protection on an established Convention ground.

However, even if the risk of persecution based on political opposition is established, a military deserter will not necessarily be found deserving of international protection. Another issue blocks former military personnel from straightforward asylum claims. Under the exclusion clauses enumerated in Article 1F of the Convention, parties to war crimes, crimes against humanity, or serious non-political crimes are generally excluded from refugee status (UNHCR 1997). This is subject to the nature of the acts performed or ordered by the asylum seeker and the level of responsibility of the individual (UNHCR 1999). Determining the applicability of the exclusion clause requires a process of 'questioning in these areas and a careful analysis of the implications of the answers' (UNHCR 1999) - rendering the clause vulnerable to arbitrary application. The lack of a clearly defined legal framework determining how military chains of command are treated in the evaluation of asylum claims, and to what extent responsibility for war crimes is (or should be) borne by conscripted soldiers, leaves deserters at risk of arbitrary treatment under the law.

Military deserters are vulnerable to ambiguous laws that leave them at risk of international persecution rather than protection. Subjected to a wide range of human rights violations and lengthy periods of arbitrary detention in poor conditions, it can certainly be argued that all refugees face varying degrees of punishment and persecution throughout the asylum seeking process. However, deserters applying for refugee status take the risk of being found to have perpetrated or been complicit to war crimes, and can face lengthy re-entry bans as a result.

The asylum claim of a deserter is further complicated by the nature of the military and the regime it serves. More specifically, the consensus of the international community as to the legal and political legitimacy of the state itself has a significant impact on the individual's claim for protection. Though states have the legitimate authority to conscript citizens, the processes used to establish, apply and enforce conscription are expected to conform with fundamental democratic principles. The purpose and intent of the armed force is subject to similar standards of international scrutiny and review. Accordingly, a claim made by a deserter who served a compulsory military force deployed by a dictatorial regime and used to 'defend institutions and policies unrelated to accepted human rights standards, or utilized for internal or external aggression…' (Jaeger 1983) is markedly different from that of a freely consenting militant who participated in warfare conducted within the boundaries of international law. The UNHCR Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status (1992) states that an individual facing punishment for deserting a type of military action 'condemned by the international community as contrary to basic rules of human conduct' could in itself be regarded as persecution. Thus the refusal to participate in military service on the basis of illegitimate political purposes qualifies an individual for asylum and refugee status.

An example of the role of international condemnation can be found in 1979, when the United Nations General Assembly urged members of the international community to grant asylum to

persons refusing military service in South Africa because they were being forced to uphold apartheid, thereby violating basic human rights. A further example is seen in *Zolfagharkhani v. Canada*, a 1993 case in which an Iranian soldier deserted military service due to chemical warfare being used against the Kurds. His asylum claim on the grounds of political opinion was granted due to the 'total revulsion of the international community to all forms of chemical warfare and that such warfare was now contrary to customary international law' (*Zolfagharkhani v. The Minister of Employment and Immigration 1993*). The sustained and widespread international condemnation of the conduct of the Syrian armed forces, most notably for its use of chemical agents including chlorine bombs and sarin gas, should be parallel to this precedent, and should be taken into account when evaluating asylum claims lodged by deserters of the Assad regime.

While military deserters can claim asylum under international refugee law based on the Convention ground of political persecution or conscientious objection, a brief survey of recent case law indicates the risk posed by such an ambiguous patchwork of laws and directives. For example, in September 2015 Slovenia's Ministry of the Interior refused refugee status to a Syrian military deserter due to his inability to provide evidence of his personal conscription (I Up 47/2015). The decision was subsequently overturned on appeal to the country's Supreme Court, which based its ruling on reports that the Syrian '… government and the opposition are committing crimes against the civil population' and 'available information' regarding the death penalty for deserters. The difference in reasoning between the two decisions demonstrates a lack of clarity as to what extent asylum claims should be evaluated on a personal basis, what weight general factors and country conditions should carry, and how the likelihood of future persecution should be measured against evidence of past persecution.

Similarly, in June 2016, Hungary rejected the asylum claim of a Turkish army deserter and declared that he could be returned to Turkey (30.K.31.507/2016/8). The Court subsequently quashed the decision on appeal, ruling that the lower decision had failed to properly assess the fact that the claimant was a military deserter, and ordered a new procedure. The lack of consistency between judicial bodies in determining the claims of military deserters highlights the need for further development in this area of the law.

Developing and tightening the legal framework concerning military desertion, particularly in the case of forced recruitment or conscription, is necessary to counterbalance the worrying gap in protection deserters are exposed to. Currently, the ambiguous language and unclear standards covering military desertion in international refugee law has resulted in a lack of consistency at the national level, and allowed states to unilaterally deny protection to deserters based on their own interpretations of the law. The international community should use the protection of deserters as a mechanism to welcome and promote the condemnation of war crimes and illegal armed conduct by combatants themselves, which could arguably be a useful tool in dismantling the forces relied on by aggressive or dictatorial regimes. Ultimately, the right of military deserters to international protection should be strengthened by establishing an explicit set of international directives to be universally and consistently applied. Military deserters refusing to participate in armed conduct condemned by the international community deserve clearer and more robust protection under international refugee law.

Genevieve Zingg is a Canadian research affiliate with the Canadian Network for Research on Terrorism, Security and Society. She holds a Bachelor's degree in Political Science from the University of Toronto and has conducted research for several international research institutions including the Institute of European Democrats, the NATO Council of Canada, and the Centre for International Law Research and Policy. Her research focuses on issues related to refugees and migration, terrorism and security, and international human rights law.

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STACY TOPOUZOVA, *De Jure* Representation Without Access to Substantive Provisions: Unaccompanied Minors in the Bulgarian Asylum Regime

Analysis of recent amendments to the domestic asylum regime in Bulgaria illustrate that unaccompanied minors seeking asylum in the country are not afforded adequate legal representation and access to educational and healthcare services. This paper examines The Law on the Asylum and Refugees (LAR) and specifically, the competencies, functions, and responsibilities of legal representatives for unaccompanied minors. The paper argues that the legal representatives who are appointed for unaccompanied minors are administrative actors with no prior involvement with unaccompanied minors, and who, in the absence of both a formal legal obligation and a consultation mechanism, do not communicate with the unaccompanied minors they represent. Paradoxically, the de jure *appointment of a legal representative, in this form, for an unaccompanied minor renders the minor more vulnerable.*

Introduction

Unaccompanied minors seeking asylum in the European Union (EU) require a representative in order to be able to access legal protection in the form of refugee or humanitarian status. Every EU Member State, in keeping with its international legal obligations[11] is obliged to ensure legal representation for unaccompanied minors seeking asylum. However, the particular institution through which Member States ensure legal representation varies. Broadly speaking, there are two approaches according to which states appoint legal representatives: the appointment of a single specially-designated legal representative for an unaccompanied minor or the designation of an individual organization, or a single entity, to represent the cases of multiple unaccompanied minors (EU Report 2014:19).[12] At the outset, EU Member States are afforded discretion to determine by which approach, and through which institutions, to afford unaccompanied minors this legal representation. This paper examines the newly enacted model for legal representation for unaccompanied minors in Bulgaria, which stands at the 'gateway' of the EU and has registered a substantial number of unaccompanied minors between 2014 and 2016.[13]

Overview of Domestic Asylum Regime

According to the centerpiece of the domestic asylum regime in Bulgaria (the LAR), the State Agency for Refugees at the Council of Ministers (SAR) is the primary organ responsible for examining protection claims (Article 46) and coordinating status determination proceedings.[14]

[11] Namely, in keeping with its obligations under the *United Nations Convention on the Rights of the Child* (UNCRC) and the *United Nations Convention Relating to the Status of Refugees* (UN Refugee Convention). Furthermore, Article 25 of *The Recast Asylum Procedures Directive*, which entrenches a set of guarantees (1-6d) for unaccompanied minors. The full document is available online at: http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0032&from=en.

[12] For example, individual legal representatives are not specially appointed for asylum procedures for unaccompanied minors in Belgium, Greece, Latvia, the Netherlands, and Slovakia. Rather, in these countries, only one organisation or institution ensures the representation for all unaccompanied minors.

[13] According to the latest statistics on unaccompanied minors in the European Union, 1815 unaccompanied minors were registered in Bulgaria in 2015, while the figures for 2016, thus far, exceed over twice that amount. The latest statistics are available online at: http://ec.europa.eu/eurostat/documents/2995521/7244677/3-02052016-AP-EN.pdf/.

[14] While in other countries, the UNHCR assumes a primary role in the process of status determination; in Bulgaria the UNHCR holds a subsidiary, advisory role. The Government of Bulgaria has formally signed a bilateral agreement with UNHCR establishing a working partnership with UNHCR without granting the organisation any

The SAR is also broadly mandated to provide basic services to asylum seekers, including employment assistance (Article 29.4), health assistance (Article 29.1.4), and financial assistance for six months after receiving refugee status (Article 32.3). In order to fulfil its mandate, SAR operates three main territorial units: transit centres (Article 47.2.1), registration-receiving centres (Article 47.2.2), and integration centres (Article 47.2.3). These are situated across the country, but are concentrated near the Bulgarian-Turkish border.

Once an unaccompanied minor arrives at a refugee reception centre in Bulgaria, the first priority for SAR authorities is to place him or her with a family member, namely a parent or a sibling, who is 'legally present' in the country, or in another EU Member State.[15] If a family member cannot be identified, the authorities seek to find an extended relative, namely an adult or extended family member who, again, is 'legally present' either in Bulgaria, or in another EU Member State. Where relatives are identified the authorities then conduct a series of security checks, which if completed successfully, trigger the process of family reunification (FRA 2015:170).

In the case where a living family member or extended relative, who could act as a legal guardian, cannot be identified for the unaccompanied minor, Bulgarian state officials are, in theory, mandated to offer the unaccompanied minor the right to decide which Member State to apply for asylum within.[16] If the unaccompanied minor should decide to remain in Bulgaria, the SAR authorities are required to initiate the process of registration, but do not begin the formal process of status determination until the unaccompanied minor has been appointed a legal representative in the country.[17]

The process of appointing a legal representative for an unaccompanied minor in Bulgaria begins with SAR officials. The Bulgarian domestic asylum regime does not provide an individual representative for each unaccompanied minor, but rather, confers upon a municipal representative the authority to act as the legal representative of all unaccompanied minors registered in his or her jurisdiction. More specifically, according to Article 25 (1) of the LAR, any unaccompanied minor under the age of 18, who is seeking protection and is residing within the territory of Bulgaria, will be given a representative from a municipal administration, namely the mayor of the municipality – or an official empowered as such – to act as their legal representative. According to Article 25(3), the representative is conferred the following competencies:

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particular authority during the status determination process, see: http://www.aref.government.bg/docs/agreement_unhcr_government_bg_en.pdf .

[15] *The Revised Dublin Regulation* (604/2013), specifically Article 6, contains obligations to trace the families of unaccompanied minors. It also includes provisions on the qualifications of the representatives for unaccompanied minors..

[16] The CJEU has confirmed (in the case of MA) that this applies even after the child has already applied in one Member State: http://www.asylumlawdatabase.eu/en/content/cjeu-judgment-case-c-64811-ma-bt-and-da-v-secretary-state-home-department-6-june-2013. Case C-648/11, CJEU 2013.

[17] Inevitably, there is a distinction between preliminary registration procedures and status determination procedures. Bulgarian authorities are mandated to initiate registration, irrespective of how and when the status determination procedure takes place. In this sense, Bulgarian procedures are distinct from other EU Member States.

1. Safeguard his/her legal interests in the procedures for granting international protection till the completion thereof with a final decision;
2. Represent him/her before any administrative bodies, including social, healthcare, educational, and other institutions in the Republic of Bulgaria with a view to safeguard the child's best interest;
3. Perform the role of a procedural representative in all the procedures before the administrative bodies;
4. Take actions for ensuring legal aid.

In effect, these provisions confer upon the legal representative distinct types of authority: to represent the unaccompanied minor in status determination proceedings; to request legal aid assistance; and to discern the minor's 'best interests', particularly in schooling and healthcare.[18] Taken together, the functions of the legal representative are not strictly legal or procedural, but rather more broadly encompass the 'well-being' of the unaccompanied minor.

Selection of Legal Representatives

Although the LAR confers wide-ranging functions upon legal representatives, there are no particular specifications regarding who may qualify to act as a legal representative. There are also no formal selection procedures for legal representatives; rather, SAR officials approach an administrative authority after an unaccompanied minor has been identified, and at that point, the mayor of the local municipality becomes the minor's representative. In practice, such a mayor is conferred the authority to represent multiple unaccompanied minors seeking asylum without having any prior knowledge of Bulgarian domestic asylum legislation, or any experience in working with unaccompanied minors. From the outset then, the domestic asylum regime confers upon administrative actors, without any previous engagement with unaccompanied minors, the role of legal representative.

Absence of a Communication Mechanism

Even when a representative is appointed, the LAR does not establish a formal communication channel by which the appointed representative can communicate with the unaccompanied minor. This means that when an administrative official is appointed as the legal representative, he or she does not establish any form of contact with the unaccompanied minor(s) in the particular reception centre, but rather, simply fulfills the administrative requirement of appointment. This practice results in the appointment of legal representatives who fail to communicate with the unaccompanied minor(s) they represent.[19]

New legislative provisions, adopted in 2016, permit authorities from the SAR to place asylum seekers in closed-access reception centres, with internal curfews and restrictions on movement.

[18] As one of the core concepts in the UNCRC, a substantial body of literature (Alston 1994; Bhabha 2004; Bhabha, J. and Schmidt, S. (2006); Carr 2009; Eekelar 1994; UNHCR 2008) is devoted to examining the concept and definition of the 'best interests' of the child.

[19] This was affirmed through an interview I conducted with officials from the Bulgarian Red Cross, on April 22nd 2016, in Sofia, Bulgaria. Inevitably, this is a hugely problematic aspect in the legal representative appointment, which contradicts the basic principle of communication with an unaccompanied minor to ascertain his or her 'best interests'. Multiple studies (UNHCR 1996; UNHCR 1994; Williamson and Moser 1988) emphasise the importance of preliminary contact and consultations between the legal representatives and unaccompanied minors so as to ascertain the particular needs and aspirations of the unaccompanied minor.

Freedom of movement of asylum seekers is also constrained by the establishment of 'zones of movement': administrative areas, designated by the Chair of the SAR, which constrain asylum seekers from leaving, without the explicit permission of SAR. These new provisions further obstruct the channel of communication between legal representatives and unaccompanied minors.[20]

Absence of an Overriding Obligation

The new amendments also fail to establish an obligation for the legal representative to actively engage with the unaccompanied minor. Relevant provisions stipulate that the legal representative 'shall' be responsible for the unaccompanied minor, but do not outline any more substantive obligations or responsibilities for the legal representatives. In practice then, State authorities are not bound by any strict obligation to communicate with the unaccompanied minor. As Red Cross social workers in the main refugee reception centres in Sofia observe, not a single legal representative has thus far communicated with the unaccompanied minor to which he or she has been appointed, thus rendering unaccompanied minors unable to register for schooling, access specialized healthcare treatments, or access any other social services outside of the reception centres.[21]

Conclusion

The newly outlined provisions in the LAR concerning the appointment of legal representatives for unaccompanied minors do not establish a communication mechanism between the legal representatives and the unaccompanied minors; and they do not constitute an obligation for the legal representatives to establish contact with the unaccompanied minor(s) they represent. In practice, paradoxically, even when unaccompanied minors are appointed a legal representative they do not access schooling, specialised healthcare, or other social support services, but remain stranded in refugee reception centres.

Stacy Topouzova is a PhD candidate at the Faculty of Law, University of Oxford, where she examines the process of status determination proceedings in Bulgaria. She has worked in the refugee camps in Bulgaria since 2013 and leads the Oxford Aid to the Balkans Refugee Program.

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Policy Monitor

PAULO MANUEL COSTA and LÚCIO SOUSA, "You are welcome in Portugal": *conviction* and *convenience* in framing today's Portuguese politics on European burden sharing of refugees

Historically-speaking, Portugal is a country that has received a very small number of applications from asylum seekers and resettled refugees. However, within the context of the current influx of refugees into Europe and the creation of a relocation system within the European Union, Portugal is ready to take 10,000 relocated refugees. As such, it is legitimate to ask whether we are witnessing a change in the country's policy regarding asylum and refugees. Although this is an ongoing process, the conviction prompting this humanitarian position regarding the taking of relocated refugees also includes a convenient political strategy that serves the national interest in two ways: by promoting the image of a supportive country in the current European refugee crisis, despite its internal socio-economic crisis, as well as a way of obtaining human resources to boost economic activity and combat the country's demographic deficit.

Introduction

Portugal is a relatively peripheral country in terms of the flow of asylum seekers. Over the last 40 years, between 1975 and 2015, it has only received 17,769 asylum applications (including families), granting 1,605 people refugee status and humanitarian protection (Costa 1994; Sousa 1999; Sousa and Costa 2016). The figures for resettled refugees were scarce when a 2007 national program accepted the arrival of thirty resettled refugees a year (CPR n.d.). Nevertheless, faced with the recent influx of refugees to Europe and efforts to create a European burden sharing system by Member States, named 'relocation process', Portugal has adopted a very receptive position, expressing a willingness to accept 10,000 refugees. In the words of Prime Minister António Costa, 'you are welcome in Portugal' (Santos 2016). Adding, 'We will welcome more refugees out of conviction, not out of convenience' (Kounalaki 2016).

This article aims to examine the recent policy shift in the Portuguese's government's handling of asylum seekers and refugees. It also seeks to understand how such a shift may have more to do with socio-economic convenience than a new-found state altruism. Our research is based on statistical data, document research on asylum law and analysis of the internal political debate. In order to examine current policies, we will provide a brief historical overview of asylum policies, reception practices and the figures of asylum seekers and refugees.

Historical Background

Portugal signed the 1951 Convention relating to the Status of Refugees in 1960, but only in 1976, two years after the reestablishment of a democratic regime did it sign the UN 1967 Protocol. Asylum was also one key article in the new democratic Constitution of 1976. Nevertheless, the first asylum law was incorporated into law only in 1982. It was considered to be both receptive and generous, reflecting the openness of Portuguese society at the time. The situation changed after the country's inclusion in the Schengen area (1993) and later the Common European Asylum System. Portugal adopted a stricter and more restrictive approach to granting international protection by limiting the right of asylum and establishing a subsidiary protection regime.

Portugal sparingly granted temporary protection to refugees from Bosnia in 1992 (200 refugees), Kosovo in 1998 (2,000 refugees) and Guinea-Bissau (4,000 refugees) in 1999 (GTAEM). Most of them returned or moved to third countries. The classic form of refugee resettlement was rarely employed until 2007, when a programme to take 30 refugees annually was established by the Resolution of the Council of Ministers no. 110/2007, 21st August, 2007.

Portugal, Europe and the relocation of refugees

The number of refugees coming to Europe in recent years, particularly in 2015, highlighted the limitations of the Common European Asylum System and demonstrated the problems associated with a large influx of refugees to a Member State. It is within this context that European institutions attempted to create a system for distributing refugees to the different Member States. Burden-sharing has now acquired a regional and European aspect, and has been renamed 'relocation'. Portugal initially took a cautious position with respect to relocation, arguing that national quotas should take into account domestic economic and financial conditions, particularly levels of unemployment (Jornal de Negócios 2015). Based on the European Commission's initial proposal (2015: 21-22) Portugal was to take approximately 2,000 people (relocation and resettlement combined); however, the country initially accepted 4,500, subsequently increasing its acceptance to 10,000 relocated refugees.

Within this context, and considering the previous restricted refugee policy, it is legitimate to ask whether we are witnessing a change in Portuguese policy regarding asylum and refugees, based on political and humanitarian convictions, or if we are looking at a convenient opportunity to demonstrate the validity of the principle of European solidarity at a time of economic and political crisis, while addressing Portugal's domestic economic and demographic problems.

In comparison to other European states, Portugal's internal political conditions are also particularly favourable to this more receptive stance. Civil society has been very sensitive to the dramatic events that have unfolded in the Mediterranean and mobilised to help welcome refugees, facilitated by a support structure involving civil society and local authorities[22], which made it possible to overcome the limitations of the official refugee reception system. This favourable climate is facilitated further by the absence of far-right and anti-immigration movements with any real visibility or political weight; although some right-wing groups are xenophobic, anti-immigrant and anti-refugee, their activities are limited. They boast little electoral success and are likely to remain on the periphery in the coming years (March 2013: 153).

In recent years, Portugal has endured major economic and financial problems, due to a combination of budgetary and public debt crises, which has seen the country subjected to a tough austerity programme that has seriously affected the standard of living. The implementation of this programme made the Portuguese State highly dependent on European 'good will' regarding the country's overspending and need for external funding. If the previous right-wing government was a meek follower of European dictates, the new socialist government, which took office in late 2015, sought to change the direction of austerity. It called for a greater understanding from the European authorities and underlining the need for European solidarity in relation to

22 The creation of the Plataforma de Apoio aos Refugiados was key to the success of this work: http://www.refugiados.pt/home-en/

governments facing problems. From this perspective, the willingness shown to take (more) refugees seeks to show a country that understands what it means to be supportive, not only to refugees, but also to European states currently facing difficulties due to the greater pressure of these migratory flows. The link between these two issues - the economic crisis and austerity, on the one hand, and the flow of refugees, on the other - is particularly clear in the Joint Declaration of the Prime Ministers of Greece and Portugal, 11 April 2016.[23] The refugee crisis is also used by the Portuguese Prime Minister to respond to threats of European sanctions for non-fulfilment of budget deficit rules:

> *Faced with the dramatic situation of the UK's departure, the refugee crisis, terrorism threat, it is ridiculous that we are discussing 0.2 percent of the previous government's budgetary execution (de Beer 2016).*

Since 2009, Portugal has lost 65,460 foreign nationals (SEF 2016: 64) and in 2013, with the economic crisis glooming, 50,835 Portuguese citizens emigrated (Observatório da Emigração 2016). According to the Portuguese Strategic Plan for Migration:

> *Portugal faces a demographic deficit problem that is now a social, economic and national political emergency. Recent demographic trends in Portugal are characterised by a continued increase in life expectancy, reduced infant mortality, increased emigration, negative net migration, sharp and persistent decline in fertility and the consequent ageing of the population (ACM 2015: 14).*

The Strategic Plan for Migration wanted to adopt a more active role in attracting highly qualified migrants within an international and political context that is not particularly favourable to the country:

> *… Portugal can take advantage of this migration mobility space to attract qualified talent and entrepreneurs, as migrations enable new investments, activities, services and economic flows. …Migrants have knowledge, networks and work skills. Portugal can increase the benefits resulting from this environment, which generate wealth and create jobs (ACM 2015: 19-20).*

So far this political strategy did not achieve the results it was intended to obtain. Despite its acceptance of migrants, it has in fact been too low to signal changes in the economy. The head of the Economic and Social Council has affirmed that Portugal needs 900,000 immigrants to achieve a GDP grows of 3% (Dinheiro Digital 2016). The relative low current numbers of migrants have not resulted in entrepreneurs boosting job creation or addressing the economic shortfalls in the Portuguese economy.

Conclusion

Although it is still early to draw concrete conclusions, Portugal's new approach aims to achieve objectives of national interest, such as political dividends at the European level by transmitting

23 Joint Declaration of the Prime Ministers of Greece and Portugal, 11th April, 2016: http://www.statewatch.org/news/2016/apr/gr-pl-joint-statement-refugees-eurozone-war.pdf

an image of a supportive country, as well as attracting human resources that can boost economic activity and combat the demographic deficit.

Faced with this situation, hosting refugees is of major strategic importance to Portugal. While not disregarding the humanitarian conviction involved in the decision to host a large number of refugees, it is still a convenient political measure, both internally and externally, particularly in the current European political arena.

Paulo Manuel Costa is Assistant Professor at Universidade Aberta, in Portugal, where he teaches courses in Law and Political Science, and a researcher at Centro de Estudos das Migrações e das Relações Interculturais (CEMRI), where he develops research on migration, refugees and citizenship.

Lúcio Sousa is an Assistant Professor at Universidade Aberta, in Portugal, where he teaches courses in anthropology, forced migration and development, and a researcher at Centro de Estudos das Migrações e das Relações Interculturais (CEMRI). He worked in Mozambican refugee camps in Malawi, as volunteer, and lived for several years in East Timor.

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LARAIB NIAZ and SYEDA NAIMAL FAITMA, Voluntary Repatriation Policy for Afghan Refugees: Increasing Vulnerability for Women

Migration uniquely affects women. This paper considers the gendered aspect of forced migration and highlights issues specific to women, focusing on the case study of female Afghan refugees in Pakistan and Iran. Victims of forced migration have been ill-served by voluntary repatriation policies for Afghan refugees living in Pakistan and Iran. This article calls for a gender-sensitive approach to solutions which empower female returnees.

Introduction

This paper considers the gendered aspect of forced migration and highlights issues specific to women, focusing on the case study of female Afghan refugees in Pakistan. We begin with an overview of the Afghan refugee crisis, examine the voluntary repatriation policy adopted by UNHCR and the governments of Pakistan and Afghanistan; and consider the impact of this policy on female refugees.

The gendered aspect of migration, in recent years, has become an area receiving considerable scholarly attention (Morokvasic 1984; Gabaccia 1992; Piper 2008; Donato et al. 2006; Connell 2002; Hondagneu-Sotelo 1994; Qasmiyeh 2010). However, there has been little consideration of gender in policymaking. This is concerning as migration affects women and men differently, is impacted by gendered socio-economic power structures, and because of the diverging roles ascribed to male and female migrants in both sending and host countries.

Women are often assumed to play a reproductive and domestic role whilst men are expected to occupy a productive and management role in developing countries. This is in stark contrast to the context of forced migration where women increasingly migrate independently, are often the sole breadwinners for their families and increasingly participate in labour markets (Fluery 2016). Therefore, forced migration, and subsequent repatriation policies, can prove to be particularly disconcerting for women.

International human rights agencies have started addressing difficulties faced particularly by refugee women, but policies for streamlining gendered issues are still scant. The policies which do exist focus on lack of infrastructure, basic education and health services directed towards women (Faizal and Rajagopalan 2005). Policies adopted to address the Afghan refugee crisis highlight that the plight of female refugees is often ignored.

The Refugee Crisis of Afghanistan

Over the past three decades, there has been ongoing warfare and civil strife in Afghanistan, beginning from the soviet invasion of 1979 to the post 9 /11 conquest of the Taliban, civil war and U.S. invasion in the country. This has lead to one of the largest global refugee crises. Recent UNHCR estimates place the number of Afghan refugees as high as 2.7 million (UNHCR 2015), the majority obtaining refuge in neighbouring countries of Pakistan and Iran (Ruiz 2004). The Soviet invasion of Afghanistan in December 1979 resulted in around 1.5 million refugees taking sanctuary in Pakistan (Safri 2011); with continuing unrest in Afghanistan, the numbers continue increasing.

As the international community did little to share the responsibilities for these refugees, Pakistani and Iranian policies prevailed. The Pakistani and Iranian governments repeatedly expressed their frustration at different forums, summits and discussions in the United Nations General Assembly (UNGA), but received no support (Galustov 2013). The Pakistani and Iranian repatriation policies are a result of financial and economic instability, a steep devaluation of the host countries' currencies, rising inflation and unemployment; further making it difficult for both governments to deal with the refugee crises. As a result of growing public animosity against refugees, the Iranian government in 2001 announced that it had sealed its border with Afghanistan and that it was practically impossible for them to accept new refugees (Galustov 2013). Similarly, the Pakistani government, owing to greater threats from militant organisations including the Taliban, got stricter with refugees and urged them to repatriate (Weinbaum and Harder 2008).

In May 2012, the governments of Pakistan, Iran, Afghanistan and UNHCR adopted the *Solutions Strategy for Afghan Refugees (SSAR)*. The SSAR outlined the need for increased voluntary repatriation, but also for enhanced resettlement as a means of international burden sharing and assistance to affected refugees (UNHCR 2012). A quadripartite agreement between Pakistan, Iran, Afghanistan and UNHCR was designed to govern the repatriation process.

Ideally, repatriation occurs when the situation improves in one's sending country or when the refugee opts for return. Under UNHCR's guidelines, repatriation must be voluntary in nature; despite this, governments of Pakistan and Iran have increasingly pressured refugees to move back (Ahmadi and Lakhani 2016). According to IOM's 2015 report about 0.66 million Afghans have been deported. For Afghan refugees, however, accelerated returns stem from socio-economic and political issues in host countries rather than improvements in the security situation in Afghanistan. An Amnesty International Report highlighted Afghanistan's failure to implement a 2014 national policy to provide basic living standards for IDPs who were living 'on the brink of survival' (Amnesty International 2015). This is especially concerning for women and children who form more than 50 per-cent of the total refugee population (Basu 2000).

Impact of Voluntary Repatriation on Women

Afghan women and girls in Iran enjoy a number of freedoms denied to them at home (Strand et. Al 2004). In particular, they have greater freedom of movement, access to quality education, and the ability to seek divorce in contrast to women and girls in Afghanistan (Galustov 2013).

A male dominated culture in Afghanistan further exacerbates the situation. For instance, rape is at times used as a weapon and victims of such atrocities are not afforded sufficient rights (Nijhowne and Oates 2008). According to Basu (2000), in the context of IDP camps in Afghanistan, there is evidence that women were often forced to give sexual favours to male heads that possessed the authority to influence ration distributions. Further, Global Rights research reported that nine out of ten Afghan women faced threats of violence including physical, sexual or psychological, or were/are forced into marriage. Women currently being repatriated fear that they will be denied basic rights and freedoms they enjoy in host countries (Nijhowne and Oates 2008).

The Guidelines on the Protection of Women issued by UNHCR, proposes the elimination of all forms of discrimination in the area of refugee protection. They also identify specific issues, such as gender based violence, faced by women that would require customised assistance and provide strategies to tackle such issues (UNHCR 2002). The guidelines have not been fully utilised by Afghanistan.

Amnesty International interviewed a 50 year old Afghan woman living in Iran who claimed: 'I would prefer to live in prison rather than in Afghanistan, at least in prison I would not have to worry about food, shelter and my honour'. This is not the voice of just one woman but represents a widespread issue of concern to Afghan refugees. However, no law to address the concern of females who stand to be repatriated has been passed in the host countries of Iran and Pakistan. In contrast, considerable attention has been given to young male returnees; specifically dealing with risks of recruitment into violent extremist groups and criminal networks (Safri 2011). Not taking into account vulnerabilities of female refugees can lead to a loss of dignity, a return to violence and atrocious conditions and can also lead these women to be recruited by extremist groups (Dias 2003).

According to Dumper (2007), the cases of Guatemala, Bosnia, and Afghanistan present parallels to the plight of Afghan refugee women. Namely, those case studies represent a desire on the part of many refugees to return to their places of origin, the close proximity of host and origin countries, the low status of women in the sending countries, the role of external lead agencies and finally, a similarity in the demographic profile of migrants (i.e. predominantly peasant and rural-based). An examination of the gender elements in repatriation and resettlement programs in those case studies can be utilised in drawing up a similar program for Afghan refugees. After the Dayton Peace Accords were signed, officials from UNHCR visited Bosnia in order to evaluate the success of the guidelines for protection of women, and found that only a handful of women had been involved in programme implementation and design. This led to the successful institution of the Bosnian Women's Initiative (BWI), which engendered self-sufficiency by providing small loans and grants of $5 million to women's organisations (Wareham and Quick 2000).

For female Afghan refugees, achieving self-reliance can be difficult due to limited education facilities and skill training opportunities, especially for those residing in Pakistan. For those refugees that have returned, it was found that women returnees faced tighter greater obstacles due to reinstated restrictions on mobility and loss of a sense of community. According to research conducted by Ahmadi and Lakhani (2016), displaced women in Afghanistan were reported to face psychosocial trauma, increased gender based violence among returnee families and a relatively larger increase in the burden of absorbing economic shocks.

Humanitarian policies can be customized to help empower these women. UNHCR has, in the past, worked with individual governments and women's organisations towards this cause. An illustrative UNHCR initiative was the creation of Mama Maquin in Guatemala, aimed to provide training and skills to refugee women in order to increase their livelihood prospects; proving to be very successful as it increased their entrepreneurial opportunities (Billings 1994). Once conditions in Guatemala improved, female Guatemalan refugees living in Mexico gained enough

confidence to negotiate agreements with the government themselves and actively participate in repatriation programmes.

Other examples include the Rwanda Women's Initiative amidst civil warfare, which aimed at generating income for vulnerable women, promoting education and empowering them in their social life (UNHCR 2002). This initiative helped in monitoring the status of women who repatriated, by providing support to local women's organisations linked to grassroot networks focusing on aspects such as sexual and gender-based violence. Forced migration, with all of its adverse consequences, provides a unique opportunity for the status of women to ascent. This opportunity should not be overlooked. Through on-going programming, UNHCR is in a position to encourage empowerment of female led organisations, particularly the ones based in rural areas and beyond Kabul, where it is not unusual for women to be bartered, enslaved, and sold (Diaz 2003). Working with the government of Afghanistan, donors should ensure the availability of income-generating projects for repatriating women, without which repatriation policies could further exacerbate existing vulnerabilities for female refugees.

Conclusion

It is difficult to imagine that displaced Afghans women could repatriate and build their lives in sending states with any measure of ease, especially after having experienced relative independence and labour force participation. International efforts lead by donors and the UNHCR, as well as domestic policies, should take into account women's specific realities and vulnerabilities while formulating policies; and consider the hostile, often patriarchal, social conditions in Afghanistan. At present, there is a need to go further and increase the opportunities for disadvantaged female Afghan repatriates in terms of education, employment opportunities and health benefits. UNHCR, and other humanitarian organisations, should increase the monitoring of cross-border population movements between Afghanistan, Iran and Pakistan and should set up an information and assistance systems for Afghan women returnees.

Naimal Fatima is a Research Fellow at the Centre on International Migration, Remittances and the Diaspora (CIMRAD) and Graduate Institute of Development Studies (GIDS). She is a graduate of the London School of Economics and Political Science with a Master's degree in Social Policy and Development. She holds a bachelor's degree in Finance and marketing from the Lahore School of Economics.

Laraib Niaz is a Research Fellow at the Graduate Institute of Development Studies, Lahore School of Economics. She is a graduate of the London School of Economics and Political Science where she focused on Development Management. She has previously served as a consultant to the United Nations World Food Programme. She also contributes to the national newspaper of Pakistan as an op-ed writer.

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Firsthand

PILAR GARCES and ESMERALDA BONILLA, Great Wars
Translated by Caroline Asiala

The following song is written by Pilar Garces, a Colombian refugee woman in Ecuador. The accompanying narrative is written by Esmeralda Bonilla, who is also a Colombian refugee in Ecuador and a founding member of Mujeres Libres Sin Fronteras *(MLSF). Caroline Asiala has provided translation. MLSF is a network of refugee women in Ecuador, a country with the largest recognized refugee population in Latin America. MLSF aims to raise awareness of women's rights and refugee rights issues and participates in policy advocacy efforts to find innovative and sustainable solutions to the economic, social, and cultural barriers women refugees face every day.*

♫ Hoy contarles a todo lo que puedan oír	Today we tell you all that you can hear
♫ Ya vengo desde Colombia para refugiarme aquí No fue por mi propio gusto que yo vine hasta aquí	Now, I come from Colombia to seek refuge here It wasn't for my own liking that I came here
♫ El terror de grandes guerras me sacó de mi país	The terror of great wars took me away from my country
♫ Huyendo con mis hijitos por el miedo de morir	Fleeing with my children from the fear of dying
♫ Dejamos mi bella tierra Sin pensar que ha de venir Con yanto dentro de mi alma Queda atrás mi por venir	We left behind my beautiful land Without thinking that it would come to pass With tears in my soul, I leave it behind to come here
♫ La guerra es cosa terrible, Dios nos libre de tal mal Ver cómo muere tu padre, tu hermano, y tu mamá Cómo matan tu hijo y tu sin poder hablar	War is a terrible thing, God, save us from such evil Look how your father, brother, and mother die How they kill your son and you cannot speak
♫ Y porque soy colombiana, No me quiera Usted juzgar En mi tierra hay gente mala No lo voy a negar, pero somos más Los buenos se los puedo demostrar	And just because I am Colombian, I don't want you to judge me In my land there are bad people, I won't deny it, but we are more - I can show you the good people

Narrative: *Grandes Guerras*

This song comments on the violence in Colombia. We stress that we fled Columbia only because we had no other choice. We had to come to Ecuador where, despite the country facing its own difficulties, our families were taken in. Having escaped Colombia to Ecuador with the little that we could carry from our homes – we identify ourselves as displaced, asylum seeking and refugee women.

We called Colombia the 'beautiful land' because it was paradise to us; it had beautiful places, like the sea and the rivers that flowed by my house. It was the land that I wanted for my children. I built a big house for them and on Sundays we would go to the sea to swim. And every year we would go to my father's farmland and we would plant fruits and vegetables. We planned to take care of our children in Colombia.

We named our song *Great Wars* because, for many years, my city and my country of origin have experienced war. From the time I can remember, I witnessed death and had to dodge bullets. We had to see people cut up. My mother and father protected me, my brothers and my sisters so that the bullets would not reach us. My mother screamed that they would not be permitted to do that to her children.

As the war continued, mothers became widows. The father of my four children lost his life to the war. We had to get out, and I fought hard so that we could live.

We say 'war is a terrible thing' because we cannot speak even when they kill our family. Pilar, our friend who wrote this song, was selling things on the street with her son by her side. Some men appeared and began to shoot at her son. She tried to get close to her son, but the men were coming closer with their weapons. They came to her with their weapons and told her not to speak or scream. In agony, she took some sand from the ground and stuffed it into her mouth.

My mother-in-law also knew who had killed my husband, her son. They came on the day of the wake and told her not to talk or say anything to the police or they would kill the rest of her children.

But life in Ecudor is not perfect.

There is discrimination in Ecuador, but there are almost no murders like there are in Colombia. Once, when my grandson had just started talking, there was a gunfight and we had to run into a house. There was a confrontation with the police and my grandson saw them and said, 'Mami, the police are coming to kill us'. These are harsh realities.

As we say in the song, 'just because I am Colombian, I do not want you to judge me'. When we go out into the street or when we speak, some Ecuadorians say that the Colombians are theives and the women are prostitutes. There are Colombians that have done harm in Ecuador, but we cannot say all Colombians are bad. I would like to integrate into the Ecuadorian society so that they can see that we are humble, collaborative, and decent people. We can show them that we can build our lives and work honorably. I sell coconut juice, my daughter works at a beauty salon, and my son works cleaning windows. It is not the work that we are used to doing – but we are able to support ourselves.

But life in Ecudor is better.

In Ecudor, my daughter can go to a class or go to a friend's house and I do not have to be afraid that she will be tortured, raped, or killed for refusing to be someone's girlfriend. We do not have to ask our neighbours to help get our sons away from the hands of the Urabeño, an armed group in Colombia. In Ecuador, we do not have to run from the sound of bullets. In Ecuador, we do not have to be afraid that we will be killed. I have the satisfaction of knowing that my four children and my grandson are alive.


OX
MO