ORÆ:
EXAMINING THE GLOBAL MIGRANT AND REFUGEE CRISIS

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Examining The Global Migration And Refugee Crisis

The SAIS Europe Journal of Global Affairs
Spring 2022
Volume 25

Published by
The Johns Hopkins University
Paul H. Nitze School of Advanced International Studies
SAIS Europe

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Letter from the Director of SAIS Europe

Dear All,

As this year's *SAIS Europe Journal of Global Affairs* is published, the world faces some of its greatest shocks since World War II. The Covid-19 pandemic has devastated economies and worsened poverty around the world. After more than two years of deep crisis with extremely high social costs, including more than six million deaths, the pandemic appears finally to be receding. We may be approaching the endemic phase but probably still have a significant way to go. With the Russian invasion of Ukraine beginning on 24 February, Europe confronts its worst military conflict in generations. The war is causing untold suffering and damage in Ukraine and raising alarms about possible escalation, with no end in sight. The pandemic and the Ukraine war as well as the cumulative effects of climate change, political instability, human rights abuses and repression, pose fundamental challenges to the post-Cold War order. This demands solidarity, dialogue, practical solutions and decisive action, as well as serious study and analysis.

These are the strengths of SAIS and SAIS Europe, in particular. SAIS Europe has grown from a small program of European and American students focusing on transatlantic relations in 1955 to a truly global institution with students and faculty from around the globe. Subjects range from international economics, conflict management and negotiating methods to regional studies on Europe, Latin America, Asia, Africa and the Middle East. We are well placed to play a proactive role in addressing current and future international challenges.

Global migration and the predicament of refugees have become increasingly urgent challenges after a series of devastating international crises. Hence, I applaud the choice of this theme for the new issue of the *SAIS Europe Journal of Global Affairs*. Its many insightful contributions tackle contemporary issues, from the fiscal impacts of migrants and refugees to capacity building for refugee protection. Congratulations to the editors and contributors for their excellent work. In particular, special kudos go to: Vigen Ciottone, Editor in Chief; Tyler Parmelee, Chief of Staff; Executive Editors Sofia Leedy, Erik Silver, Katarina Leskovar, and Christian Juarez, as well as those working on the business end, namely, Rory Page, Marketing Director; Adelle Bernadette Anne Vaz, Business Manager; Celia Lane, Webmaster; Katherine Schauer, Prints and Archives Manager; Aditya Misra, Media Director; and Alex DiChiara, Submissions Chief of Staff. As the former Editor-in-Chief of an academic journal myself, I know how much time and effort goes into such a publication. Thanks so much for all your efforts!

SAIS is dedicated to multidisciplinary research at the cutting-edge. Our faculty are experts in their fields and their reputation has ensured our continuous presence at the top of the rankings of professional schools in global affairs. The *SAIS Europe Journal of Global Affairs* is an important expression of what SAIS does best. This year's edition continues the tradition of publishing innovative and pioneering work from a diversity of perspectives. The contributions in this issue meet the high standards that have characterized the *SAIS Europe Journal* for many years.

Sincerely,

Michael G. Plummer
Director, SAIS Europe
Eni Professor of International Economics

Letter from the Editor

Dear Readers,

On behalf of the 2021-22 staff of the *SAIS Europe Journal of Global Affairs,* it is my pleasure to dedicate this year's journal to the global migration and refugee crisis. According to the UNHCR's latest statistics, more than 82 million people have been forcibly displaced around the world. Some are fleeing dangerous and untenable situations and searching for a new home, while others are struggling to return to their homeland. As we go to press, the Russian invasion of Ukraine has sparked the largest war in continental Europe since 1945, resulting in more than 10 million Ukrainians being displaced and sweeping Europe into an increasingly problematic refugee crisis. In choosing this topic as the journal's theme, we hope to present a wide array of the interdisciplinary fields playing key roles in the policy response to this important global issue.

Our journal's title, *oræ*, is a Latin word meaning 'borders,' and signifies a nondescript boundary that, once crossed, may foreshadow a new beginning. The crossing of borders and resulting uncertainty is a common thread through all forms of migration. Whether forced or voluntary, migration stems from a variety of circumstances ranging from genocide and conflict to economic inequality and climate change. These escalating factors are complex, with unique and variable etiologies, and their potential solutions are often highly divisive. It is our hope that the difficult questions and complicated potential solutions this issue will pose can serve to move the conversation forward. The emergence of this crisis, on a global scale that is unprecedented in recent history, presents us with the opportunity to examine contemporary trends and response efforts. It provides a framework for discussing the major political, socioeconomic, technological, and environmental issues of our day.

This year, the Executive Board sought a diverse set of perspectives on refugee and migration issues. Our goal in publishing this journal is to build on the academic excellence of prior editions and to share with readers the insight gained to address a current, highly relevant topic. The *SAIS Europe Journal of Global Affairs* consistently presents an analysis of socially and politically important topics. This edition's contributions include first-hand refugee narratives and offers exceptional analysis and policy perspectives, providing a basis for tackling this complex, growing crisis. In addition to students and faculty, our contributors this year include notable practitioners, including the office of the United Nations High Commissioner for Refugees, The International Institute of Humanitarian Law, and the Harvard Medical Faculty Physicians Division of Disaster Medicine.

This publication would not have been possible without our extraordinary board members and staff, who worked tirelessly throughout the academic year to craft and promote the journal. These future leaders of international affairs currently attend SAIS Europe, gaining invaluable knowledge on pressing issues that face our world today. It has been a pleasure to have been part of such a passionate group of individuals, who together have demonstrated an unrivaled spirit of collaboration and academic rigor, proudly upholding the reputation of this prestigious institution.

On behalf of this year's *SAIS Europe Journal of Global Affairs,* it is my pleasure to present to you the 25th edition. We hope you enjoy this issue, as it was our honor to produce it.

Sincerely,

Vigen Ciottone
Editor-in-Chief

The Longer-Term Repercussions of Ukrainian Displacement

Anastasia Strouboulis, Erol Yayboke, and Kateryna Halstead

Since Russia re-invaded Ukraine in late February, countless headlines have pointed out that the largest forced displacement crisis since the end of World War II is unfolding in Europe. Much has been made of the initial welcoming response to Ukrainian refugees able to flee the country, and for good reason. Borders remain open to those fleeing, and assistance is available to them upon arrival. But the real test of European goodwill will take place over the coming months and years. As the crisis continues, civilian needs will escalate, and initially welcoming communities will inevitably feel the strain on resources of hosting refugees. Even if the ongoing conflict stops in Ukraine, refugees will not be able to return immediately; Russian bombs have destroyed civilian infrastructure to the point where the country that many fled will not look and feel the same as the one to which they might eventually return.

In the near term, priorities should be to sustain ease of entry and quality of reception for those fleeing Ukraine and, to the degree possible, ensure humanitarian access through western Ukraine. In the longer- term, the European Union (EU) should support its Member States in providing resources and services related to the resettlement and integration of Ukrainians. Proactively addressing longer-term needs will allow Ukrainian refugees to live safe and productive lives while outside of their country, providing durable solutions to forcibly displaced people and the communities that host them.

Emergency and Near-Term Responses

Over 3.9 million women, children, and elderly civilians have already fled the country, and the United Nations Refugee Agency (UNHCR) estimates that about 6.5 million more people are internally displaced within Ukraine.[1] The eventual displacement figure will depend on the duration and destruction of the conflict. In all likelihood, the number of forcibly displaced Ukrainians will be much higher at the time of publication. Many have crossed into neighboring countries, including Poland, Slovakia, Hungary, Romania, and Moldova, thus qualifying them for refugee status. European governments and civilians have demonstrated solidarity and hospitality for their neighbors, especially when compared to a more recent history punctuated by tightened borders, externalized migration controls, the rejection of refugees and migrants from Africa and the Middle East,[2] and relatedly, the rise of populism and xenophobia in domestic politics.[3]

The most immediate need for Ukrainians and non-citizens of Ukraine fleeing the conflict is access to safe passages and reliable transportation away from some of the heaviest areas of violence. To this end, cease-fire negotiations between Russia and Ukraine have included discussions on the creation of humanitarian corridors.[4] These attempts have been met with criticism due to their unreliability in protecting citizens and an emphasis by the Russian Federation on routing passages toward Russia and Belarus.[5] Civilians in heavily besieged cities such as Mariupol not only face consistent lethal military attacks and a lack of access to food, water, and sanitation but also encounter great obstacles in reaching safety corridors, leaving them without the possibility of escape or relocation.[6] A unified response with an emphasis on providing access to refugee evacuation routes is critical to ensuring the safety of refugees leaving Ukraine.

Those able to escape to a neighboring country have overwhelmingly ended up in EU Member States. The EU has adopted a three-pronged strategy to facilitate refugee intake in the short term, focusing on funding, border management, and legal status while abroad.

First, to meet immediate needs, the EU is providing €500 million in direct humanitarian assistance to Ukraine and its bordering countries and an additional €500 million for food producers to alleviate the impacts of the war on the global wheat industry.[7] The United Nations and the United States have also allocated emergency funding for humanitarian assistance. On March 10, 2022, Vice President Kamala Harris announced nearly $53 million in new humanitarian assistance, building upon the nearly $54 million in aid announced two weeks prior.[8] Since late February, the United States has allocated almost $293 million in humanitarian assistance to the crisis.[9] Additionally, on March 26, 2022, President Biden said that the United States was "prepared to provide more than $1 billion… in humanitarian aid."[10] The UN has similarly launched a coordinated emergency appeal for a combined $1.7 billion to deliver humanitarian support, including $1.1 billion to assist six million people inside Ukraine for an initial three months.[11] Collectively, this emergency funding intends to meet immediate needs using cash and food assistance and addressing water and sanitation, healthcare, housing, and other necessities.

Second, the European Commission released operational guidelines for border management to facilitate safe flows of movement across borders. This included easing border controls through the humanitarian exception clause in the EU's Schengen Borders Code Article 6(5c) for both Ukrainians and third-country nations and allowing displaced people to bring personal belonging without any customs duties. The EU has also deployed additional FRONTEX staff to Romania and Moldova.[12]

Third, European governments are ensuring that Ukrainians forced to leave their country have legal status while abroad. On March 4, 2022, the European Council unanimously activated a Temporary Protection Directive (TPD),[13] which allows Ukrainians and their family members to enter Schengen countries without a visa and remain there for 90 days. Furthermore, it gives them the right to live and work in the EU for up to one year without applying for asylum or another form of residency, with the possibility of extension in six-month intervals for an additional year, at which point the European Council reassesses the individual case and may choose to extend the protection for a third year.[14] In addition to granting legal status, other protections and rights include social welfare assistance, access to education and labor markets, and medical assistance. These provisions of temporary protection also apply to many third-country nationals fleeing the war, including those under international protection in Ukraine (e.g., Afghan refugees in Ukraine) who are unable to return safely to their country of origin, permanent residents of Ukraine, and the immediate family members of those who qualify for TPD protection.[15] Third-country nationals who do not meet these criteria, such as students who were in Ukraine on temporary visas or those residing legally in Ukraine without permanent residency, would not qualify for the TPD, but

1 "Operational Data Portal: Ukraine Refugee Situation," UNHCR, last updated March 29, 2022.

2 "Pushbacks at the EU's external borders," European Parliament, 2021, 4-5.

3 Cordelia Buchanan Ponczek, "Addressing Polish and Hungarian Domestic Developments in Broader Context," Center for European Policy Analysis, February 4, 2021.

4 David Matyas, "Humanitarian Corridors in Ukraine: Impasse, Ploy or Narrow Passage of Hope?" Just Security, March 8, 2022, https://www.justsecurity.org/80576/humanitarian-corridors-in-ukraine-impasse-ploy-or-narrow-passage-of-hope/.

5 Aj Naddaff, "EXPLAINER: Humanitarian Corridors, from Syria to Ukraine," *AP NEWS*, March 8, 2022, https://apnews.com/article/russia-ukraine-europe-middle-east-syria-bashar-assad-9cde6a3d543fbabb86307b80db0312c7.

6 "The Dire Fate of Mariupol Is a Warning to Other Ukrainian Cities," *The Economist*, March 13, 2022, https://www.economist.com/europe/2022/03/13/the-dire-fate-of-mariupol-is-a-warning-to-other-ukrainian-cities.

7 "European Solidarity With Refugees And Those Fleeing War In Ukraine," European Commission, March 8, 2022, 3; Philip Blenkinsop, "EU Offers Farmers Aid, More Land To Grow Due To Ukraine War," *Reuters*, March 23, 2022.

8 "US Congress Gives Final Approval To $13.6bn Ukraine Aid Bill," Al Jazeera, March 11, 2022.

9 Antony J. Blinken, "Additional Humanitarian Assistance for the People of Ukraine," Department of State, March 15, 2022.

10 Joseph R. Biden, "Remarks by President Biden on the United Efforts of the Free World to Support the People of Ukraine," March 26, 2022.

11 "Ukraine Flash Appeal (March-May 2022)," OCHA, March 1, 2022.

12 "Ukraine: Commission Proposes Temporary Protection For People Fleeing War In Ukraine And Guidelines For Border Checks," European Commission, March 2, 2022.

13 Ibid.

14 Council of the European Union, "Council Implementing Decision (EU) of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection," 2022/382, Brussels: *Official Journal of the European Union*, 2022. http://data.europa.eu/eli/dec_impl/2022/382/oj (accessed March 29, 2022).

15 The EU implementing decision does not specify any guaranteed legal protection under the TDP to any other third-country groups, however, it stipulates the possibility of extending the parameters of these protections to other groups.

would be granted physical entry into the EU and aided in procuring safe passage back to their home countries.[16] The TPD may be extended to the aforementioned groups, on a case-by-case basis by individual EU Member States.[17]

The TPD, which was triggered for the first time since its adoption in 2001, is unprecedented in several ways. First, it allows both Ukrainian nationals and non-nationals to gain immediate protection without proving that they were personally at risk or persecuted, as is normally required under international refugee law. This lowers the threshold for being a beneficiary of the rights attached to temporary protection status. Second, those emigrating to the EU can carry their temporary protection rights to any member state, not just the first EU country they reach. This means that civilians are free to link up with family and friends across the continent. Third, the Directive includes an expanded definition of a family, which extends to close relatives and those dependent on the sponsor, rather than only spouses and children. Since men aged 18 to 60 are currently unable to leave Ukraine, this expansive approach importantly allows families to remain together as they seek safety.

Although the TPD is a positive first step in addressing the immediate and long-term needs of those fleeing violence, limitations and uncertainties persist. EU Member States still have discretion on whether these protections will apply to other residents of Ukraine who do not possess long-term residency permits or are under international protection.[18] While it is likely that they will, this is not automatic. Additionally, there are not yet clear guidelines on whether there is a limitation on how many non-Ukrainians can access the rights granted by the TPD and under which conditions some will need to return to their countries of origin. Finally, while the TPD guarantees some baseline benefits, further measures will be necessary to extend security and protection into the future. Many of those fleeing are from vulnerable populations,

including children, the elderly, and third-country migrants, meaning that the EU will need thoughtful and deliberate policies to facilitate the integration and potential repatriation of those who have left Ukraine.

Implications of Longer-Term Displacement

The activation of the TPD is a landmark move to enable durable solutions for Ukrainians by streamlining access to vital integration services, including education and employment. Proactive policymaking that acknowledges and anticipates the challenges associated with the longer-term nature of the displacement crisis should be a parallel priority to humanitarian assistance. This is especially important as the scale of displacement continues to elevate. Though there are significant upfront costs—especially considering that economies are already managing pandemic recovery, supply chain shortages, and high inflation—it should be noted that forcibly displaced people typically play a net positive role in host country economies in the longer-term.[19] To ensure appropriate support to Ukrainians and their host communities, European nations must address significant housing, healthcare, education, and labor market-related challenges, some of which are already acute concerns, all of which are on the horizon.

Housing. First, ensuring access to longer-term housing is a cornerstone in supporting social and economic inclusion.[20] Even before February 24th, Ukrainians displaced internally after the 2014 Russian invasion identified a lack of their own housing as a pressing issue, especially considering they were allocating 78 percent and 57 percent of their monthly incomes to utility bills and housing rent payments, respectively.[21] While the rapid mobilization of citizens, companies, and government to shelter refugees should be applauded, these are not longer-term solutions. The Czech Republic is already running out of

emergency accommodations[22] while rental prices in western Ukraine are increasing because of the internally displaced persons (IDP) influx. This will undoubtedly have knock-on effects further westward into the EU. The housing situation is acute in places like Warsaw where the number of Ukrainian refugees in Poland has already exceeded the current population of its capital city.[23]

As an initial measure, some countries have redirected people to peripheral cities and further west into the EU to disperse refugee flows and alleviate pressure on border cities.[24] EU governments will have to scale up policies for accessing social housing and private accommodation while ensuring non-discriminatory treatment. Research on resettlement in European cities found that Syrian refugees experienced residential instability and center-periphery challenges, contributing to both social and physical isolation.[25] Though experiences of Ukrainian refugees may differ because of socio-cultural similarities between the displaced and their host communities, national frameworks and their implementation shape the experience of all refugees, regardless of national background. Affordable, equitable housing is a critical precondition for the successful integration of people on the move.

Healthcare. Second, access to healthcare for Ukrainian refugees throughout the EU is another key implication of longer-term displacement, particularly in responding to the complex and shifting needs of civilians. The vast majority of those entering the EU are elderly, children, and women, including pregnant women. Each of these demographics may require specific primary and secondary health care as they relocate and resettle. Before the current conflict, it was estimated that 2.7 million Ukrainians had some form of disability, and older people from eastern Ukraine have faced increasing risks of mental health issues, chronic illness, and mobility challenges in recent

years.[26] Ensuring access to mental health services for all ages is also critical given the recurring and nascent trauma of war and family separation. Evidence shows that despite all EU Member States recognizing individuals' right to the highest attainable standard of health, the variation in different countries' healthcare systems leads to differing health outcomes between migrants and non-migrants. Some structural challenges for health care include financial barriers and legal restrictions, while interpersonal challenges include language barriers, perceptions of illness and stigma, and the lack of knowledge of the healthcare system—including healthcare professionals' awareness of migrants' rights to access.[27] While these barriers pertain to primary care and migrants (not refugees per se), they are likely to be particularly acute for those fleeing Ukraine who will require mental health care, preventive and maternal care, and more.

Education. Third, the conflict in Ukraine has disrupted access to education for millions, both by forcing students to flee and destroying learning spaces. UNICEF reports that over 1.5 million children have fled the country, with millions more unable to attend school within Ukraine due to ongoing conflict.[28] In the short term, the arrival of school-age children from Ukraine may stretch the institutional capacity of schools, especially those in cities where refugees are more likely to settle. In the longer-term, while almost all EU countries provide language learning support to migrant and refugee children, other forms of educational support, such as homework help or parent-teacher meetings, are not systematic either across EU countries or within them.[29] Throughout their displacement and, for some, eventual resettlement, children will also require support in transitioning to a new school and its curriculum, coping with trauma, and overcoming language barriers. Guidance from government ministries, civil society organizations, and multilateral institutions like UNICEF should

16 Sergio Carrera, Meltem Ineli Ciger, Lina Vosyliute, and Leiza Brumat, "The EU Grants Temporary Protection for People Feeling War in Ukraine," CEPS Policy Insights, March 2022, 13.

17 Council of the European Union, "Council Implementing Decision (EU) of 4 March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC," 2022/382, Brussels: *Official Journal of the European Union*, 2022.

18 Elena Chachko and Katerina Linos, "Sharing Responsibility for Ukrainian Refugees: An Unprecedented Response," Lawfare, March 5, 2022.

19 Hippolyte D'Albis, Ekrame Boubtane, and Dramane Coulibaly, "Macroeconomic Evidence Suggests That Asylum Seekers Are Not A "Burden" For Western European Countries," Science Advances 4, no. 6.

20 "Commission and OECD Present Report on the Local Integration of Migrants," European Commission, 2018.

21 "Ukraine - National Monitoring System On The Situation Of Internally Displaced Persons (September 2020, March 2021)," International Organization For Migration, October 12, 2021.

22 Aneta Zachová, "Czech Capacities To Host Ukrainian Refugees Have Run Out," *Euractiv*, March 14, 2022.; Natalia Datskevych, "Rental Prices Soar In Western Ukraine Amid Influx Of Refugees," *The Kyiv Independent*, March 18, 2022.

23 Becky Sullivan, "The Number Of Ukrainians Who've Fled To Poland Is Equal To The Population Of Warsaw," *Npr*, March 16, 2022.

24 Alan Charlish, "Ukrainians Fleeing Fighting Arrive In Poland In Record Numbers," *Reuters*, March 6, 2022.

25 Assaf Dahdah and Annika Dippel, "German And French "Spatial Management" of Refugees Illustrated by Syrians' Urban Experiences in Berlin and Marseilles," HAL, May 2018, 74-98.

26 "War On Ukraine: Protect People With Intellectual Disabilities And Families," Inclusion Europe, Last Updated March 10, 2022.; "Ukraine: Older People Face Abandonment And Isolation As Conflict With Russia Intensifies," Helpage International, February 24, 2022.

27 Catherine A. O'Donnell, "Health Care Access for Migrants in Europe," *Oxford Research Encyclopedias*, April 26, 2018.

28 "A Ukrainian Child Has Become A Refugee Almost Every Single Second Since The Start Of The War," UNICEF, March 15, 2022.

29 "What Measures Are In Place To Ensure The Long-Term Integration Of Migrants And Refugees In Europe?" European Commission, March 31, 2020.

help schools adopt a conflict-sensitive approach to teaching Ukrainian children.

While there is general support for school-age refugees and migrants across the European continent, these measures do not extend to higher education. The European Commission found that there are only occasional targeted measures to encourage and promote access to higher education across EU countries.[30] This lack of support for students pursuing higher education has led to persistent underemployment and limited economic mobility.[31] Additionally, students who were completing their degrees in Ukraine during the outbreak of conflict may face barriers to having their foreign qualifications and course credits recognized if universities do not make their administrative processes more flexible.

Labor market integration. Finally, labor market access and integration is another key consideration in longer-term displacement scenarios. The challenge of steady employment is visible both within Ukraine and across Europe. At the end of 2020, the employment rate of IDPs in Ukraine was lower (60 percent) compared to the general population in the same 20-64 age group (65 percent).[32] Similarly, from 2010 to 2020, the EU unemployment rate for native-born populations was consistently lower than the unemployment rate for migrant labor. In 2020, the EU unemployment rate for people aged 20 to 64 years was 13.9 percent for those born outside the EU, 8.1 percent for those born in another EU Member State, and 6.1 percent for the native-born population.[33] This trend may be particularly challenging for Ukrainian refugees to overcome due to their demographic makeup; the elderly, women, and children may not have been active in the labor market before being forced from home.

The majority of the refugees entering the labor force will likely be working-age Ukrainian women. Despite a decade of domestic reform policies,

Ukrainian women faced pay-gap discrimination[34] and the segmentation of career opportunities based on perceived cultural norms for "male" and "female" occupations. This disparity has been further exacerbated by drastic recent drops in female employment rates for Ukrainian women.[35] Successful integration into high-skilled sectors in the EU will be particularly challenging. Women in the Ukrainian labor force generally made up half of the working population. However, they lacked access to managerial and high-level positions across the board, and specifically in STEM and other industries traditionally associated with male leadership, despite showing a higher performance on mathematical skills tests.[36] Additionally, a European Commission analysis found that targeted training based on the assessment and validation of skills and qualifications is not widely available across EU countries and that there is also often a mismatch between the migrants' skills and the local job market needs.[37] These factors underscore the need to adopt specialized measures, including cooperation with civil society and private sector partners, to promote employment that targets the specific demographics of refugees fleeing Ukraine.

Nonetheless, there will be opportunities for Ukrainian women refugees to find jobs in Europe. Women in the Ukrainian labor force dominated the healthcare and education fields, which are the top third and fourth industries of employment in Europe, respectively.[38] Several countries across Europe have aging populations that could benefit from trained Ukrainian nurses, home health aides, and other healthcare professionals. Ukrainian women were the primary workforce in the childcare industry; their skills will become increasingly in demand as working parents transition away from remote working conditions. Across the EU, COVID-19-related labor market shortages continue, with an estimated 300,000 jobs remaining unfilled in Germany alone.[39]

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34 "Gender Pay Gap in the Ukraine," Global People Strategist, February 18, 2020.

35 Yana Tkachenko, "Gender Equality: Women Who Manage," *Vox Ukraine*, June 15, 2021.

36 Ibid.

37 "What Measures Are In Place To Ensure The Long-Term Integration Of Migrants And Refugees In Europe?" European Commission, March 31, 2020.

38 D. Clark, "Number Of Employees In The European Union (Eu27) In 2021, By Sector," Statista, January 20, 2022.

39 Liz Alderman and Patricia Cohen, "Fleeing War in Ukraine, They'Re Met with Employers Offering Paychecks," *The Seattle Times*, March 22, 2022.

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30 Ibid.

31 "Commission and OECD Present Report on the Local Integration of Migrants," European Commission, 2018.

32 "Ukraine - National Monitoring System On The Situation Of Internally Displaced Persons (September 2020, March 2021)," International Organization For Migration, October 12, 2021.

33 "Migrant Integration Statistics – Labour Market Indicators," Eurostat, Last Updated April 2021.

Moreover, EU countries such as Portugal are responding to structural barriers to labor market absorption, including language differences, by offering immediate access to language training and education,[40] demonstrating a shift to longer-term integration and resettlement policies.

These conditions may also present a unique opportunity for Ukrainian women to pursue careers in industries to which they previously lacked access, such as in STEM. The EU should utilize this new surge in labor to creatively fill gaps in its own in-demand industries. Immediate measures aimed at workforce pipelining and language training can make the transition to longer-term employment and integration more successful; Such measures are already actively being implemented. The participation of Ukrainian refugee women in the European labor market, with potentially greater access to "non-traditional" sectors and management roles, can have positive longer-term implications both for refugee-receiving countries and for Ukraine's labor market if and when returning home becomes possible.

Conclusion

It is difficult to predict the exact challenges presented by the longer-term displacement of Ukrainians throughout Europe, though the general contours presented above are likely to be present in most countries to which refugees are fleeing. Moreover, as the conflict intensifies, more refugees are bound to flee Ukraine in the coming weeks and months. The longer the conflict lasts, the longer those people will be unable to return home; the longer they stay in displacement, the less likely it is that they will one day return home. New employment and educational opportunities and strengthened family and friend networks will make the return to Ukraine post-conflict one of many options for refugees.

However, with pandemic-related inflation and public spending stretching economies, the challenge will be preventing and managing potential political and social backlash after the generous early welcome. While countries, such as Germany, have more proactive policies and systems tailored towards refugees fleeing violent conflict, others, including those in Ukraine's immediate neighborhood, do not have the same capacity to integrate an influx of refugees. For example, the non-EU country of Moldova is already having to

manage the arrival of hundreds of thousands of Ukrainians while having one of Europe's lowest gross domestic products per capita and a population of just over three million people.[41] Furthermore, the current forced displacement crisis is testing the strength and cohesion of the current international system. As the Russian invasion continues to wear on, the U.S. and EU governments must establish comprehensive, durable provisions to protect every individual fleeing the conflict in Ukraine. Despite ongoing peace talks and calls for a cessation of hostilities from world leaders, Russia continues to target civilian infrastructure and cities in Ukraine.

Themes of democracy, freedom, and independence underlie Ukrainians' resistance to the Russian invasion and will likely shape their decisions to stay in European countries, where these ideas are more fully realized, or return to Ukraine. Reunification with husbands, fathers, and brothers will either take place abroad or back in Ukraine. The decision to stay abroad or return home—like the decision to flee in the first place which, in many cases, was likely not a decision at all—will be shaped by the duration and destruction of the conflict and by the types and level of support they receive abroad. Some people may discover a new sense of identity in the countries in which they resettle, while others will wait to translate their experiences of Western European democracy back to Ukraine. European countries hosting refugees would be well-served to think about the conflict-related forced displacement in the longer-term, because even if Ukrainians have a desire to go home, they may not be able to do so for quite some time.

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40 Ibid.

41 Cristina Foarfã, "Refugees Fleeing Ukraine To Moldova Find Onward Passage To Romania," UNHCR, March 15, 2022.

Witnessing the Loss of Homeland: Dual Perspectives on the Evacuation of Afghanistan, The Refugee Perspective

Anonymous

I grew up as a refugee living in Pakistan. While I did not know what it meant to live in my homeland, I still desired to live in Afghanistan and feel like I was home. That desire was especially keen on the days when Pakistanis celebrated their country's independence and waved national flags throughout their cities. I wished to witness the day when I could celebrate my country's independence, and wave my country's flag in Kabul. Growing up in another country and always being treated as a second-class citizen was frustrating and demeaning; being a boy without a country was heart-breaking.

When the Taliban regime was toppled in 2001, and foreign countries began helping Afghanistan to reconstruct and develop, my dream came true. My family migrated back to Afghanistan, and we started our life from scratch. We rebuilt our torn-apart house, believing that we were home for good. We hoped and believed that we would not have to leave our country ever again. The brutal regime was over, and we thought they would no longer be able to rise. After returning to my country and having the experience of living as a refugee, I was no longer interested in living anywhere other than my homeland.

In 2016, I was granted a Fulbright scholarship to study in the United States and pursued my master's degree in Missouri. Despite living for two years in the U.S., and having multiple opportunities to stay, I returned to my country in 2018. I wanted nothing more than to live and enjoy my life in Afghanistan and to serve my country. Upon my return, the situation worsened day by day, but I still hoped things would become better. In 2019, when negotiations between the U.S. and Taliban were initiated, I became more hopeful of living in

my country in peace. However, despite two years of negotiations and the efforts of the international community, my hope to live in a peaceful and prosperous Afghanistan remained an elusive dream.

In August 2021, I saw increasing violence and the empowerment of Taliban over the Afghan government. When I saw an illustrated map of my country showing only 20 percent of the country under the control of the government, I started to lose hope.

On a Sunday morning, just three days after getting engaged to be married, I was in my office when I heard rumors that the Taliban had reached Kabul's entrance gates and were taking over the city. Everyone was overwhelmed with fear and left their offices. Our futures were uncertain, and everyone wanted to get home to be with their families. As a contracted employee of a U.S. funded project, I had to stay in the office and try to destroy as many documents as possible to remove any evidence that would identify me or my colleagues as U.S. affiliates. I somehow made it home in the afternoon. That evening, after hearing the news that the President had fled Afghanistan, I realized all the progress, achievements, and freedom we had worked for would vanish, and I felt like I had awoken from my dream. But the dream turned into a nightmare.

The Taliban started searching door to door for people who were affiliated with foreign entities and former military employees. I kept myself at home or with my head down and unnoticeable for so long in fear of falling into the hands of the Taliban. Every time our door was knocked on or I heard an SUV passing by our street, I thought it

might be them coming to take me.

I was following the news about the amount of Afghans being evacuated through the Kabul airport, and was constantly checking my phone to see if I would be contacted to be extracted. Sleeplessness, stress, and the trauma of being hunted by extremists became my daily routine. I lost count of the number of forms I filled out for myself and my family for expatriation, the hours of phone calls with my American supervisor and manager to find a way to be put on the list of evacuees. But none of the efforts showed any result. In the middle of the night of August 30th, the entire city of Kabul city and its provinces heard constant gunfire for at least an hour. I thought perhaps foreign troops had attacked the Taliban and were trying to regain control of the country. After checking social media, however, I realized that the last evacuation flight had taken off from Kabul airport and the U.S. military had left. The gunfire we heard were the sounds of the Taliban celebrating their takeover of Kabul airport. It was that moment that I realized my family and I had been left behind; like thousands of other U.S.-affiliated Afghans, we were trapped in Kabul. The highways were insecure, the borders were under Taliban control, and neighboring countries were no longer accepting refugees.

With the airport now closed to all commercial or military transport, we started contacting trustworthy people to obtain Pakistani visas. Perhaps there would be a chance to escape to Pakistan. The Torkham and Spinboldak borders, however, were packed with Afghans trying to flee from the crisis, and Taliban forces were patrolling both sides of the border. Even if you were fortunate enough to find a flight and obtain a visa when the airport reopened, traveling became costly as ticket prices to Pakistan skyrocketed from approximately 200 USD to 2500 USD. For months we avoided anything that could draw attention to us and waited and prayed that we would be rescued.

My office was inside one of the ministries in Kabul, and in November, one of my counterparts in the Afghan government warned me that Taliban members in that ministry were curious about why my office was closed. They asked around inside the ministry to find me and "to talk to me." I thought these were the last days of my life and that I would

have to run away somewhere or I would be killed. I started talking with my supervisors in the U.S. to find out a solution. Luckily, I was put on the list for evacuation, but my aged parents and my young sisters who lived together with me were not. Should I leave? Could I bear to leave them behind? It was the hardest decision of my life. I had to choose between leaving my family behind or staying with them and increasing the threat to them by being in Kabul.

When I received the call to go, I decided to leave on what proved to be the last such plane of Special Immigrant Visa (SIV) applicants bound for the U.S. I left my country with the hope that my family would be evacuated after me – but with less hope for my country. There is not a single day that I do not think of Afghanistan, of my family who is still there and struggling for our reunion. I bear a heart full of pain and sorrow as I left my family behind, and I carry all the beautiful memories I made over the past two decades. That I have made it out, again a refugee, is bittersweet.

After leaving Kabul in December, I was kept in a military base in Doha, Qatar for almost a month. The evacuation task force completed my paperwork and authorized my flight to the U.S. Now I am in a military camp in the U.S. waiting for the final process to resettle me somewhere in the states. I will start my life again from scratch, and my future is unknown.

I wholeheartedly wish that no one experiences becoming a refugee and witnesses the loss of their homeland while being unable to help in any way.

The Civil Servant Perspective, Anonymous

I suppose we can debate ad nauseam the decisions leading up to and following the fall of Afghanistan to the Taliban in 2021. We will never know all of the facts or all of the decisions made. What we do know is that many Afghans who were working with the U.S. Government were left with a sense of having been abandoned. Indeed, many were.

For me and my team of contractors in Kabul, the evacuation was an emotional roller coaster. My part in their story began in May of 2021. The U.S.

Government advised us of its intent to extend our contract to staff an office in Kabul that we had been supporting since 2018 until August 2022. It was clear at the time of the extension that our team needed to be out of Afghanistan prior to the September 11 deadline broadcast by the U.S. Government for the removal of all U.S. military forces. No one, let me repeat, NO ONE on the ground believed that the Afghan government would continue to function after American troops pulled out. At best, chaos would follow, and at worst, a take-over by the Taliban.

I have to confess that in May 2021, I was more concerned about our inability to perform the contract than I was for the security of my team and the safety of their families. In early August, however, that priority changed. As emails became urgent texts and texts were supplemented by long, emotional calls, my singular priority became, "how do I help these three Afghan men and their families survive?"

My first call to the U.S. Embassy in Kabul was made on August 11th. Ironically, that day the Embassy had evacuated the first 200 U.S. citizens, legal permanent residents and Special Immigrant Visas (SIV) holders from the country. The person with whom I spoke was in charge of the evacuation and was preparing a manifest of the next 200 names to be contacted for evacuation to Virginia the following day. He made no guarantees for my staff, but he asked that I prepare and send to him a threat letter. That was easy. Not only was my team well known for their work with the U.S. Government, but they also had special knowledge of resources they were helping the Afghan Government catalog. What I did not know until that day was that they were also helping the Afghan Government crackdown on illegal activities in their country. That meant they were not only wanted by the Taliban for their knowledge and expertise, but they were also targeted by organized crime for their efforts to disrupt revenue from "licensing fees" paid to the Taliban and warlords for protection.

The threats were real, and the fear was not just for their own lives but for their families as well. The young, unwed sisters of two of them were at risk of being married off to Taliban fighters in the mountains if their brothers were caught and did not cooperate. The verbal jabs shouted from cars

of Taliban sympathizers before the government fell – when the girls used to walk home from school or work unchaperoned – were now real and dangerous.

On the day the government fell, a sense of despair was overcome by a sense of duty. Our team went to the office. Everything that could be shredded in a day was shredded; we made a plan for digital devices and several contingencies for communication should any one of my team be detained for "questioning." It was like something out of a spy movie, but this was not play-acting. The Taliban swiftly entered the city and set up checkpoints throughout Kabul. This was now life or death. One wrong answer, one revealing text or social media message on their phones could mean death or imprisonment.

Fortunately, at least in the beginning, the Taliban were restrained. The only men hanged in the street were two Taliban fighters who were caught looting. Regardless, their reputation for brutality is well deserved, and this provided a reason not to challenge them or to even engage with them.

In the months that followed, the trauma and stress began to take their toll. For my Afghan friends, sleep did not come easily, decision-making became more difficult and irrational, and I had to push in every direction to keep their dreams of resettlement alive. Sadly, splitting families to get those most at risk to safety became increasingly likely. Without support from the U.S. military or State Department, how would we get these at-risk friends out of harm's way? Would it be in the back of a truck to a safe house near the border with Pakistan, on a plane flown by Emirates Special Forces to Abu Dhabi, on a chartered flight to Uganda? Or perhaps commercial flights would resume to Islamabad, New Delhi, or Tashkent and on to Kazakhstan, where we knew they would be welcomed and granted work authorization. Each path had its challenges, and each opportunity opened and closed as the Taliban negotiated with the international community and private organizations raised and spent funds in covert rescue operations.

In November 2021, we were informed that U.S.-sponsored evacuations would resume, but it was unclear who the Taliban would allow to leave and who the U.S. Government would select for resettlement. We were told that the list was coming from the White House, so we resumed our political efforts to get our people on the manifest. Finally, after efforts by top officials at USAID and State, the call came. The information it contained was both uplifting and tragic. The invitation for extraction included only six of the 10 requested evacuations. My liaison's elderly parents and his two young, unmarried sisters with whom he lived and supported would be left behind. As any parents would, they prayed and insisted that their son should go without them.

Thankfully, my staff, their wives, and children were soon in Doha safe from harm and on their way to America. My liaison's family, however, remains in Kabul, unharmed and living off their savings with the support of extended family and friends. We still hope to get them out of Afghanistan on a refugee, humanitarian parole, but most borders have been closed and visas seem no longer available to Afghans. So they remain in Kabul – mostly indoors.

This is a burden that haunts my friend and is a nightmare that haunts many families split by war. Imagine your daughter or your sister at risk of being married off against her will to a Taliban fighter in the hills. Only then can you really imagine the emotional hell into which those we "saved" have been thrust into. Of course, they are thankful, and their lives will be made better in America, but a terrible cost is being paid by those who believed our words of change with which we coaxed them into. The dream of freedom, safety, and peace was left behind, and the guilt is carried by those who weren't.

Asylum-Seeker, Illegal or Refugee? Policy Frames That Drive the Global Non-Entrée Regime

Kelsey LeBrun Keswani

The number of people displaced due to war and persecution is currently at its highest recorded levels. Despite this, wealthy states in the global North continue to pass policies restricting access to asylum, while at the same time claim to open their doors to refugees through resettlement schemes. This article addresses a common question held by the public, advocates, academics and policy-makers regarding the distinction between who is a refugee and who is an asylum-seeker, and what policies protect or exclude these populations. Drawing from historical and contemporary definitions in international law, national policies and political discourse, this article will argue these terms have been obscured by states to legitimize exclusionary policies to benefit ideology and sovereignty over the protection of human rights. This article will hopefully lend a new perspective towards the urgency to reframe refugee narratives.

INTRODUCTION

Last year marked the 70th anniversary of the 1951 Convention relating to the Status of Refugees. With it came questions regarding its continued relevance in the refugee regime. How well does the treaty address the needs of the populations currently displaced? Why do refugees and asylum-seekers continue to be excluded by signatory nations to the Refugee Convention, and why haven't new nations signed onto the treaty? These questions have deep historical roots which impact their contemporary applications. The common link between them, however, is the question of *who* exactly is a refugee? How do refugees and asylum-seekers differ from one another, in international law, discourse and in national policies? How do these definitions change outside the scope of the Convention's definitions?

This article will analyze these definitions and frames within contemporary and historical norms in the global North and South, and consider how they have evolved in both signatory and non-signatory states to the Refugee Convention. It will examine the role political discourse and policy

frames play in justifying restrictive policies, and contextualize which definitions are considered 'deserving' or 'favorable' of admission into a country, and which are considered 'undeserving,' a 'threat' and 'illegal.' Finally, this article will identify where further research and policy innovations are needed beyond the constraints of the Convention.

BEFORE THE CONVENTION: DEFINING ASYLUM AND REFUGE

The concept of asylum stems from an ancient tradition associated with the institution of protection. The word asylum comes from the Greek word 'asylon,' containing the root word 'sylon' meaning 'right of seizure,' and the 'a' which negates that right.[1] The word and concept can be traced back thousands of years, and is found in nearly all leading religious texts; synonymous with how morality was defined and related to the role of churches and other sanctuary spaces.[2] Historian

Elena Isayev noted, "Seminal to the narratives of the most well-known surviving works of ancient literature, are the encounters between the guest and the host; between those who seek asylum and those who are asked to provide it."[3] As nation-states developed and borders were drawn, asylum evolved into a legal institution, giving rights to those seeking safety from primarily political persecution in their home country. States maintained the sovereign right to choose which asylum seekers they would accept, which was often dependent upon religious structures. But many looked at the duty to protect others as a foundational part of their normative legal structures, adding it into their constitutions.[4] This duty to protect included the duty to not forcibly return an asylum-seeker to the country they were fleeing from, or '*non-refoulement*,' now one of the cornerstones of international human rights laws.[5]

The word 'refugee' originates from the word 'res' in England, used to describe the millions of French Huguenots who fled Protestant pogroms and sought refuge in England in the 1680s.[6] The terms asylum seekers and refugees were interchangeably used over centuries to describe similar concepts; for large numbers of people fleeing for safety, for those targeted due to ethnicity or religion, and for individuals fleeing political persecution.

Who has the Right to Have Rights? The Need for Legal Protection

During and after World War II, millions of Jews and other minorities were stripped of their nationality and became stateless, or 'rightless' according to Hannah Arendt, prompting urgent discussions around legality. Her question around who has the right to have rights challenged the notion of

an abstract reality of 'inalienable' human rights which can subsist outside the bounds of a nation-state. These rights, Arendt countered, "were supposed to be independent of all governments; but as it turned out that the moment human beings lacked their own government and had to fall back upon their minimum rights, no authority was left to protect them and no institution was willing to guarantee them."[7] The need to ensure legal rights for those displaced within a polity prompted the 1948 United Nations Declaration for Human Rights (UNDHR), which called on nations to commit to ensuring the rights of humans are protected, even if those people are not their "own." Article 13, for example, allows people the "right to leave one's own country," Article 14 grants the "right to seek and enjoy asylum from persecution," and Article 15, states people have a "right to nationality."[8] Holding nations accountable to ensure those rights were given to the displaced was one of the key motivations behind the 1951 Refugee Convention. However, the question of defining *who* qualified for refugee status again became contentious.

THE 1951 REFUGEE CONVENTION: DEFINING A REFUGEE

While the concepts of refuge and asylum were used somewhat analogously throughout history, the Refugee Convention codified them into legal terms. It distinguished between asylum and refugee status; "asylum" became the institution for protection, while "refugee" became the category of individuals who benefit from that protection.[9] The Refugee Convention required states to provide rights to non-citizens who qualified under the statutory definition, specifically someone who is outside their country of origin who could prove they were "unable or unwilling to return" due of a "well-founded fear of persecution due to race, religion, nationality, membership of a particular

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no. 1 (2015).

3 Elena Isayev, "Between Hospitality and Asylum: A Historical Perspective on Displaced Agency," *International Review of the Red Cross*, Migration and Displacement, 99, no. 1 (2017): 75-98.

4 Gil-Bazo, "Asylum as a General Principle of International Law."

5 Tamas Molnar, "The Principle of Non-Refoulement Under International Law: Its Inception and Evolution in a Nutshell," *Corvinus Journal Of International Affairs (CO-JOURN) 1, (2016)*.

6 John M. Hintermaier, "The First Modern Refugees? Charity, Entitlement, and Persuasion in the Huguenot Immigration of the 1680s," *Albion: A Quarterly Journal Concerned with British Studies* 32, no. 3 (2000): 429–49.

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1 Merrill Perlman, "The Many Uses of the Term Asylum," *Columbia Journalism Review* (2018), https://www.cjr.org/language_corner/asylum.php.

2 María-Teresa Gil-Bazo, "Asylum as a General Principle of International Law," *International Journal of Refugee Law* 27,

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7 Hannah Arendt, *The Origins of Totalitarianism* (United Kingdom: Random House, 1951), 381.

8 United Nations, "Universal Declaration of Human Rights | United Nations," 1948, https://www.un.org/en/universal-declaration-human-rights/.

9 Gil-Bazo, "Asylum as a General Principle of International Law."

social group or political opinion."[10] It was the first and arguably still the most important cross-border treaty to the present day, requiring states to make *exceptions to their national sovereignty*, and allow people to work, go to school, find housing without discrimination, if they qualified under the definition. When it came time to sign onto the treaty, however, delegates expressed reluctance to sign onto a "blank cheque" for the "unknown numbers of refugees" who might seek asylum in their territories in the future. Thus, geographic and temporal restrictions were added to the Convention, defining a refugee as someone from Europe, who experienced events *prior to 1951*.[11] While the geographic and temporal restrictions were lifted in the Protocol to the treaty in 1967, the remainder of the language of the Convention remains the same to the present day.

The Myth of Difference, the Non-Entrée Regime

Forty-four nations refused to accede to the Convention or its Protocol, including India, Bangladesh, Jordan, Lebanon, Eritrea and Pakistan; currently some of the world's largest refugee-hosting nations. Most of those nations were not independent countries at the time of the signing, however, and as the Convention was designed in respond to the crises in Europe, the Eurocentric intentions were clear. Populations from the global South were not even considered in the definition of a "refugee," including and most specifically states who had recently been decolonized.[12] Populations in these nations were seen as distinctly "different" than the more traditional "white, male and Communist" political asylum seekers in Europe at

the early stages of the Cold War.[13] Chimni labeled this bias the "myth of difference," and stated the distinction was used to justify exclusionary policies against these populations. Western nations would not recognize postcolonial societies as having been persecuted, and instead turned to the presupposed "internalized" root causes for displacement; stating they were displaced due to "ethnic" conflicts, such in India during partition; or loss of home, such as the Palestinians. Chimni and other legal scholars argued the myth of difference created a normative definition of an asylum-seeker for refugee law over the next several decades; used to legitimize exclusionary policies, detentions and forced repatriations of asylum-seekers from the global South from Western signatory nations.[14] Dubbed the "*non-entrée* regime," these wealthy nations in the global North leaned on racial and xenophobic ideologies despite encountering only a small fraction of the world's asylum seekers compared with developing nations in the global South.[15]

The Duty to Welcome, the Reality of Containment

After the temporal and geographic restrictions were lifted from the Refugee Convention in 1967, the UNHCR began to respond to displacements in the global South, with the first major coordinated response effort in India in 1974.[16] An estimated 10 million people fled targeted violence during

the Bangladesh independence.[17] Despite India not acceding to the Refugee Convention, they, like many non-signatory countries in South Asia and the Middle East, have hosted significant influxes of displaced people entering their territories for safety from neighboring states. Scholars

have attributed this to the culture of hospitality, kinship, or in the case of Middle Eastern nations such as Jordan and Lebanon, as *karam,* or the duty to be generous.[18] These are concepts more closely related to the historical definitions of asylum. In addition, the significance of *non-refoulement* as a central aspect of international law cannot be understated, as it is written into multiple transnational charters and treaties outside of the refugee convention.[19] Most nations globally comply with the *non-refoulement* principal, despite the fact many of the world's largest refugee hosting nations are not signatories of the 1951 Refugee Convention or Protocol, they do provide a relative amount of protection and have less militarized borders than states in the global North.[20]

The UNHCR has two primary roles: 1) protection; and 2) finding long-term or "durable" solutions, categorically ordered as voluntary repatriation, local integration and resettlement into a third country.[21] Protection includes providing safety and rights in the form of shelter, aid, food, medical support, but the Convention specifies that these

rights pertain to individuals who obtain the *status* of a refugee, signaling that people should not be considered refugees permanently, but rather temporarily until a durable solution is found.

Unfortunately, finding durable solutions has become the UNHCR's biggest challenge. By 2008, the vast majority— in fact 75% of the world's refugees—lived in not just temporary emergency situations, but in "protracted refugee situations," defined as living for 5 or more years after displacement without a durable solution.[22] Similarly to Arendt's quandary on the rightless, refugees who remain in encampments are caught in a legal limbo, often without any rights to live or work outside the camp, no safe way to repatriate, and no hope for resettlement. The average stay in a protracted situation is estimated to be 17-20 years, with less than 1%

being accepted into a third country for resettlement.[23]

With the growth of the encampments, UNHCR began acting as a "surrogate state," conducting refugee status determinations on those seeking asylum in lieu of a national legal system.[24] Encampment or "containment" has become the norm, and for signatory nations in the global North, resettlement has become the preferred choice over "spontaneous arrivals" seeking asylum at the borders. The state can maintain some sovereign control over the selection process of resettlement, and choose how many arrivals are desired each year, from where, and profiles of specific refugees.[25]

10 United Nations High Commissioner for Refugees, "Convention and Protocol Relating to the Status of Refugees," UNHCR, 1951 and 1967, https://www.unhcr.org/protection/basic/3b66c2aa10/convention-protocol-relating status-refugees.html.

11 Guy Goodwin-Gill, "The International Law of Refugee Protection," in *The Oxford Handbook of Refugee and Forced Migration Studies* (Oxford, United Kingdom: Oxford University Press, 2014).

12 Ulrike Krause, "Colonial Roots of the 1951 Refugee Convention and Its Effects on the Global Refugee Regime," *Journal of International Relations and Development* 24, no. 3 (2021): 599–626.

13 B. S. Chimni, "The Geopolitics of Refugee Studies: A View from the South," *Journal of Refugee Studies* 11, no. 4 (January 1, 1998): 351.

14 B. S. Chimni, "From Resettlement to Involuntary Repatriation: Towards a Critical History of Durable Solutions to Refugee Problems," *Refugee Survey Quarterly* 23, no. 3 (2004): 55–73; James C. Hathaway, "Reconceiving Refugee Law as Human Rights Protection," *Journal of Refugee Studies* 4, no. 2 (1991): 113–31; Andrew E. Shacknove, "Who Is a Refugee?," *Ethics* 95, no. 2 (1985): 274–84.

15 E. Tendayi Achiume, "Race, Refugees, and International Law," in *The Oxford Handbook of International Refugee Law,* ed. Cathryn Costello, Michelle Foster, and Jane McAdam, (Oxford University Press, 2021); Shacknove, "From Asylum to Containment."

16 Saha KC, "The Genocide of 1971 and the Refugee Influx in the East," in *Refugees and the State: Practices of Asylum and Care in India, 1947-2000* (New Delhi: SAGE Publications India, 2003), 211–48.

17 UNHCR, *State of the World's Refugees 2000: 50 Years of Humanitarian Action* (Oxford: Oxford University Press, 2000).

18 Dawn Chatty, "The Duty to Be Generous (Karam): Alternatives to Rights-Based Asylum in the Middle East," *Journal of the British Academy,* (2017): 177–99; Pia Oberoi, "South Asia and the Creation of the International Refugee Regime," *Refuge: Canada's Journal on Refugees* 19, no. 5 (2001): 36–45; Ranabir Samaddar, "Power and Responsibility at the Margins: The Case of India in the Global Refugee Regime," *Refuge: Canada's Journal on Refugees* 33, no. 1 (2017): 42–51.

19 Molnar, "The Principle of Non-Refoulement Under International Law."

20 Maja Janmyr, "The 1951 Refugee Convention and Non-Signatory States: Charting a Research Agenda," *International Journal of Refugee Law* 33, no. 2 (2021): 188–213.

21 James Milner, "Protracted Refugee Situations," in *The Oxford Handbook of Refugee and Forced Migration Studies,* ed. Elena Fiddian-Qasmiyeh, Gil Loescher, and Katy Long, (Oxford, United Kingdom: Oxford University Press, 2014).

22 Ibid.

23 Ibid.

24 Amy Slaughter and Jeff Crisp, "A Surrogate State? The Role of UNHCR in Protracted Refugee Situations," UNHCR (2009), https://www.unhcr.org/research/working/4981cb432/surrogate-state-role-unhcr-protracted-refugee situations-amy-slaughter.html.

25 Ruth Ellen Wasem, "More than a Wall: The Rise and Fall of US Asylum and Refugee Policy," *Journal on Migration and Human Security* 8, no. 3 (2020): 246–65.

CONTEMPORARY DEFINITIONS

The definition of who qualifies as a refugee might indeed be written into international law vis-à-vis the Refugee Convention, but if someone enters a signatory requesting asylum outside of the UNHCR's jurisdiction, the determination

decision is left to the discretion of each individual signatory state's judicial system. This is largely the same process, in fact, for many states who have not acceded to the Convention but who have asylum as part of their Constitutional right or cultural tradition. The difference lies in the Convention's definition of "persecution", a decision both political and ambiguous, because the burden of proof isn't about determining whether a person has *already been* persecuted, but rather whether they *would be* persecuted if returned to their home country. This remains, as Betts and Collier describe, "eccentric".

> Refugees in identical circumstances will be granted asylum in the courts of some nations but refused it in others; even within the same country, they will be granted asylum in some years but not others. Eccentricity is compounded by systemic omissions. For fifteen years, Somalis fleeing the state collapse did not qualify for asylum in some European countries because they had not been "persecuted." What began as coherent common rules for responding to persecution have evolved into chaotic and indefensible responses to the problem of mass flight from disorder.[26]

In the US, the arbitrariness of asylum determination has been termed "refugee roulette." Researchers found asylum outcomes were significantly related to the profiles of the immigration judges deciding the cases, leading them to claim, "In many cases, the most important moment in an asylum case is the instant in which a clerk randomly assigns

an application to a particular asylum officer or immigration judge."[27] Notably, until 2017, the US accepted the highest number resettled refugees through a third country resettlement scheme. The 1980 Refugee Act mirrors many aspects of the Refugee Convention, with one clear caveat: a refugee is defined as someone who has been given this status "overseas." In other words, one cannot be a "refugee" if they approach the US border or apply for asylum within the interior of the country. One must already have refugee status, as determined by another nation or by the UNHCR. Asylum-seekers are a distinct category in the US Refugee Act and are provided no support unless adjudicated and determined to meet the statutory requirements, a process that can take years. The Trump Administration implemented the Migration Policy Protocols (or "Remain in Mexico") which turned away all those seeking asylum to stay in Mexico, without support and for an indefinite period of time.

Other nations including Australia and the UK follow similar procedures, with Australia being a notable example as they indefinitely detain all asylum-seekers who arrive to their border by boat. These nations distanced themselves from the Refugee Convention's definition and distinguish in national policies between someone who is a "refugee" (someone provided refugee status in another country they first sought asylum), and who is an "asylum-seeker" (an "alien" without documents—who seeks refuge at the borders). The former are people they feel a duty to welcome, the latter people to question, detain and be suspicious of.

Discourse and Policy Frames

Most of the world's 80 million displaced people do not seek asylum in countries like the US, UK or Europe, yet the policies and populist discourse would lead most to think otherwise. Studying discourse about refugees and asylum seekers has become an important aspect of understanding how asylum versus refugee has become so distinct.

Numerous studies in the past few years have been conducted on media and political frames since the peak of 2015 migration "crises," the Brexit vote and the election of Donald Trump, the latter two which largely ran on an anti-immigration platforms.[28]

Frames are underlying structures of belief or perception.[29] During the policy process, frames can be created based on the "policy stories that actors tell about what they see as a problem, why, who is involved, and what could and should be done about it."[30] How an issue is framed during the policy process can be more critical than presenting facts alone.[31] This is situated in a core concept of political science in that ideology has power over cognition.[32] Referring consistently to the "migration crises"

or the "refugee crises," for instance, immediately generates a set of preconceived beliefs, images and words, similarly to how constantly using the terms "illegal," "irregular" and "alien" to describe immigrant groups creates an association with all migrant groups. Even the use of the word "crises" itself has been found to be intentional, as it indicates an "emergency" which has been strategically employed by governments to permit and justify the naturalization of more securitized policies.[33] "By drawing irresponsible comparisons between refugees and terrorists, pundits and politicians commit one of the worst possible sins: presenting the perpetrator and the victim as one and the same."[34]

CONCLUSION

After 70 years, the continued relevance of the Refugee Convention to the current needs of the globally displaced remains highly questionable.[35] Nations have categorically muddled the concepts of refugee and asylum-seeker in the interests of sovereignty, forgoing their commitment to human rights. Many of these nations show deference to resettlement programs over "spontaneous" asylum-seekers who arrive at their borders. All refugees have sought asylum somewhere first, and the dependency this preference places on UNHCR to conduct refugee status determinations as a "surrogate state" for wealthy nations in the global North places the burden on both the nations who are hosting the majority of the global refugee population and on the UNHCR. Resettlement

26 Alexander Betts and Paul Collier, *Refuge: Rethinking Refugee Policy in a Changing World* (New York: Oxford University Press, 2017), 5.

27 Jaya Ramji-Nogales, Andrew I. Schoenholtz, and Philip G. Schrag, "Refugee Roulette: Disparities in Asylum Adjudication," *Stanford Law Review* 60 (2008).

28 Monica Colombo, "The Representation of the 'European Refugee Crisis' in Italy: Domopolitics, Securitization, and Humanitarian Communication in Political and Media Discourses," *Journal of Immigrant & Refugee Studies* 16, no. 1–2 (2018): 161–78; Erica Consterdine, "State-of-the-Art Report on Public Attitudes, Political Discourses and Media Coverage on Teh Arrival of Refugees" (CEASEVAL RESEARCH ON THE COMMON EUROPEAN ASYLUM SYSTEM, 2018); Jakob-Moritz Eberl et al., "The European Media Discourse on Immigration and Its Effects: A Literature Review," *Annals of the International Communication Association* 42, no. 3 (2018): 207–23; Esther Greussing and Hajo G. Boomgaarden, "Shifting the Refugee Narrative? An Automated Frame Analysis of Europe's 2015 Refugee Crisis," *Journal of Ethnic and Migration Studies* 43, no. 11 (2017): 1749–74; Jackie Hogan and Kristin Haltinner, "Floods, Invaders, and Parasites: Immigration Threat Narratives and Right-Wing Populism in the USA, UK and Australia," *Journal of Intercultural Studies* 36, no. 5 (2015): 520–43; Anna Triandafyllidou, "A 'Refugee Crisis' Unfolding: 'Real' Events and Their Interpretation in Media and Political Debates," *Journal of Immigrant & Refugee Studies* 16, no. 1–2 (2018): 198–216.

29 Martin Rein and Donald Schön, "Frame-Critical Policy Analysis and Frame-Reflective Policy Practice," *Knowledge and Policy* 9, no. 1 (1996): 85–104.

30 Peter Scholten, *Framing Immigrant Integration: Dutch Research-Policy Dialogues in Comparative Perspective* (Amsterdam University Press, 2011).

31 Martin Baldwin-Edwards, Brad K. Blitz, and Heaven Crawley, "The Politics of Evidence-Based Policy in Europe's 'Migration Crisis,'" *Journal of Ethnic and Migration Studies* 45, no. 12 (2019): 2139–55..

32 Willard A. Mullins, "On the Concept of Ideology in Political Science*," *American Political Science Review* 66, no. 2 (1972): 498–510.

33 Baldwin-Edwards, Blitz, and Crawley, "The Politics of Evidence-Based Policy in Europe's 'Migration Crisis'"; Julien Jeandesboz and Polly Pallister-Wilkins, "Crisis, Enforcement and Control at the EU Borders," in *Crisis and Migration: Critical Perspectives*, ed. Anna Lindley (Routledge, 2014): 115–35; Rogier van Reekum, "The Mediterranean: Migration Corridor, Border Spectacle, Ethical Landscape," *Mediterranean Politics* 21, no. 2 (2016): 336-341.

34 Abdullahi Alim, "The West's Obsession With 'Good Refugees' Is Bad Policy," *Foreign Policy*, 2021, https://foreignpolicy.com/2021/04/03/west-refugee-system-somalia-dadaab-ty-mccormick-review/.

35 Seyla Benhabib, "The End of the 1951 Refugee Convention? Dilemmas of Sovereignty, Territoriality, and Human Rights," *Jus Cogens* 2, no. 1 (2020): 75–100.

can certainly be a favorable option for many refugees, yet the question remains of whether a normative part of international refugee law includes the allowance of powerful signatory nations to "cherry-pick" which parts of the law or global compacts they wish to comply with.[36]

Further research agendas should include comparison studies of outcomes in refugee status determinations between those completed by UNHCR and signatory states. While continuing to rely on the UNHCR to complete this task is burdensome, perhaps it is a more consistent method of monitoring bias in the process of determining who is a refugee—a definition flawed from the onset—and ensuring asylum-seekers' cases are heard and given due process. More importantly perhaps, is the need for research agendas to include innovative legal and policy alternatives to refugee status as defined by the Convention on how to allow rights to the displaced. Analyzing how signatory nations steer, process and pass policies restricting and labeling who they consider a refugee is critical towards legitimizing states' commitment to what many consider, the world's most vulnerable people.

Can Humanitarianism be Humanizing? A Discourse Analysis of Non-governmental Organizations' Public Communications within a Mediterranean State of Emergency

Alexandra DiChiara

States of emergency can sound deceptively temporary, but in certain situations sovereign powers permanently manipulate human rights, as is the case for migrants fleeing into the Mediterranean Sea. The popular representation of NGOs is typically pure benign humanitarianism, but in the Mediterranean, NGOs generate and perpetuate harmful discourses. By employing a state of emergency framework, they reduce migrants' humanity and rights to their bodies. Through an Arendtian and Foucauldian inspired discourse analysis of the home websites, press releases, maps, and tweets of two Mediterranean NGOs (Médecins Sans Frontières and Sea-Watch), this article seeks to demonstrate how under the emergency pretense, NGOs reduce migrants to statistics, disabilities, and emotional objects. The discourses that emerge from these various mediums all legitimize the migration crisis as an emergency and NGOs as the proper international actor to resolve these emergencies. Legitimacy helps persuade readers that they should donate and support these NGOs, sustaining the industry and profit from migrant suffering. This article aims to increase awareness about the dehumanizing discourses and adverse effects that humanitarian actors can perpetuate during an emergency about the very humans they endeavor to aid.

Living in a State of Emergency

The recent coronavirus (COVID-19) pandemic has shown most of the world what living in a temporary government declared state of emergency looks and feels like. It can be terrifying at times, and it allows sovereign powers to manipulate and take away certain political rights from the public. Even though it may not be over yet, the pandemic has improved, governments have restored many of these rights, and most people's lifestyles will eventually return to familiar normalcy. However, what happens when a state of emergency permanently alters your life and rights?

In the case of migrants escaping their home countries to the Mediterranean, non-governmental organizations (NGOs) have bolstered discourses

that transform their humanity to be perpetually dependent on their bodies. To garner funding, NGOs have legitimized individuals as migrants only to the extent that they are worthy of care and compassion if they are suffering. The following article will study the ways Mediterranean NGOs sustain discourses that contradict their values of universal human rights. This essay will follow analyses of two NGOs' public correspondences, specifically home websites, press releases, maps, and tweets to illustrate their subtexts and enduring implications.

Unlike with COVID-19, the state of emergency that has emerged from the migration crisis has not been temporary and is unlikely to end soon. As NGOs are the only actors attempting to prevent further deaths at sea, discussions of their power and influence over migrant futures

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36 B. S. Chimni, "Global Compact on Refugees: One Step Forward, Two Steps Back," *International Journal of Refugee Law* 30, no. 4 (2019).

are imperative. Due to NGOs' perceived good intentions, the international community rarely interrogates or checks speech and behavior of these NGOs.

This article will employ a fused lens of Hannah Arendt and Michel Foucault's theories to reveal what signs subsist in NGO public correspondences characterizing migrants and their humanity in terms of their bodies and how these are connected throughout numerous mediums and platforms. For Arendt, humanity is endowed to a population through state institutions as society seeks to create equality through organizations. Thus, with this conception of humanity, stateless people do not have rights because states do not recognize them as equals. This discourse analysis will also be guided by Foucault's understanding of it as a way to decode texts, images, and other sources to reveal the discursive formations that underlie and connect them to inform specific institutions, practices, and apparatuses.[1] This Arendtian-inspired Foucauldian discourse analysis will elucidate the pervasive discourses that function within the Mediterranean NGO realm under the pretense of a state of emergency and the enduring consequences of these discourses beyond the Mediterranean.

The NGOs selected for this analysis were Médecins Sans Frontières (MSF) and Sea-Watch, as they were among the first to charter vessels in the Mediterranean with the primary intention of rescuing migrants in need.[2] Additionally, these NGOs have sustained their activities at high rates, compared to numerous smaller organizations with limited funding that have come and gone over the years.[3] Finally, Mediterranean migration scholarship more frequently mentions, cites, and

analyzes these four organizations than any others.[4]

It is important to note that the following will not be an exhaustive recounting of all disseminated materials from each organization. Instead, a handful of recent postings from the NGOs' home websites, press releases, maps, and tweets will be highlighted to illustrate the discourses present within humanitarianism in the Mediterranean migration crisis. Another crucial point to restate once more is that the analysis below does not intend to disparage NGOs and their efforts to help individuals distressed in sinking boats. They are doing what many might not be able to do or would not do. However, that should not relieve NGOs and other humanitarian actors from further analysis or critique. The following discussion aims to promote conversations on the biopolitical power of NGOs that may be unbeknownst to them, specifically the migration crisis of the Mediterranean Sea.

Migrants as Quantitative Persuasion for Funds

One of the most prevalent migrant discourses in NGO communications reduces migrants to numbers and statistics. The quantification of migrants is frequently at the core of NGO press releases, maps, and tweets. Since press releases aim to grab readers' attention, their titles and content typically concentrate on the striking conditions and features of an event. The press releases of the Mediterranean NGOs are no different. However, they instrumentalize the emergency that is the migration crisis as a tool, converting individuals into a jarring statistic. "Sea-Watch 3 rescues 363 people from distress at sea within 3 days" is the title of a recent Sea-Watch press release meant to garner awe and intrigue.[5] Instead of referring to migrants or refugees, this article names the individuals as "people." 12 of the 20 times "people" follows a number. 363, 90, 45, 102, 216, 15, and 170 are all numbers cited in the article as descriptors for those who were either rescued or died at sea.[6] Thus, in

one page, Sea-Watch educates the reader on numerous statistics, each more outrageous than the previous, to elicit shock and horror from the reader. In doing so, Sea-Watch systematically negates migrants and refugees of the one thing that NGOs claim to share with them: their humanity.

The state of emergency both these NGOs perceive themselves to be operating in permits them to conveniently overlook individuality and humanity. In these press releases, migrants are no longer people, they are either a success or a failure, alive or dead, rescued or lost. By treating migrants as a statistic, NGOs legitimize themselves. Aggregate results help illustrate a consensus over an issue via opinion polls and surveys.[7] NGOs employ migrant statistics to demonstrate two "objective" facts: that there is a crisis in the Mediterranean and that NGOs are successfully mitigating its consequences.

On Mediterranean NGOs' home pages and press releases, it is not unusual to find a map that tracks their operations, successful rescue missions, or migrants' deaths at sea. These illustrate processes across territories, but they also perpetuate dehumanizing discourses. Maps represent a type of optical power. Their production is controlled and distributed to distinguish what is "true" and "acceptable" and what is not.[8] They claim to have expertise about a system and assert their ability to make complex phenomena intelligible to the untrained eye.[9] The migrant body and experience are inextricably tied to power relations shaped by specific ability, class, culture, ethnicity, gender, history, language, nationhood, politics, race, religion, sexuality, among other contributing factors. Maps, however, decenter and de-historicize these from the narrative. When addressing migration, one must consider

the tangible embodied consequences these power relations have on migrants. However, because of their stasis, maps obscure the intersectional hierarchies at play as they turn "active subjects" into "objects of research."[10] For Mediterranean NGOs, they define what is pertinent to their map as it relates to the urgent situation. This frequently means classifying their emergency rescue mission successes and failures by migrant survival and deaths.

"Interactive map of our Search and Rescue operations" has its own page on MSF's home website, which people can interact with by changing the date range. The dots of the map denote successful missions and information about their operations including number of people rescued and their general health observations.[11] By only marking successful missions, the map suggests that MSF has the migration crisis under control as it decisively omits failed missions and lives lost. As with the aforementioned statistics, the countless points of successful missions legitimize the European mass migration as an emergency that needs alleviating and MSF as the legitimate actor to aid. For a map of a humanitarian crisis, the sea of dots is emphatically void of humanity. The existence and interests of the migrants involved in these rescues and transfers are made invisible by this map, which solely prioritizes the geography and details of MSF operations. The dots effectively silence the experiences, histories, narratives, and perspectives of these migrants. Their inclusion in the map is only to the extent that their survival is an accomplishment to MSF.

In its latest Airborne Annual Report, Sea-Watch incorporated a map titled "Overview of Selected Distress Cases, Empty Boats and Dead Bodies Spotted in 2020."[12] Like MSF's visual, Sea-Watch's

1 Hannah Arendt, *The Origins of Totalitarianism* (New York: Harcourt Brace Jovanovich, 1966): 301-302.; Michel Foucault, *Archaeology of Knowledge* (London: Routledge, 1972): 27, 28, 121, 133.
2 Eugenio Cusumano, "Humanitarians at Sea: Selective Emulation across Migrant Rescue NGOs in the Mediterranean Sea," *Contemporary Security Policy* 40, no. 2 (2019): 251.; Daniela Irrera, "Migrants, the EU and NGOs: The 'Practice' of Non-Governmental SAR Operations," *Romanian Journal of European Affairs* 16, no. 3 (September 8, 2016): 30.
3 Cusumano, "Humanitarians at Sea," 243.

4 Ibid, 249-251.
5 "Watch 3 Rescues 363 People from Distress at Sea within 3 Days," Sea-Watch E.V., March 1, 2021, https://sea-watch.org/en/sea-watch-3-rescues-363-people/.
6 Ibid.

7 Theo van Leeuwen, *Discourse and Practice: New Tools for Critical Discourse Analysis* (New York: Oxford University Press, 2008): 37-38.
8 Michel Foucault, "The Order of Discourse." in Untying the Text: A Post-Structuralist Reader, ed. Robert Young, (Boston: Routledge & Kegan Paul, 1981), 52-53.
9 Henk van Houtum and Rodrigo Bueno Lacy, "The Migration Map Trap. On the Invasion Arrows in the Cartography of Migration," *Mobilities* 15, no. 2 (2020): 196.

10 Koen Leurs and Kevin Smets, "Five Questions for Digital Migration Studies: Learning from Digital Connectivity and Forced Migration In(To) Europe," *Social Media + Society* 4, no. 1 (January 2018): 10.
11 "Savings Lives at Sea," Médecins Sans Frontières (MSF) International, http://searchandrescue.msf.org/.
12 *Airborne Annual Report 2020*, Sea-Watch E.V., February 24, 2021, https://sea-watch.org/en/airborne-annual_report_2020/.

map displays dots in the Mediterranean. Their dots represent distress cases, empty boats, dead bodies, and empty boats with dead bodies. Similarly, this visual misses any trace of humanity. Migrants have gone from human beings to either a distress case or a dead body, with no in-between. The map only references migrants as data points of an emergency that require Sea-Watch's management.[13]

MSF and Sea-Watch exclude the myriad of factors that led to these distress cases, success missions, and dead bodies in the water. Furthermore, the politics of migration remains absent from the maps, which claim to be a "technical tool not a political tool." Once the reader recognizes this, they accept it.[14] The dynamic nature of migration as a process is impossible to see in maps like MSF's and Sea-Watch's that employ dots, which represent migrants as firmly positioned in space.[15] Although maps can be helpful for visualizing certain phenomena, their biases on what is worth including are crucial when evaluating their claims. For NGOs, the maps they use to depict and legitimize their operations simultaneously remove migrants from their politicized histories by reducing them to dots defined by their death or survival.

In the past decade, social media has emerged as another medium through which people consume their news. Younger generations sometimes even consider it their primary source of news.[16] NGOs have increased their presence on social media platforms to update their followers instantaneously and Twitter appears to be their preferred platform. Although tweets are limited to 280 characters, discourses can still permeate tweets, and thus tweets can also perpetuate discourses.

Like maps and press releases, NGO tweets rob migrants of their humanity by reducing them to a statistic. Tweets call attention to numbers of saved and lost migrants.[17] In doing so, tweets similarly detach the rescue missions and migrants from the historical processes and experiences that led to their fleeing and NGO involvement. Additionally, it marks migrants as worthy of acknowledging in so far as they were successfully rescued by an NGO or unfortunately not rescued in time. In tweets that center on these numbers, NGOs commonly cite the statistic as legitimacy for their continued involvement in the crisis. A Sea-Watch tweet posted on February 19, 2021, reads, "Today, we had to witness the tragic results of the European migration policy again: six boats with ~500 people on board were spotted during our #Moonbird mission. This shows again why it is so important that the #SeaWatch3 started her mission today."[18] The perceived state of emergency in the Mediterranean allows NGOs to characterize migrant lives only in terms of the "urgent" or "necessary" information, which equates to their quantification as death and survival rates. Both the number of deaths and survivals function to ascribe authority and power to NGOs as actors in the emergency crisis. The constant reminder of lives lost at sea emphasizes that there are still emergency situations occurring in the Mediterranean that need attention and aid. Conversely, the enumerations of those rescued by

NGOs demonstrate their success in responding to these urgent circumstances. The perceived "achievements" of NGO rescue missions can persuade viewers and readers to fund and support these organizations so they can continue to operate and resolve the other Mediterranean emergencies. These NGO tweets that focus on quantifications of migrant bodies, both dead and alive, omit the essential root causes and complex structural inequalities that lead to migrant influxes. The tweets also refuse to acknowledge the significant long-term systemic reconstruction needed to address the migration crisis, which do not include reactive NGO rescue missions.

Migrants as Bodily Persuasion for Funds

Throughout press releases, maps, and tweets, the discourse surrounding NGO legitimacy as it relates to migrant enumerations is palpable. However, two other critical discourses within NGO communications need to be analyzed. This next segment concerns the NGO focus on the bodily integrity of refugees to define their legitimacy. Home websites offer one location for NGOs to divulge the injuries, disabilities, and physical vulnerabilities of the migrants they aid. MSF specifies on their website how they help migrants with a long list of injuries ranging from chemical burns, hypothermia, psychological trauma, scabies, and more.[19] Sea-Watch similarly lists the variety of mental and physical wounds that their team handles. Both Sea-Watch and MSF prioritize those considered the "sickest" or most "vulnerable," which typically include women, especially pregnant women, and children.[20] Thus, NGOs select certain migrant bodies over others to be worthy of special emergency care. The value of a migrant's life then becomes ingrained within their bodily integrity. The state of emergency that NGOs operate in allows them to shift and sustain attention towards assuaging perceived immediate suffering rather than improving the human condition in general.[21] Consequently,

migrants rescued by NGOs are no longer individuals with distinct personal lives but rather masses of pregnant, dehydrated, malnourished, burned, and broken bodies. This makes NGOs seem equipped to manage the emergency at sea in regard to migrant health and should be financially supported to continue doing so.

As with statistics, the public takes the physical health of these migrants to be apolitical and objective. However, transnational NGOs mediate migrant bodily integrity.[22] In these tweets, NGOs claim that the sick migrant body speaks for their experiences and history instead of the migrant themselves. This perpetuates imagery of the "sick, dirty recipient" and the "strong, healthy, clean giver."[23] When NGO tweets reference migrants in terms of both their numbers and physical ailments, it alludes to a discourse of the "imagined good doctor, the ever-giving nurse, and their suffering ever-needy mass of patients."[24] NGO tweets discussing ailing migrants suggest that their story is shaped by how sick or injured their physical body is and that their physical descriptors are sources of legitimation.

Migrants as Emotional Persuasion for Funds

The final NGO discourse this work will analyze is that of migrants as emotional triggers for legitimacy and support. NGO press releases frequently portray migrants as emotional objects. In an MSF press release titled "A healthy baby boy called 'Miracle' born on the Aquarius," the reader sees pictures of baby Miracle and is assured that Miracle and his mother are doing "very well" because of MSF's intervention and aid.[25] The

13 Sebastian Cobarrubias, "Mapping Illegality: The i-Map and the Cartopolitics of 'Migration Management' at a Distance," *Antipode* 51, no. 3 (2019): 779.

14 Ibid, 783.

15 Tome Marelić, "Possibilities and Difficulties of Depicting Migrations Using Static Thematic Maps," *Kartografija I Geoinformacije* 16, no. 28 (2017): 6, 10.

16 Lynn Schofield Clark and Regina Marchi, *Young People and the Future of News: Social Media and the Rise of Connective Journalism*, Communication, Society and Politics (Cambridge: Cambridge University Press, 2017): 4.

17 Sea-Watch International (@seawatch_intl), "Fourth rescue of the #SeaWatch3: this time, 97 people were rescued from a double-decker wooden boat. Our crew is now sharing our Sea-Watch 3 with 317 guests!
In the meantime, our #Moonbird sighted four other boats in distress in the central #Mediterranean." Twitter, February 28, 2021, 7:14, https://twitter.com/seawatch_intl/status/1365998916374843393.

18 Sea-Watch International (@seawatch_intl), "Today, we had to witness the tragic results of the European migration policy again: six boats with ~500 people on board were spotted during our #Moonbird mission. This shows again why it is so important that the #SeaWatch3 started her mission today." Twitter, February 19, 2021, 15:35, https://twitter.com/seawatch_intl/status/1362863420672983040.

19 "Mediterranean Migration in Depth."

20 Ibid.; "FAQ – Frequently Asked Questions."

21 Miriam Ticktin, *Casualties of Care: Immigration and the Politics of Humanitarianism in France*, (Oakland, California: University of California Press, 2011): 16.

22 Didier Fassin, "Inequality of Lives, Hierarchies of Humanity: Moral Commitments and Ethical Dilemmas of Humanitarianism," in In the Name of Humanity: The Government of Threat and Care, ed. by Ilana Feldman and Miriam Ticktin, 244.

23 Liisa Malkki, *The Need to Help: The Domestic Arts of International Humanitarianism* (Durham: Duke University Press, 2015): 8.

24 Ibid, 8.

25 "A Healthy Baby Boy Called 'Miracle' Born on the Aquarius," Médecins Sans Frontières (MSF) International, June 5, 2018, https://msf-seasia.org/news/18138.

release concludes that this story of Miracle's birth onboard their vessel shows "just how much MSF's presence is needed in the Mediterranean."[26] The press release story of Miracle's safe birth on the *Aquarius* and his arrival in Sicily serves to legitimize MSF's rescue missions and to evoke emotions that may persuade readers to donate to the organization. The nameless and general figure of the "new mother [that] would have given birth hiding on a beach in Libya, without any medical assistance" signals the necessity and legitimacy of MSF's operations in the Mediterranean.[27] Learning about baby Miracle's story also generates emotions of sadness, compassion, and pity, all of which might induce readers to donate to MSF. In emotional press releases, NGOs display migrants as deprived of their humanity to reveal a moral object worthy of care to produce funds from their supporters.

Tweets also play towards the emotions of their viewers by objectifying migrants. An MSF tweet from January 23, 2021, reads, "21 babies, 35 children, and 131 unaccompanied minors amongst the 374 survivors rescued from unseaworthy boats by #OceanViking. Now, think how many were amongst those intercepted and pushed back to #Libya the last 48h."[28] MSF specified the rescue of women and children to illustrate the international conception of the refugee as helpless and innocent.[29] The migrant appears defenseless. The perception of women and children as apolitical victims strengthens the idea that they are "good" and "deserving" migrants worthy of protection and care, while economic migrants and potential terrorists,

typically imagined as men, are not.[30] NGOs tend to avoid specifying men and elder individuals in their tweets because they can evoke fear from their viewers that migrants are looking to steal jobs and drop bombs. When NGOs reference men, they describe their sickness or injuries so that they appear weak and non-threatening.[31] Unlike men, women and children more easily elicit feelings of sympathy, pity, and compassion, which persuades viewers to donate and support the NGOs that save those worthy of rescue from premature death and leave behind the undesirable migrants.

NGOs can also play to their viewers' emotions without citing migrants' gender or age. A tweet from Sea-Watch includes a picture of a pair of white hands forming a heart, through which you can see the distant faces of migrants that they have rescued. The tweet ends by saying, "Let us rescue – because every single life counts," which Sea-Watch also pasted at the top of the image.[32] This tweet can trigger deep emotionality from its readers. When a viewer emotionally acknowledges the "vulnerable" in these messages yet cannot directly help them, they feel inclined to support those who can like NGOs. The "let us rescue" phrase in the tweet loudly urges the reader that cannot rescue migrants themselves to donate and support Sea-Watch. The viewers' self-image and self-understanding as a caring and compassionate person will remain intact when they feel they have contributed to the ongoing emergency, even if it is monetarily from the comfort of their home.

The emotions evoked by these tweets obscure the larger asymmetric systemic inequalities and hierarchies that exist. The humanitarian

language of compassion turns "'domination' into 'misfortune,' 'injustice' into 'suffering' and 'violence' into 'trauma.'"[33] Emotional language and photos work to narrow the focus of the public to the migrant suffering occurring in the context of the state of emergency at sea rather than in the context of the greater complex structures that led to their suffering. The emotional self-care of the viewer may encourage donations, but the motivation to create change may stop there because it relieves them of the responsibility to do more than to give money. The emotionality of these tweets seeks to spur short-term support for current Mediterranean projects and operations based on immediate migrant suffering. Still, it fails to create space, opportunities, or incentives for viewers to contribute to long-term changes of structural inequalities.

Can Humanitarianism Be Humanizing?

NGOs like Sea-Watch and MSF believe they operate in a space of exception, the Mediterranean, and a state of emergency, the European migration crisis. This has allowed them to define the humanity and value of migrants in terms of their numbers, bodily integrity, and emotionality. These three discursive descriptions of migrants help to propagate and preserve the NGO industry, because instead of provoking systemic change, they encourage the sustenance of NGOs as actors responding to short-term disasters at sea. Despite the perceived brevity of emergencies, these migrant discourses that arise

in a state of emergency are not temporary and remain well past the space of exception that they are conceived in.

When a migrant is only a legitimate migrant in terms of physical health, gender, or age, they become endangered when those statuses shift over time. When a sick body is given recognition over others, such as laboring bodies, they are endowed with political and human rights insofar as they remain weakened and disabled for the rest of their lives. As a

result of receiving and needing help and care, they do not receive equal treatment or rights as citizens and are left with a second-class "new humanity" as disabled bodies.[34] In addition to creating a subjugated citizenship for the "sick" migrant, this discourse of the disabled migrant as a legitimate political subject hardens the border for the abled-bodied migrants to receive any citizenship at all.[35] The migrant who has not visibly suffered enough is not worthy of care and political rights in comparison to those who carry eye-catching and deeper outward-facing wounds. The child who states and organizations welcome with open arms is only provided with care and rights as long as they stay innocent and virtuous. Once the child matures into an adult, they become a potential threat to national security. The discourses perpetuated by NGOs continue a cycle of subversion and inequality.

With the advancement of the internet, creating and living within a state of emergency is no longer perceived in singular physical environments; it has also been revolutionized to exist in digital spaces. Thus, states of emergency and spaces of exception are fluid and ever-changing. This article did not have the capacity to investigate the implications of a digitized state of emergency, but it is an area for future research. Related to the perceived Mediterranean migration crisis, this article has overviewed how a state of emergency framework permits NGOs to reshape the assumed universal humanity for all individuals to only apply to specific migrant bodies. Despite the believed temporary nature of states of emergencies, the humanity defined within them lasts long outside of the space of exception within which they occur. The rare critique of Mediterranean NGOs and their detrimental impact on the migrants they rescue makes its discussion all the more crucial for generating change in a system that subjugates migrants and their humanity.

26 Ibid.

27 Ibid.

28 MSF Sea (@MSF_Sea), "21 babies, 35 children, and 131 unaccompanied minors amongst the 374 survivors rescued from unseaworthy boats by #OceanViking. Now, think how many were amongst those intercepted and pushed back to #Libya the last 48h." Twitter, January 23, 2021, 9:23, https://twitter.com/MSF_Sea/status/1352985425959407619.

29 Liisa Malkki, "Speechless Emissaries: Refugees, Humanitarianism, and Dehistoricization," Cultural Anthropology 11, no. 3 (1996): 388.

30 Luca Mavelli, "Governing Populations through the Humanitarian Government of Refugees: Biopolitical Care and Racism in the European Refugee Crisis," *Review of International Studies* 43, no. 5 (2017): 819.

31 Ibid, 819.

32 Sea-Watch International (@seawatch_intl), "The criminalization of sea rescue has become quieter and less populist, but it is just as deadly. Blocked ships, a huge rescue gap in the Mediterranean: Let us rescue - because every single life counts." Twitter, March 24, 2021, 11:33, https://twitter.com/seawatch_intl/status/1374746310142754819.

33 Mavelli, "Governing Populations through the Humanitarian Government of Refugees," 810.

34 Ticktin, *Casualties of Care,* 4-5.

35 Mavelli, "Governing Populations through the Humanitarian Government of Refugees," 811.

Rethinking Refugee Policy In Europe: "Fortress Europe" And Its Consequences

Anthony Avice Du Buisson

Introduction

The influx of refugees to Europe in the wake of rising conflict in the Middle East and North Africa has reshaped European thinking around refugee policy in a substantial way. Research conducted by the European Social Survey shows an increase in negative attitudes toward refugees among Europeans.[1] These attitudes spurred on by fears over security and identity have contributed to the bolstering of the European Union's deterrence regime. This deterrence regime is set up through the auspices of the European Union (EU) with the aim of limiting the flow of refugees to mainland Europe.

Through agencies such as Europe's Border and Coast Guard Agency (Frontex) that monitor illegal migration along the periphery of the Union, the borders of Europe are monitored extensively. Along with these agencies the EU utilizes bilateral cooperation agreements between Turkey and Afghanistan to control migratory routes through third countries in exchange for economic guarantees. It is hoped by the EU that this approach will address Europe's domestic challenges, notably as relating to security, extremism, and rising anti-EU sentiment.

However, the recent security dilemmas arising from Turkey and the Polish-Belarus border are exposing vulnerabilities in the system. These vulnerabilities are rooted in the securitarian approach the EU has taken in handling the crisis. Not only is this approach short sighted but it also undermines the humanitarian philosophy of the

1951 Refugee Convention by shifting responsibility away from states to protect refugees, encouraging the limiting of free movement and contributing to an increase in harm towards refugees.[2] An approach that if pursued long enough will turn Europe from a bastion for all peoples to a fortress for the few.

The Origins Of The 2015 Refugee Crisis

> *"We the people have legitimate demands, and we would like to tell the government what to do. Our freedom is not up for negotiation."*[3]*–Mohamed ElBaradei*

The Arab Spring that started in the early 2010s encouraged a wave of democratic optimism across the Middle East and North Africa (MENA) region. Millions of people took part in large-scale demonstrations in countries such as Tunisia, Libya, Egypt, Yemen, and Syria demanding democracy, equality, and justice. These civil protest movements undermined the authority of longstanding autocratic dictatorships that ruled with impunity. Revolutions soon arose across the region demanding an end to years of tyranny. Tunisia and Egypt were the first to overthrow the rule of Ben Ali and Hosni Mubarak regimes respectively. Revolutions in Libya, Yemen and Syria soon followed but took a drastically different direction when government crackdowns in those countries sparked armed resistance, which led to

civil conflict.[4]

The collapse of the Syrian and Libyan states pushed millions of people to flee abroad. Tearing families apart, upending livelihoods and fracturing communities, places that many once called home ceased to be safe. Over three million people displaced from their homes in Syria fled to neighboring Jordan, Lebanon, and Turkey. As for the Libyan conflict, over two million displaced fled to neighboring Tunisia, Egypt, Sudan, and Algeria.[5] These conflicts sparked humanitarian crises that heavily changed the dynamics of the region. These crises being exacerbated further by the rise and expansion of the Islamic state of Iraq and Syria.[6]

With no sign of conflict ending in Syria and a renewal of unrest arising in Libya and Iraq, neighboring states no longer could deal with rising refugee numbers. Jordan and Egypt's refugee camps were overwhelmed with displaced people.[7] This forced these states to adopt hard border approaches–rapidly closing borders and significantly restricting asylum seekers from entering. It was these rising restrictions that pushed people to flee farther afield to Europe.[8] The conscience of Europe was directly besieged by the mass migration of people seeking refuge within the Union. Humanitarian crises previously thought of as far away from Europe's gaze now could not be ignored. It was at this moment in mid-2015 that the current "refugee crisis" emerged prominent in political and migratory discourse.

Over a million displaced people fled into mainland Europe from the MENA region following the start of the crisis. Many refugees utilized migrant routes from North Africa and Turkey to cross the Mediterranean and Aegean Seas into Italy and Greece, where many more ventured through land routes in the Balkans to reach countries like Hungary and Germany. This mass movement of people is the largest in Europe's history since the second world war.[9] With 1.3 million first time applicants applying for asylum in Europe, the Common European Asylum system (CEAS) and Europe's Border and Coast Guard Agency (Frontex) responsible for the processing of migrants and the security of the seas around Europe quickly were overburdened.[10]

However, not everyone reached the shores of Europe. Paying smugglers thousands of dollars to be cramped in overcrowded boats, many families endured the risks of drowning at sea to venture to Europe.[11] Thousands died because of these desperate voyages. A notable example is the case of Alan Kurdi: a Kurd from Kobani who–along with his family–paid smugglers over five grand in US dollars to cross the sea into Greece.[12] Only three-years old at the time, Alan (Alyan) Kurdi took a small five-meter boat with twelve other people including his mother and brother and attempted to cross the Aegean Sea. Equipped with faulty life jackets provided by smugglers, the vessel capsized in the early hours of the morning of 2nd of September 2015. His body washed ashore on the Turkish beach of Bodrum, where it was found by the Turkish authorities and later photographed by

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1 Christian S. Czymara, "Attitudes Toward Refugees in Contemporary Europe: A Longitudinal Perspective on Cross-National Differences," *Social Forces* 99, no. 3 (2021): 1316.

2 United Nations General Assembly, *United Nations Convention Relating to the Status of Refugees*, July 28, 1951, https://www.unhcr.org/en-au/3b66c2aa10.

3 Jack Shenker, "Mohamed ElBaradei Urges World Leaders to Abandon Hosni Mubarak," *The Guardian*, February 2, 2011, https://www.theguardian.com/world/2011/feb/02/elbaradei-abandon-mubarak.

4 Mehari Fisseha, "The Roles of Civil Society and International Humanitarian Organizations in Managing Refugees Crisis in the Middle East and North Africa (MENA) Region," *Journal of Mediterranean Knowledge* 3, no. 1 (2018): 63-7.

5 Ibid.

6 Aziz Douai, Mehmet Fatih Bastug, and Davut Akca, "Framing Syrian Refugees: US Local News and the Politics of Immigration," *The International Communication Gazette* (March 2021): 94.

7 Laura Zanfrini, "Europe and the Refugee Crisis: A Challenge to Our Civilization," *United Nations Academic Impact*, 2021, https://www.un.org/en/academic-impact/europe-and-refugee-crisis-challenge-our-civilization.

8 Ibid.

9 Kyilah Terry, "The EU-Turkey Deal, Five Years On: A Frayed and Controversial but Enduring Blueprint," *Migration Policy Institute*, April 8, 2021, https://www.migration-policy.org/article/eu-turkey-deal-five-years-on.

10 Ninna Nyberg Sørensen et al., "Europe and the Refugee Situation: Human Security Implications," *Danish Institute for International Studies* (DIIS) no. 3 (2017): 11.

11 Leila Simona Talani, "The 2014/2015 Refugee Crisis in the EU and the Mediterranean Route," *Journal of Balkan and Near Eastern Studies* 22, no. 3 (2020): 452-54.

12 Teresa Wright, "Alan Kurdi Photo Spurred Canadian Government Scramble to Respond, Documents Reveal," *The Globe and Mail*, April 29, 2018, https://www.theglobeandmail.com/politics/article-alan-kurdi-photo-spurred-canadian-government-scramble-to-respond/.

the press.[13] Alan Kurdi's death represents one case in over three thousand of displaced people that have perished during the perilous journey across the Mediterranean and Aegean Seas.[14]

In response to the crisis the European Union adopted a series of emergency policies that aimed at enhancing Europe's security and reducing the flow of migrants to Europe. Among these policies included expansions to Frontex, Europol and the European Asylum Office (EASO) in charge of CEAS. These agencies represent some of the mechanisms that the Union utilizes for its security, as many are on the frontline in dealing with challenges such as crime, smuggling and illegal migration. All these enhancements to Europe's security apparatus are a product of the European Commission's proposed Agenda on Migration and Security in 2015.[15]

The European Union pushed forward with these policies to address not only the growing security issues that came with the refugee crisis but also growing anxieties. Terrorist attacks in Paris in January and November, along with rising violence in cities like Cologne, Germany fueled anti-refugee sentiment. Reactionary populist movements such as Pegida in Germany, the National Front in France, and conservative leaders such as Victor Orban in Hungary capitalized on fear to gain momentum for their political ambitions. Levelling blame for the crisis on the European Union, many of these movements and leaders have called for their respective countries to abandon the Union and adopt more hard border policies to stop migrants–calls that have gained traction and seen a resurgence in Euroscepticism.[16]

However, the Union's security apparatus still struggled under the weight of incoming refugees. Mounting pressure pushed European policy makers to seek out bilateral cooperation agreements with third countries, such as Turkey to ease the flow of migrants. Controlling the main migration routes to Europe was important for the EU, so in 2016 it signed the EU-Turkey statement and joint action plan. On paper this agreement meant that Turkey would help regulate the flow of refugees with more stringent border policies in exchange for over six billion Euros from the EU.[17] Another agreement with Afghanistan also followed with similar principles to that of the EU-Turkey agreement, except with an added emphasis on returning asylum seekers rejected back to Afghanistan–this applies to the "Joint Declaration" signed in 2020 too. In the case of both agreements, the priority of the Union is to ensure that the flow of migration is kept restricted, while also providing a place outside the Union for Asylum seekers to be returned with little to no reporting mechanisms used.[18]

"Fortress Europe"

"Wir haben so vieles geschafft – wir schaffen das."[19] –Angela Merkel

There is a deep sense of irony in the way Europe has approached the refugee crisis. Thousands of asylum seekers remain at an arm's length from sanctuary in the European Union. This is despite the proclamations of European leaders like former German Chancellor Angela Merkel, who called upon Europe to meet its obligations to take in refugees in the early months of the crisis. What

the Union has done in the last couple of years is shift away from its humanitarian obligations as enshrined in the *1951 Refugee Convention* and moved towards a securitarian approach to the crisis. Critics label this new approach as "Fortress Europe",[20] an idea that rests on the notion that the Union is a homogenous entity with borders that must be "safe guarded" from the incoming flux of migrants. The idea is centered on viewing these incoming migrants as potential threats that undermine the Union's security, sovereignty, and identity. Where the irony arises is that in the pursuit of curtailing reactionary sentiment, the Union has instead fueled it with its deterrence regime contributing to rising anti-immigrant and anti-EU sentiment.[21]

Denmark is a prime example where the tide of anti-immigration sentiment has taken hold. Syrian refugees previously settled in the country since the inception of Bashar al-Assad's war on his people are now being returned to Syria. The reason? The Danish government considers the war to largely be over and safe for displaced people to return. Stripping hundreds of their residency permits, the government's police are putting many after years of staying in the country back on planes headed for Damascus, Syria.[22] This assessment by the Danish government largely ignores the risks associated for many who will be sent back to Assad's Syria. Assad's internal security forces continue to keep tabs on those that have fled, with severe imprisonment and disappearances remaining as consequences awaiting those returning. Yet, this is to be expected when there is a lack of a coherent proactive policy in dealing with the refugee crisis. When the focus is aimed at maintaining the security, sovereignty and identity of Europe, obligations to those people

who have come from outside get ignored.

A clear contradiction exists with this "Fortress Europe" mindset and the aims of the Union's refugee regime, as anchored by its humanitarian obligations under the *Convention*. The human rights of refugees are increasingly put aside in the interests of national security, while free movement is heavily curtailed by restrictions due to stringent border policy and lengthy asylum processing. Refugees who flee to get away from persecution in their home countries are blocked, whether it by land or sea, from seeking sanctuary in Europe. Those who can achieve asylum within the EU face a wave of discrimination, which is only further fueled both by reactionary movements within the host countries that associate criminality with refugees. The recent border crisis along the Polish-Belarussian border exposes vulnerabilities in the deterrence regime of the Union.

When Alexander Lukashenko, dictator of Belarus, threatened last year to "flood" Europe with migrants from mostly Iraqi Kurdistan, the EU's Polish authorities pursued a hard border approach to prevent these migrants from entering the Union. Thousands of migrants, with little choice provided to them by the Belarussian authorities, were forcefully marched to the Polish border. In response, Polish authorities sent security forces accompanied by armored vehicles to push back the migrants so that a defacto border wall could be reinforced at many checkpoints along the Polish border.[23]

The reactive nature of Polish authorities to this border crisis instigated by Lukashenko regime is emblematic of the EU's handling of the refugee crisis. Instead of adopting a proactive approach to deal with the causes for refugee migration and meeting obligations to protect those most vulnerable, Polish authorities, along with the rest of the EU, reacted to the crisis in a defensive manner. Ignoring the agency of those at the heart

13 Joe Parkinson and David George-Cosh, "Image of Drowned Syrian Boy Echoes Around World," *Wall Street Journal*, September 3, 2015, https://www.wsj.com/articles/image-of-syrian-boy-washed-up-on-beach-hits-hard-1441282847.

14 The Visual and Data Journalism Team, "Hundreds of Migrants Still Dying in Med Five Years Since 2015," *BBC News*, September 1, 2020, https://www.bbc.com/news/world-europe-53764449.

15 Susan Ferreira, "From Narratives to Perceptions in the Securitisation of the Migratory Crisis in Europe," *E-International Relations*, September 3, 2018, https://www.e-ir.info/2018/09/03/from-narratives-to-perceptions-in-the-securitisation-of-the-migratory-crisis-in-europe/.

16 Thomas Gammeltoft-Hansen and Nikolas F. Tan, "The

End of the Deterrence Paradigm? Future Directions for Global Refugee Policy," *Journal on Migration and Human Security* 5, no. 1 (March 2017): 33-35; Talani, "The 2014/2015 Refugee Crisis," 15-17.

17 Sørensen et al., "Europe and the Refugee Situation," 11.

18 Mojib Rahman Atal, "The Asymmetrical EU-Afghanistan Cooperation on Migration," *The Diplomat*, May 12, 2021, https://thediplomat.com/2021/05/asymmetrical-eu-afghanistan-cooperation-on-migration/#!#:~:text=On%20April%2026,%20the%20European,in%20the%20EU%20member%20states.

19 Janosch Delcker, "The Phrase that Haunts Angela Merkel," *Politico*, August 19, 2016, https://www.politico.eu/article/the-phrase-that-haunts-angela-merkel/.

20 Stefan Lehne, "The Tempting Trap of Fortress Europe," *Carnegie Europe*, April 21, 2016, https://carnegieeurope.eu/2016/04/21/tempting-trap-of-fortress-europe-pub-63400.

21 UN General Assembly, *Convention and Protocol Relating to the Status of Refugees*.

22 Charlotte Alfred and Benjamin Holst, "How Denmark's Hard Line on Syrian Refugees is an Aid Group's Ethical Dilemma," *The New Humanitarian*, January 11, 2022, https://www.thenewhumanitarian.org/news-feature/2022/1/11/how-Denmark-hard-line-Syrian-refugees-aid-group-ethical-dilemma#:~:text=Denmark%20is%20the%20first%20European,right%20to%20work%20since%202019.

23 Lydia Gall and Tanya Lokshina, "Die Here or Go to Poland: Belarus' and Poland's Shared Responsibility for Border Abuses," *Human Rights Watch*, November 24, 2021, https://www.hrw.org/report/2021/11/24/die-here-or-go-poland/belarus-and-polands-shared-responsibility-border-abuses.

of the crisis, the EU reinforced border restrictions and sent security forces to deal with the "security" threat. This concerted effort to keep migrants out left over a dozen dead due to freezing temperatures. Humanitarian aid did not arrive, only exacerbating the situation, and application claims to the EU were outright denied without any proper review. The Union views this response as a success for its security apparatus in the defence of the Union. This is despite thousands of refugees essentially being forced back home.[24]

Poor handling of the border crisis is not the only incident where the vulnerabilities of "Fortress Europe" are on display. Another example is intertwined with the EU-Turkey deal that was signed in 2016. Since control of the main migratory route into the Union is held by Turkey, the country effectively acts as a valve controlling the amount of pressure the EU deals with. This vulnerability has been exploited by Turkish President Recep Tayyip Erdogan who, like Lukashenko, repeatedly has threatened to "flood" the EU with migrants whenever economic demands are not met or criticism has been made against Turkey's military actions in neighboring states. Each time threats like this have been made, the EU has been quick to muzzle past criticisms and essentially appease Turkey in the process of acquiescing to its demands.[25]

Rethinking Refugee Policy

"*Humanitarian response, sustainable development, and sustaining peace are three sides of the same triangle.*"[26] *–Antonio Guterres.*
As mentioned before the European Union does not currently have a proactive approach to dealing with the refugee crisis. It instead has a series of policies that are reactive in nature that only seek to respond to the crisis from a security standpoint. This approach needs to be rethought and a new

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24 Ibid.

25 Sørensen et al., "Europe and the Refugee Situation," 11.

26 Antonio Guterres, "Secretary-General Antonio Guterres' remarks to the General Assembly on Taking the Oath of Office," *United Nations Secretary-General*, December 12, 2016, https://www.un.org/youthenvoy/2017/01/secretary-general-antonio-guterres-remarks-to-the-general-assembly-on-taking-the-oath-of-office/.

fresh mindset to replace the "Fortress Europe" one needs to be adopted.

The proactive approach that should be adopted needs to come from a place of humanitarian concern rather than security. This requires rethinking refugee policy entirely to actively address the root causes for migrations from failed states. Refugees do not flee to Europe purely for economic opportunities. Most are forced out of their homes due to insecurity caused by the failure of state structures in their countries. Addressing those failed state structures may provide a starting point for policy makers in dealing with the crisis for good. Stabilizing places where war is ongoing so that these areas are safe once again eliminates some of the root causes for refugee migration. This requires an active approach that aims at upholding international obligations to protect the vulnerable and facilitate peace.

A proactive approach involves a combination of diplomatic, economic, and military means to resolve the tensions in the middle east and north Africa region. What this fundamentally means is addressing the root causes for state disintegration. For example: the dictatorship of Bashar al-Assad remains in Syria. Even though a large amount of the fighting in the country has ceased, the root cause for the uprisings–the autocratic rule of Assad–remains and is likely to create potential issues in the future. A concerted multilateral initiative spearheaded by the Union that utilizes economic sanctions, military prowess and promotes political alternative can help deal with the conflict. For instance, the EU should adopt economic sanctions in line with the US Caesar Act sanctions on the Assad's regime to curtail its autocratic abuses. It should also back The Autonomous Administration of Northeast Syria's "Rojava project"–a project founded on democratic, decentralized, multiethnic, and feministic principles–provides a legitimate model of governance that Europe can back as an alternative to Assad's rule.

The point is that eliminating the root causes for the crisis through the stabilization of regions where refugees come from helps both the EU and

the displaced fleeing their homes. It helps Europe meet its humanitarian obligations per the *1951 Convention*, while also significantly reducing the number of refugees fleeing into the Union as well as its dependence on third countries to regulate migration. It saves the Union billions of Euros in the long run as well, as current costs for border security will likely continue to go up with subsequent refugee waves. Fundamentally providing those at the center of the crisis–migrants–an ability to return and prosper once more.

Conclusion

The refugee crisis that followed from the onset of conflicts in the Middle East and North Africa region in early 2010s changed Europe substantially. Millions fleeing their home countries made way to Europe to seek out safety and security. An overwhelmed European Union shied away from its humanitarian obligations, instead choosing to pursue a security focused and ultimately, "Fortress Europe" mindset in handling the crisis. Spending billions on Frontex, Europol, CEAS and EASO, the Union has enhanced its deterrence regime to bolster this securitarian approach. Bilateral cooperation agreements with Turkey and Afghanistan help regulate the flow of migrants but expose vulnerabilities in Europe's dependence on third countries. With recent crises such as the one on the Belarus-Polish border and frequent Turkish threats to flood Europe with migrants, the EU is increasingly stuck with reactionary policies that fail to solve the crisis.
As argued in this paper, for the European Union to potentially solve the crisis it must adopt a proactive approach that reorientates the mindset away from "Fortress Europe" to a humanitarian one. Taking proactive measures with economic, military, and diplomatic intervention in failed states to stabilize those states is imperative. Addressing the root causes of the refugee crisis is the only way for Europe to meet its humanitarian obligations, reduce migrant flow and solve the crisis.

Those of us who live in the Anglosphere or Europe itself can either solve this crisis together or continue to let it fester for future generations.

I believe that we have a humanitarian obligation to those most vulnerable who are suffering greatly. That obligation rests on a common humanity built on compassion, solidarity, and unity. We must take the side of the victim and aid them in their struggle if we truly believe in this project. We cannot just speak; we must act.

Refugees Are Not Fiscal Burdens: The Real Economic Lesson of Sweden's Refugee Crisis

Peo Hansen

Introduction

Today both researchers and policy-makers agree that refugees and low-skilled migrants admitted to the European Union constitute a net cost and fiscal burden for the receiving societies. Whereas researchers draw this conclusion from a seemingly neutral accounting exercise – refugees contribute less in taxes than they receive in welfare assistance – politicians eagerly use this economics to justify increasingly restrictive asylum policies. The welfare state, they claim, simply cannot afford to absorb refugees. To be sure, politicians and researchers may judge low-earning and low-skilled labour migrants to be both useful and affordable, but *only* on the condition that their access to welfare provisions is restricted. Researchers conceive of this as the inherent trade-off between migration and the welfare state, also expressed as the "numbers versus rights trade-off".[1] Put simply, a country either has high levels of immigration or it has a sustainable welfare state, but it cannot have both. Or, in a different scenario, it either admits many migrants whose access to the welfare state is restricted, or it admits very few migrants who all receive equal treatment in terms of welfare state access. Of course, given the household budget accounting involved, if a country admits many high-skilled, high-earning migrants, these will, in contrast, impact positively on the public purse.

In this article I will show that this consensual cost-perspective on migration builds on a flawed economic conception. Much of it is due to the heavy imprint of the orthodox "sound finance" doctrine on migration research and policy – the assumption that central governments face a budget constraint and solvency requirement much in same way as households, municipalities or businesses. As economists Huixin Bi and Eric Leeper establish, "like the household, the government must satisfy a budget constraint each period."[2] In the *Oxford Dictionary of Economics*, moreover, the "budget constraint" is described as "[t]he limit to expenditure. For any economic agent, whether an individual, a firm, or a government, expenditure must stay within limits set by the ability to finance it".[3] By shifting perspective to instead examine migration through the macroeconomic lens offered by Modern Monetary Theory (MMT), the article will not only demonstrate sound finance's detrimental impact on migration policy and research, including the doctrine's instrumental role in stoking the toxic debate on migration in the EU. It will also show why MMT offers the tools with which both migration research and migration policy could be modernized and put on a realistic footing.

Empirically, I bring these tools to bear on the case of Sweden, the country that, proportionally speaking, has received the most refugees in the EU. The specific focus is placed on the consequences of the large increase in government spending following the refuge reception in 2015. From the perspective of policy-makers' certainty about the fiscal unsustainability of large numbers of refugees and scholarship's assurances concerning refugees' negative fiscal impact, the Swedish situation in 2015 should provide the ultimate worst-case scenario. Sweden, one of the most comprehensive welfare states in the EU, admitted 163,000 asylum seekers in one year, the majority of whom were given permission to stay, which meant that they were incorporated into what orthodox economics already takes to be a bloated welfare state. In other words, all the conditions for a perfect storm were in place. By the same token, so were all the conditions for a perfect natural experiment to test the literature's assertions about fiscal burdens and trade-offs.

The Fiscal Burden of Migration

No one can have failed to take note of the public debate and political manoeuvring over the fiscal impact of migration, in general, and of refugee migration, in particular. "Objections to the perceived burden placed by immigrants on public finances," one scholar observes, "seem to motivate much popular opposition to immigration".[4] "Is migration good for the economy?" is the title of an OECD paper that goes on to ask: "Benefit or burden – what's the reality".[5] Under the title "Are migrants good for the host country's economy?" yet another scholar observes: "Indeed, the impact of migration on the host country's economy is possibly the most crucial question that policy-makers have to answer. Furthermore, it is a question that can drive changes in immigration policies as well as ignite fervent debates in the media and other forms of public discourse".[6] Indeed, as a piece in *The Economist*

reported, in October 2021 the Danish finance ministry released figures, purportedly showing that non-Western migrants and their offspring make up a net cost of 1.4 percent of GDP. Denmark's Social Democratic government has recently adopted a policy of "zero asylum seekers" and according to Torben Tranaes, professor at the Danish Centre for Social Research, it was this fiscal impact of non-Western migrants that "changed the Social Democrat's point of view".[7]

In the news media and media punditry, the message concerning migrants' ostensibly negative fiscal impact is also commonplace, and during the 2015–2016 refugee crisis it was amplified even further. In September 2015, the *International Business Times* fretted: "EU refugee crisis: how will European countries pay for the influx of thousands of people?".[8] In an equally rhetorical style, a headline in *The Atlantic* queried "Can the welfare state survive the refugee crisis?", while another one in *Die Welt* claimed that the "Refugee crisis could cost [Germany] nearly one trillion euros".[9] "Ballooning refugee costs threaten Germany's cherished budget goals", a Reuters headline noted. The article went on to inform readers that "[t]he unexpected cost of looking after a record influx of refugees in Germany could scupper Finance Minister Wolfgang Schäuble's cherished goal of achieving a balanced budget for the next five years".[10] From 2015 and onwards, fiscal warnings about refugee costs from finance ministries, their economic experts and forecasting agencies thus

1 Martin Ruhs, and Philip Martin, "Numbers vs. Rights: Trade-Offs and Guest Worker Programs," *International Migration Review* 42, no. 1 (2008): 249–65.

2 Huixin Bi and Eric Leeper, "Sovereign Debt Risk Premia and Fiscal Policy in Sweden," *National Bureau of Economic Research*, Working Paper 15810 (2010): 13.

3 Nigar Hashimzade, Gareth Myles and John Black, "*A Dictionary of Economics*, 4th ed. Oxford," Oxford University Press (2012): 43.

4 Ian Preston, "The effect of immigration on public finances", *Economic Journal*, 124 (2014): 569.

5 OECD, "Is migration good for the economy?" Migration Policy Debate 2, Paris: OECD Publishing (2014): 1.

6 Nazmun N. Ratna, "Are migrants good for the host country's economy?", in Triandafyllidou, A. (ed.), *Routledge Handbook of Immigration and Refugee Studies*, (Abingdon: Routledge 2016), 75; see also Carlos Vargas-Silva, "The fiscal impact of immigrants: taxes and benefits", in Chiswick, B & P. Miller (eds), *Handbook of the Economics of International Migration*, vol. 1B: *The Impact and Regional Studies*, Oxford: Elsevier 2015.

7 Quoted in *The Economist,* "Denmark: No room at the inn" (2021): 18–31 December.

8 Lydia Tomkiw. "EU refugee crisis: how will European countries pay for the influx of thousands of people?" *International Business Times* (2015): 23 September.

9 Heather Horn, "Can the welfare state survive the refugee crisis?" *The Atlantic*, 18 February 2016; *Die Welt* "Flüchtlingskrise könnte fast eine Billion Euro kosten," 25 November 2015.

10 "Ballooning refugee costs threaten Germany's cherished budget goals," *Reuters*, 17 September 2015.

went in tandem with ill-boding headlines about "Asylum costs: Germany's budgetary burden". Underneath the latter headline in *Handelsblatt* the introduction read: "A surging population of refugees in Germany could burst its balanced budget with billions of euros in added outlays".[11] The sense that Germany's fiscal health was hinged on a drastic reduction in refugee numbers was growing, with Schäuble's then deputy, Jens Spahn, saying that "[m]oney for other things that we might want is simply not there".[12]

Given that Sweden, proportionally speaking, was the country in the EU that admitted by far the most asylum seekers in 2015 (and prior to that too), the situation in Sweden received a lot of attention in the news media. In a commentary in 2018, *The Economist* summarized the impact of refugee migration in Sweden:

> Between 2013 and 2017 Sweden let in 353,000 refugees, equivalent to 3.5% of its population. It has failed woefully to integrate them. Red tape makes it hard for them to find jobs. [...] Combined with large handouts, this means that refugees tend to drain the public purse. And this avoidable policy error has helped to poison Swedish politics. The Sweden Democrats (SD), an anti-immigrant party, warns that newcomers will bankrupt Sweden's welfare state.[13]

Around the same time, *The Guardian* reported that the "163,000 migrants" who arrived in Sweden in 2015 had been "magnifying popular concern about a welfare system many felt was already under strain". Sweden, the article claimed, already suffered from "[l]ong waits for operations, shortages of doctors and teachers and a police force that has had difficulties dealing with a spate of gangland shootings". These problems, the article concluded,

"have all shaken faith in Sweden's prized model of generous welfare and inclusiveness".[14]

Since 2015, Sweden's Social Democrat-led governments have, for their part, been repeating the fiscal burden message *ad infinitum*. In the autumn of 2015 the Swedish finance minister, Magdalena Andersson, declared that the large refugee admission was "financially unsustainable" and would cause fiscal deficits for the coming years. "We will both have to reduce spending and borrow", she asserted in an interview in October 2015. "It's about cutting migration costs as well as looking into spending cuts in other areas. But we will also have to borrow money." The interview's introduction read as follows: "The big rise in costs for migration forces the government to make big spending cuts and a drastic increase in borrowing". The next sentence quotes the finance minister: "This is not sustainable".[15] In November 2015, a typical headline in a major daily paper read: "The deficit is growing: government's expenditures sharply increase due to the growing number of refugees".[16]

During the election campaign in 2018 the Social Democrats depicted the newly arrived refugees as not being keen enough on learning the language, joining education and training programmes, finding work and thus contributing to the welfare of their new country. Whereas the prime minister, Stefan Löfven, spoke about refugees' "duty" to make themselves "employable" in the same breath as he promised to show organized crime the door, Magdalena Andersson, who is now the prime minister, said asylum seekers had better go

14 Jon Henley, "Sweden election: political uncertainty looms after deadlock," *The Guardian,* 10 September 2018, https://www.theguardian.com/world/2018/sep/09/swedish-election-far-right-on-course-for-sizeable-gains-in-vote.

15 Karin Grundberg Wolodarski and Tomas Nordenskiöld, "Magdalena Andersson: Flyktingsituationen inte hållbar," *Dagens industri,* 22 October 2015, https://www-di-se.translate.goog/artiklar/2015/10/22/magdalena-andersson-flyktingsituationen-inte-hallbar/?_x_tr_sl=sv&_x_tr_tl=en&_x_tr_hl=en&_x_tr_pto=sc.

16 "Underskottet i statens finanser växer," *Svenska Dagbladet,* 23 November 2015, https://www.svd.se/a/f82fb837-e91c-4cc3-92f0-92594171ed61/underskottet-i-statens-finanser-vaxer.

11 "Asylum costs: Germany's budgetary burden," *Handelsblatt,* 19 February 2016.

12 "Wolfgang Schäuble warns German budget surplus must go to refugees," *Irish Times,* 25 February 2016.

13 "Sweden fails to form a government," *The Economist,* 17 November 2018, https://www.economist.com/europe/2018/11/17/sweden-fails-to-form-a-government.

somewhere else. Andersson, who took the most hawkish position, repeatedly declared migrant integration a failure and went as far as claiming that a restrictive asylum policy was a fiscal prerequisite for fighting child poverty in Sweden.[17] Around the same time the Minster for Justice and Home Affairs asserted that a government summer programme that subsidised bus fares for high school students had been made possible and affordable only thanks to cuts in refugee spending: "If we had not tightened up our migration policy in 2015 there would have been no fiscal space left".[18]

The *Real* Benefits of Migration

With Magdalena Andersson being appointed Sweden's new prime minster late in 2021, her new government has signalled an even harsher and, some say, Danish-leaning asylum policy, aiming to decrease the already historically low number of asylum seekers even further – all for the much-publicised purpose of protecting the fiscal sustainability of the welfare state. But the claim that refugees are a fiscal burden on the Swedish welfare state is guided by a fundamental misconception. Just think of *The Guardian's* reporting on Sweden above, where refugee migration is said to impact negatively on an already strained welfare state that struggles with backlogs and staff shortages in the health-care system. What the British newspaper fails to consider is the fact that without migration the backlogs and staff shortages would have been much more acute. As an in-depth OECD study on the matter found, the share of foreign-born medical doctors in Sweden stood at 30.5 percent in 2015/16, up from 23 percent in 2000/2001.[19] This is one of the largest proportions in the world. Iraqi and Romanian doctors make up two of the largest groups within the cohort of foreign-born doctors in Sweden. At Sweden's largest hospital, Sahlgrenska University Hospital in Gothenburg,

35 percent of the doctors, 18 percent of the nurses, 28 percent of the assistant nurses and 30 percent of the biomedical analysts are foreign born.[20] In the Stockholm region, 34 percent of the medical doctors are foreign born, and since 2015 it is the group from countries outside of Europe that has increased the most. Meanwhile, 52 percent of the nurses in the Stockholm region are of foreign background; and around half of the assistant nurses, dental nurses and dental hygienists have foreign background.[21] Moreover, close to 30 percent nationally, and about 55 percent in the Stockholm region, of those working in the Swedish elderly care are foreign-born, of whom the overwhelming majority have a refugee background.[22] As one Swedish regional newspaper heading put it a few years ago: "Without immigration elderly care falls apart".[23]

The important role played by migrants in the care and healthcare sectors is of course not unique to Sweden but predominate in scores of EU countries. As the pandemic hit the EU in March 2020, the issue of essential workers or key workers – not least those in health care and food production – was elevated on the agenda. Suddenly, those low-skilled migrants depicted as fiscal burdens by policymakers, the news media and scholars appeared as the pillars of society they actually are. "The overarching picture", one study concluded, is that of a migrant workforce that acts as an integral part in keeping basic and necessary functions of European societies working amidst periods of forced closure. It is worth stressing how, among

17 "Finansministern: Barnfattigdom skäl för stramare flyktingpolitik," *Dagens Nyheter,* 28 May 2018, https://www.dn.se/ekonomi/finansministern-barnfattigdom-skal-for-stramare-flyktingpolitik/.

18 "Samarbetet som blev en twitterfejd," *Fokus,* 26 May 2018.

19 OECD, *Recent Trends in International Migration of Doctors, Nurses, and Medical Students*, (Paris: OECD Publishing, 25 July 2019): 18

20 Gert Gelotte, "När var tredje läkare är född utomlands är invandring inte en ekonomisk börda," *Dagens ETC Göteborg*, 9 February 2021, https://www.etc.se/kronika/nar-var-tredje-lakare-ar-fodd-utomlands-ar-invandring-inte-en-ekonomisk-borda.

21 Ninos Maraha and Jessica Ericsson, "Slöseri att inte dra nytta av utrikes föddas kompetens," *Dagens Samhälle*, 4 April 2018, https://www.dagenssamhalle.se/chef-och-arbetsgivare/kompetensforsorjning/sloseri-att-inte-dra-nytta-av-utrikes-foddas-kompetens/.

22 Socialstyrelsen, "Vård och omsorg om äldre: Lägesrapport 2019," (March 2019), https://www.socialstyrelsen.se/globalassets/sharepoint-dokument/artikelkatalog/ovrigt/2019-3-18.pdf.

23 "Utan invandring rasar äldreomsorgen," *Östgöta Correspondenten,* 3 January 2015.

migrants, the low skilled workers are especially over-represented in a number of key occupations that are vital in the fight against COVID-19, underscoring their often neglected value within European economies.[24]

The figures are extremely revealing. While 30 percent of native Germans make up key workers, the figure for EU-mobile and extra-EU migrants in Germany is 35 percent. As Fasani and Mazza's paper also reveals, discrepancies "are even larger in countries such as Italy (31% for natives versus 43% for EU-mobile and 40% for Extra-EU workers) or Sweden (38% for natives, 43% for EU-mobile and 48% for extra-EU citizens)."[25]

In 2018, 60 percent of all cleaners in Sweden were foreign-born. The same was the case for 51 percent of bus and tram drivers; 49 percent of taxi drivers; 68 percent of maids, nannies and related personnel; 42 percent of restaurant and kitchen assistants; 49 percent of machine operators in laundering; 44 of machine operators in meat and fish processing; the list goes on.[26] Although it consistently refuses to mention these facts in the public debate, in a report from 2018 even the Swedish government concedes as much: "Without the foreign-born women and men, the elderly care would face significant problems in fulfilling its task."[27]

Again, this is the reality, and the numbers are there for everybody to see. Yet this reality persistently fails to register in national and European debates on refugee and low-skilled labour migration. The seriousness of this deliberate omission cannot be overemphasized. The very people who, proportionally speaking, do more to sustain key welfare functions are said to make the same welfare functions fiscally unsustainable. Instead of broadcasting the real benefits that refugees and labour migrants bring to EU countries and, from there, enact policy to improve migrants' often precarious situation, the political establishment has done the opposite. It has made sure to soak and trap the EU in a toxic debate in which refugees and migrants who earn "below average" are said to "drain the public purse", as put by *The Economist* above.

The Poverty of Research

Given this state of affairs, the need for sound science becomes even more pressing. It is needed to correct and respond to the false political and media refrains concerning the "fiscal burden" posed by low-earning migrants and refugees. But, as already noted, such scholarly work on migration is very hard to find. At best, we find research that bases itself on the same sound finance premises as the one arriving at the trade-off conclusion, but that, instead of costs, finds fiscal benefits from migration. This conclusion rarely applies to low-earning migrants though, and never to (the initially) non-earning refugee migrants. This is a serious lacuna, to say the least. When it comes to the growing problems of racism and fascism in the EU, we can at least spot a growing scholarly literature that cautions, confronts and seeks empirically and theoretically to explain the phenomena. But the fact that the political establishment in the EU takes refugee reception and welfare state sustainability to be incompatible has failed to attract much research at all – that is, research into whether the question of a migration-welfare trade-off is a valid starting point to begin with. Instead, we have seen the trade-off literature grow even further.

When thoroughly examining the sizeable literature on the "fiscal impact of migration", however, this lacuna is easily explained.[28] As mentioned above, when the neoclassical sound finance paradigm is applied, as it is – knowingly or unknowingly – by all the contributors to the literature, the central government is conceived of as roughly analogous to a household. This assumption applies universally, independent of the *smorgasbord* of different monetary regimes that any given central government may adopt. This means that everyone whose tax payments fall below average is considered a fiscal burden. These inhabitants are said to receive more in government welfare spending than they pay in.

From the perspective of research into the "fiscal impact of migration" this is just a fact, so research cannot be held accountable for being complicit in stoking the sentiment that refugee reception and low-earning migrants jeopardize the welfare state and that, consequently, refugee prevention constitutes a prerequisite for the fiscal viability of the welfare state. As one expert in the field puts it: "The lower the skills and earnings of migrants in the host country, the greater will be the strictly economic case for restricting some of their welfare rights in order to minimize the fiscal costs for existing residents."[29] The "strictly economic" serves to indicate that the issue at hand is neither grounded nor decided within the realm of political choice. Rather, objective economic laws of fiscal sustainability are said to constrain what is politically feasible.

According to world-renowned economist Branko Milanovic, "[t]he arrival of migrants threatens to diminish or dilute the premium enjoyed by citizens of rich countries, which includes not only financial aspects, but also good health and education services." Admitting low-earning migrants therefore "requires withholding some civic rights", Milanovic asserts.[30] "We can debate the sharpness of the trade-off, but cannot deny its existence."[31] In Milanovic's quest to figure out ways to "pay for increased migration",[32] such withholding of rights to migrants – or "discriminatory treatment", as he terms it – are both necessary and beneficial to all.[33] Migrants, Milanovic (2016b) suggests, "could also be made to pay higher taxes since they are the largest net beneficiaries of migration".[34]

Finally, another representative scholarly view, published in the International Organization of Migration's (IOM) journal *International Migration*, states that:

> The refugees represent a fiscal burden for the host countries at least short and medium term. Under these conditions refugee migration is unable to help to alleviate the aging related fiscal burden of the host societies, on the contrary, it contributes to its worsening. Thus, when the majority thinks that refugees represent a fiscal burden (they "take out more from the public purse than they pay in"), they are not wrong this time. It is not possible to argue against this with solid empirical evidence. Naturally, the moral (and legal) obligation argument for accepting the refugees is still valid but it couldn't be underpinned with further economic reasoning. The moral obligations and the economic benefit are in conflict here.[35]

As communicated in the quote, "the majority [is] not wrong this time", implying that, although majorities may be wrong most of the time, on the issue of refugees they are not. Here, the majority opinion agrees with science. The political parties on the extreme right have always had this piece of "economic science" tattooed into their party programmes and flagship slogans. Here is an instance when Europe's extreme right cannot

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24 Francesco Fasani and Jacopo Mazza, "Immigrant Key Workers: Their Contribution to Europe's COVID-19 Response", *Institute of Labour Economics*, IZA Policy Paper no. 155 (April 2020).

25 Ibid., 5–6.

26 Linn Eriksson and Linda Karbing, "The Swedish Occupational Register with statistics 2018," *Statistikmyndigheten,* (5 March 2020), https://www.scb.se/contentassets /b49d7efc2653457f8179f18461d2bf38/ am0208_2018a01_sm_am33sm2001.pdf. For further data in English, see "Pizza makers have largest share of foreign born persons," *Statistical news from Statistics Sweden*, 7 March 2019, https://www.scb.se/en/finding-statistics/sta-tistics-by-subject-area /labour-market/employment-and-working-hours/the-swed-ish-occupational-register-with-statistics/pong/statisti-cal-news/the-swedish-occupational-register/.

27 Swedish Government, "Framtidens äldreomsorg – en nationell kvalitetsplan," Regeringens skrivelse, 2017/18: 280, (20 June 2018): 16.

28 For such an examination, see Peo Hansen, *A Modern Migration Theory: An Alternative Economic Approach to Failed EU Policy*, (Newcastle upon Tyne: Agenda Publishing 2021).

29 Martin Ruhs, *The Price of Rights: Regulating International Labour Migration,* (Princeton: Princeton University Press, 2013), 46.

30 Branko Milanovic, "There is a trade-off between citizenship and migration," *Financial Times,* 20 April 2016.

31 Milanovic, *Global Inequality: A New Approach for the Age of Globalization* (Cambridge, MA: Harvard University Press 2016), 152.

32 Ibid.

33 Milanovic, "There is a trade-off."

34 Ibid.

35 Zsolt Gál, "Fiscal Consequences of the Refugee Crisis," *International Migration* 57, no. 5 (2019): 352.

be dismissed as populists or as being guilty of simplifying complex issues. As asserted in the quote, the factuality of refugees constituting a "fiscal burden" "is not possible to argue against [...] with solid empirical evidence". And since a fiscal burden, per definition, is synonymous with something very negative in the public debate, we should not be surprised if politicians and the public take those making up the burden – i.e. the refugees – to be undesirable too.

In response to this, the proponents of the cost perspective simply say that to mask or hide the truth about refugee migration – or any other migration deemed costly – goes against the scientific ethos and that it would make for an even worse place to begin integration. Many would add that tampering with the truth will only aid the anti-immigration populists – a particularly common retort from mainstream politicians and scholars who want to mark their distance from the extreme right. Since so few challenge the basic principles and maths of the cost perspective, it has gained an air of unassailable truth. But those who claim that they side with accuracy in order to avoid playing into the hands of the anti-immigration right do something even worse than allowing the cost assumption to stand unchallenged. They give it new life and credibility by insisting it be acknowledged in advance. It is like starting a discussion about equal pay by insisting that we acknowledge that women are a fiscal burden on men because women pay less in taxes – and that trying to diminish or hide this "fact" only plays into the hands of the sexists.

Modern Monetary Theory

In employing the descriptive macroeconomic framework provided by Modern Monetary Theory (MMT),[36] we can explain further why the cost perspective builds on a flawed economic conception. I have already stressed that the

orthodox "sound finance" economics mistakes state spending for being analogous to household spending. Here, spending amounts to little more than a cost, in the same way that a household looks at its outlays. Therefore, the money spent on refugees would have to be made up for through tax hikes, "risky" borrowing or by removing funds from other areas, such as welfare benefits intended for needy citizens.

For countries that issue their own fiat currencies, however, none of this applies. Since the central government is the monopoly issuer of the currency, it follows, both in logical and in concrete terms, that it necessarily has to spend or lend the currency (via the banking system) into existence before it can collect it back in taxes. If this was not the case, there would be no money to pay taxes with and the banks would have no central bank reserves to buy government bonds with. Such governments are thus the exact opposite of municipalities, business and households, all of which have to collect, earn or borrow the money before they can spend it; they are mere users of money, not issuers. By the same token, deficits and debts denominated in the fiat currency issued by such governments are not something risky or bad, but just another way of expressing that there are surpluses and financial savings elsewhere in the economy, such as in the domestic private and household sector, which is a good thing. As Tymoigne clarifies, "fiscal deficits are a boost to the saving level of the domestic private sector"; they "sustain national income by injecting more income in the economy than they remove through taxes, which improves the liquidity and solvency of other sectors".[37]

As MMT explains, therefore, currency-issuing governments are not revenue-constrained. This means that taxes collected by the central government are not used to fund government spending as they are when collected by currency-using bodies such as municipalities or constituent states in federations. Central government taxes fulfil other indispensable functions and purposes. By constantly removing a large chunk of money –

and thus spending power – from the private sector, taxes work as a powerful anti-inflationary measure while at the same time moving real resources from the private to the public sector. Taxes also work as an instrument regulating income and wealth distribution, and they are used to promote

or discourage various industrial practices and individual behaviours. And there are, of course, other purposes that central government taxes can be made to fulfil – but revenue for spending and saving for future spending do not form part of them.

Likewise, such governments do not have to borrow their own currency in order to spend. As MMT demonstrates, the real purpose of bond sales in a sovereign currency is not fiscal (for financing purposes) but monetary. They are carried out to enable the central bank to hit its overnight interest rate target (the interest banks pay when borrowing reserves from each other overnight).[38]

To be sure, all countries that issue their own currencies still impose unnecessary and politically invented fiscal frameworks, including balanced budget rules, debt brakes and spending ceilings. One of the most common rules stipulates that governments must "borrow" and thus sell bonds to the private sector when it lacks the funds or deposits at the central bank to match the spending.

But, again, currency-issuing governments do not need to borrow the currency whose issuing it monopolizes. In fact, as Mitchell and Fazi (2017: 184, emphasis in original) reveal, such governments "could run fiscal deficits *without issuing debt at all*: the central bank could simply credit the

relevant bank accounts to facilitate the spending requirements of the treasury, regardless of whether the fiscal position is deficit or surplus". Another option would be for the finance department to sell debt directly to the central bank, a procedure that is also prohibited by most countries. But, even when currency-issuing governments sell bonds to the private sector, these bonds can be "sold" only on the premise that the government first provides the central bank reserves with which banks purchase the bonds. Again, a government "must spend (or lend) its currency before it can receive it back either in payment of taxes or in purchase of its debt".[39] Hence, when currency-issuing governments create fiscal frameworks that require bond sales to the private sector, or banks – instead of no sales or sales directly to the central bank, as mentioned above – the banks pay for this by using the reserves that they have in their accounts at the central bank. And bank reserves can only be created by the central government (i.e. the treasury and the central bank); and they are created in three ways: (1) when the government spends; (2) when the central bank lends bank reserves to banks; and (3) when the central bank purchases bonds from banks.[40]

Interestingly, with the March 2020 suspension of the Stability and Growth Pact's budget rules and the ECB's adoption of the Pandemic Emergency Purchase Program, also governments in the eurozone – including Greece and Italy – have been able to spend freely, without any risk of "running out of money".[41] When then ECB president Mario Draghi stated, in July 2012, that the ECB was "ready to do whatever it takes to preserve the eurozone" – by purchasing government debt on the secondary market – the basis for today's

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36 See e.g. Dirk H. Ehnts, *Modern Monetary Theory and European Macroeconomics*, (Abingdon: Routledge 2017); Stephanie Kelton, *The Deficit Myth: Modern Monetary Theory and How to Build a Better Economy,* (London: John Murray, 2020); Bill Mitchell, Larry Randall Wray and Martin Watts, *Macroeconomics*, (London: Red Globe Press, 2019); Larry Randall Wray, *Modern Money Theory: A Primer on Macroeconomics for Sovereign Monetary Systems,* 2nd ed. (New York: Palgrave, 2015).

37 Eric Tymoigne, "Seven Replies to the Critiques of Modern Monetary Theory," *Levy Economics Institute* Working Paper No. 996, (Annandale-on-Hudson: Levy Economics Institute of Bard College, 2021): 56.

38 When a government runs a deficit – i.e. when it spends more than it taxes – this leads to a net addition of central bank reserves in the banking system, which in turn causes the overnight rate to fall towards zero. In the banking system as a whole, the supply of reserves has increased and demand has not. For the interest rate to remain on target, the central bank therefore sells interest-bearing bonds to *drain reserves*. Conversely, when reserves are drying up and thus putting upward pressure on the central bank's overnight target, the central bank *adds reserves* by, among other things, buying bonds. But, as MMTers are fast to point out, if the government so decides, it may also "leave excess reserves in the banking system, in which case the overnight rate would fall toward zero" (Mitchell, Wray & Watts, *Macroeconomics*, p 326). While at zero, the finance ministry can then choose "to sell short-term bonds that pay a few basis points [one basis point = 0.01 percent] above zero and will find willing buyers because bonds offer a better return than the alternative (zero). This drives home the point that a sovereign government with a floating currency can issue bonds at any rate it desires, normally a few basis points above the overnight interest target it has set" (Ibid., 326).

39 Mitchell, Wray and Watts, *Macroeconomics,* 338.
40 Ibid.
41 Dirk Ehnts, "The Eurozone is Fully Committed to Modern Monetary Theory (MMT)," (2020).

free spending in the eurozone was established. But although the "whatever it takes" initiative demonstrated the fiat quality of the euro, it still had to co-exist with an even more rigid adherence to sound finance orthodoxy and perpetual austerity. With Covid-19 hitting in March 2020, this fundamentally changed; all of the fiscal

austerity strings that formerly had been attached to the ECB's bond purchasing were now cut. As of July 2021, the ECB had bought up all the debt that had been issued by the governments since March 2020. At that point in time the ECB owned 42 percent of all the outstanding government debt in the eurozone.[42] With rules preventing the ECB from buying the debt directly from the member state treasuries, the debt has been bought on the secondary bond market; yet, in the end, this procedure ends up being equivalent to treasuries selling the bonds directly to the ECB.[43]

As MMT also demonstrates – and as the unprecedented pandemic-spending corroborates – money spent never disappears, and this, of course, applies to all monetary systems everywhere. This is so because all central government spending, by definition, must end up somewhere and hence be collected by someone.[44] Spending by the central government is thus synonymous with income in the non-central government sector – as such, spending always equals income. Or, as Wray puts it: "Aggregate spending creates aggregate income."[45] In the scholarly literature on the fiscal impact of migration as well as in fiscal policymaking, this irrefutable fact goes unnoticed.

Real Resources, Financial Resources

What may be an even more serious error on part of scholars and policymakers is that they fail to understand why it is absolutely necessary to distinguish between *real resources*, such as labour, and *financial resources*. Reflecting this

failure, researchers cannot grasp the value and indispensability of the labour carried out by those low-income essential workers with migrant background discussed above. Instead, they conceive of these workers as fiscal burdens. Their tax contributions fall below average and so they are said to receive more in government welfare spending than they pay in. By always being in the

red, so to speak, these workers will neither be able to redeem the costs for their initial stay in the country during which they did not work. Of course, if refugees work as doctors, they will be able to offset such alleged costs, and they may also be able to offset additional costs, such as their children's schooling. But, if they work in elderly care, food production or cleaning, they remain perpetual net costs. According to this logic, then, Sweden would have been better off without the cleaners and elderly care nurses who came as refugees.

As I explained above, the real resource contribution from the foreign-born nationals to the Swedish society has been nothing less than astounding.[46] The fact that Sweden is the only country in the EU (and beyond) that has not seen an increase in the median age over the last decade illustrates this.[47] With fewer Swedish-born workers joining the labour force than leaving it, the entire addition of working age people in Sweden has, since 2008, consisted of the foreign born. Between 2010 and 2017 the number of working age (16–64) Swedish-born people dropped by over 150,000 while the number of working age foreign-born grew by some 360,000 people (SPES 2018). This growth will pick up even more until 2025, when the foreign-born share of the working age population is set to hit 27 percent, as compared to 18 percent in 2010. The figures for 2017 demonstrates this well. Here, the labour market added 94,000 jobs, of which 75,000, or 80 percent, went to foreign-born workers.[48]

Crucial, too, is that refugees in Sweden have disproportionately ended up in smaller, rural municipalities. Many of these municipalities appreciate refugees as vital in making local communities liveable again, helping to fill vacancies and to reverse a decades-long vicious spiral of depopulation, declining local tax revenue and welfare service retrenchment. Thanks to refugee reception, municipalities that were closing schools are now opening them and building new ones instead.

The Fiscal Impact

Concerning fiscal policy, the Swedish central government increased spending massively to manage the reception of 163,000 refugees.[49] The government made sure to inform the public that the spending was a necessary evil that would impact negatively on the Swedish economy, welfare and fiscal health. In addition, practically all economic expertise warned in unison of economic and financial damage, urging the government to trim spending and introduce austerity measures to avoid deficits and debt accumulation.

When it comes to deficits and debt, it needs mention that the government and the entire economic expertise tasked with monitoring Sweden's fiscal policy, including the European Commission, did not present the forecasts regarding the refugees' negative fiscal impact as forecasts. Rather, that refugee spending would *cause* deficits and hence necessitate borrowing, tax hikes and budget cuts were continuously rendered as foregone conclusions.[50] Yet, it was the exact opposite that occurred. Instead of the big and bad deficits that the expertise had guaranteed would transpire, the consolidated government sector would run big surpluses in all the years between 2016 and 2018, as well as a small surplus in 2015.[51] From 2015 to 2017 Sweden paused its sound fiscal framework in order to deal with a serious situation that required a drastic increase in spending. The surplus target and the "pay as you go" rule were temporarily suspended. Although all stakeholders

argued otherwise, the drastic government increases in spending and public consumption did what they often do: they stimulated aggregate demand, investment and employment. In 2016 alone public consumption rose by 3.6 percent,[52] a development not seen since the 1970s.[53] The economy grew and tax revenue surged so much that successive surpluses were created, which is something that may happen, albeit not necessarily.

But, as MMT explains, this is not important; what is important is *not* the fiscal balance at the end of the year but the overall balance and *real* health of the economy and society. Despite the fact that politicians, experts and scholars have squandered years – and still do – on trying to figure out ways to get out of the non-existent and, in any case, non-dangerous fiscal hole allegedly dug by refugee spending, very little thinking has been done with regard to the latter balance. Meanwhile, the wider political, academic and public debate has also continued to deem refugees a cost, even after their own trusted method for judging costs and benefits – i.e. the orthodox household method for measuring fiscal impacts – has proved them wrong.

Important, too, is that while Sweden's central government, its economic experts and the media worried about the refugee spending's negative impact on the future fiscal balance, many rural and de-populating municipalities away from Stockholm were busy welcoming this expenditure as income. Thanks to the refugee spending by the central government, 2016 ended up being one of the best fiscal years ever for Swedish local governments, with practically all of the country's 290 municipalities running surpluses.[54]

The central government spending to the municipalities financed the reception of

42 "Investors bet ECB bond buying is here to stay," *Financial Times* , 22 July 2021.

43 See further Ehnts, "The Eurozone is Fully Committed"; Mitchell, Wray and Watts, *Macroeconomics,* 339.

44 Wray, *Modern Money Theory,* 18.

45 Ibid., 18.

46 For a comprehensive account, see Hansen, *A Modern Migration Theory*.

47 Eurostat, "Median age of population 2008–2018," 2019.

48 Swedish Public Employment Service, *Arbetsmarknadsutsikterna hösten 2018: Prognos för arbetsmarknaden 2018–2020*, (Stockholm: SPES, 2018): 26.

49 Hansen, *A Modern Migration Theory*.

50 Ibid., 140–53.

51 Ibid.

52 European Commission, "European Economic Forecast: Autumn 2018," Institutional Paper 89, Brussels: Directorate-General for Economic and Financial Affairs (2018).

53 Anders Nilsson and Örjan Nyström, *Flyktingkrisen och den svenska modellen* (Lund: Celanders förlag, 2016).

54 Swedish Government, "Budgetproposition för 2018," Regeringens proposition 2017/18: 1 (14 September 2017): 218–19; Sveriges Kommuner och Regioner, "Ekonomirapporten, maj 2017," Stockholm: SKR (2017): 5, 35–6.

refugees and their initial integration. In and of itself this increased public consumption enormously; and it stimulated investment and employment, which boosted overall economic growth. But since much more money was transferred than was needed for the immediate refugee concerns, municipalities were able to attend to other things too, such as welfare needs, schools and infrastructure. Besides impacting positively on the health of welfare services, in many municipalities refugee funds also enabled municipalities to invest, save and pay down debt.[55]

The admission of refugees – that is, *real* resources – together with the generous addition of financial resources from the central government thus proved to be a hugely virtuous combination for scores of depopulating municipalities in Sweden.[56] With this we also see the nullification of what scholars and centrally located politicians claim to be an inescapable and indisputable trade-off between refugee spending and welfare spending. Right before our eyes, then, Sweden had built a real-world model – however reluctantly – that was capable of receiving large numbers of refuges while at the same time investing in welfare. Instead of the misconceived trade-off between migration and welfare, or the alleged choice that has to be made between welfare spending and refugee reception, the Swedish case demonstrated that it is exactly the other way round. Spending on the refugees, the non-citizen newcomers, became a way of rediscovering the viability of welfare for all. But instead of discussing its real effects and applicability as a model for the EU as a whole, the Swedish model has since been discarded and deemed fiscally unsustainable.

Conclusion: Human Rights Are Not an Economic Sacrifice

When politicians sound the alarm over refugee costs, claiming that these threaten the fiscal sustainability of the welfare state, they can point to research in support of their claims. But most of the time they do not have to cite research. The notion that there is a trade-off between refugee migration and the welfare state is simply common sense in the public debate. The debate is not whether this is actually accurate; everybody agrees that refugees involve costs for taxpayers. The debate is, rather, whether these *costs* are deemed affordable or not.

It is clear who is winning this debate in terms of policy outcomes; asylum policy is becoming increasingly restrictive and the residence and social rights for those refugees who still manage to enter the European Union are being curtailed. No EU member state wants to share the "refugee burden".

But it is a strange debate, because the losing side, or those defending refugee rights, almost always contend that human rights never should be allowed to be subjected to cost–benefit analyses. Given that no one is questioning the assumption that refugee reception indeed constitutes a cost, this position is understandable. Under these circumstances, human rights proponents will always lose a cost–benefit debate over refugee reception. But as I have shown throughout this article, refugee reception is *not* costly. Rather, it amounts to a beneficial addition of real resources, as illustrated in the Swedish reality above. The government spending on refugees, for its part, will do what government spending always does: it will end up as income in other sectors of the economy – that is, as income for municipalities, businesses and others involved and employed in the management of refugee reception and integration. Those advocating human rights, therefore, do not have to concede the mistaken orthodox assumption that refugees are costly. Nor do they have to think of "the economy" as the enemy. Receiving refugees in the EU is not an economic or fiscal sacrifice. In admitting and investing in refugees – that is, *real* resources – societies in Sweden and the EU benefit. But let me be clear: I am not saying that Sweden or the EU should admit refugees *because* it benefits Sweden and the EU. Sweden and the EU should admit refugees to defend and uphold human rights.

55 See e.g. "Laxå kommun Budget 2019: Verksamhetsplan 2019–2022," Laxå: Laxå
kommun (2019).
56 See further Hansen, *A Modern Migration Theory*, chapter 7.

The Impact of EU Visa Liberalization in the Western Balkans

Laurence Dynes

The socioeconomic patterns of the Western Balkans have been inextricably tied to those of the EU ever since the signing of the 1995 Dayton Accord, an agreement that brought an uneasy end to the brutal war in Bosnia and Herzegovina between 1992 and 1995. Since then, the states have formally been considered to be on the path to EU membership. This process has involved several key agreements, including the Stabilization and Association Process (SAP), a set of funding mechanisms designed to help the Western Balkans reform their economies and move closer to being full members of the Union.

The integration process made significant progress due to the Visa Facilitation Agreements, which entered into force on 1 January 2008. They removed the need for the "Type C" short-term visa, upon which citizens of the Western Balkans gained access to the Schengen area, and could benefit from short-term travel, 90 days abroad within 180 days, in the European Union.[1] Visa liberalization depends on countries' progress in implementing reforms such as the rule of law, combatting organized crime, and migration management.[2] As it currently stands, all Western Balkans countries except Kosovo are part of the Schengen area. This paper seeks to examine the impact of this visa liberalization process. It will start by looking at the benefits of access to the Schengen area on labor mobility and the issues it has caused due to brain drain. It will then look at an indirect benefit of the liberalization agreement – namely, its catalyzing effect on security and justice reforms in the Western Balkans. Finally, it will conclude with several recommendations for mitigating the less desirable impacts of this liberalization.

Labor Mobility: A Two-Sided Story

Visa liberalization has had a clear positive impact on short-term mobility in the Western Balkans. To take Albania as an example, 627,788 Albanians left the country to visit the EU between 2010 and 2012.[3] The temporary nature of the visas means that many Western Balkans citizens cannot spend extended amounts of time in the EU. Nevertheless, it is highly valuable for business, offering young people the potential for language exchanges, as well as the opportunity for professionals to participate in fairs and conferences, which can lead to networking and cooperation, and perhaps in the future to a professional visa.

Ikonomi and Ndoci,[4] who look at the impact of Albanian travel to Italy, provide an enlightening case study on the mobility impact of visa liberalization. They find that while previously many Albanians would be less inclined to travel to find work, they can now go to a country, look for work, and if they do not find it, return home without any fear of not being able to try again in the future. This reassurance has also damaged smuggling networks. Besides making it increasingly difficult to falsify biometric passports, people smugglers have less leverage over migrants.

1 Luljeta Ikonomi and Nikolle Ndoci, "The Impact of Visa Liberalization for the Western Balkans: The Case of Albania," Istanbul University International Annual Balkan Conference/IBAC (2012), 46-59.
2 European Commission Report to the European Parliament and the Council, *Fourth Report Under the Visa Suspension Mechanism*, (2021).
3 Ikonomi and Ndoci, "The Impact of Visa Liberalization for the Western Balkans," 46-59.
4 Ibid.

However, this increased labor flexibility has a notable negative component – namely, brain drain. Immigration from the Western Balkans to Member States had been a problem long before visa liberalization. The World Bank estimates that 4.4 million people emigrated from the region between 1990 and 2015.[5] Yet access to the Schengen area has, perhaps unsurprisingly, accentuated it: the Institute for Strategic Research and Education published a study in 2017 showing that 20% of lecturers, assistants and researchers in Macedonia had applied for a job abroad.[6] Additionally, in 2016, 300 fully qualified and working doctors left Bosnia and Herzegovina, with many more departing immediately after completing their education.[7]

The migration of recently educated workers is problematic, as it represents a net cost to the country. It costs an estimated €150,000 to educate a doctor in Bosnia and Herzegovina, meaning the government spends more than €50 million a year on doctors who end up leaving.[8] While the Western Balkan states do receive remittances, these mostly contribute to purchases of consumer goods and do not provide the capital needed to fund sustainable, long-term growth.[9] On the other hand, the EU significantly benefits from this flow. Some economists estimate that investments into education and training of young workers by Eastern countries reigned in €200 billion for the German economy between 2009 and 2016.[10] As a result, Germany has consistently relaxed its immigration laws for skilled workers from the region. The EU has expressed concern about these levels of emigration, but the bloc's interests and

those of Eastern states diverge.

The Compelling Effect of Visa Conditionality

For the Western Balkans, visa liberalization was highly desired – indeed, a poll in Albania in 2003 established free movement as the main aspiration of both Albania's polity and its people.[11]

The desirability of this visa liberalization allowed the EU to carry out required reforms. After establishing a visa-free regime, the bloc implemented a monitoring mechanism. It made clear that visa-free travel is not unconditional but can be suspended if non-EU citizens privy to the visa-free regime excessively abuse the system.[12] This covers occurrences such as a more than 50 percent growth in irregular migration, a rise in people staying longer than the visas permit, or a heightened security risk in Member States due to criminal offenses.[13] In 2017, the Visa Suspension Mechanism, which allows the EU to temporarily suspend visa exemptions for non-EU countries, was modified so that both the Commission and the Member States could trigger the mechanism.[14]

While the Visa Suspension Mechanism has not been triggered yet, it seems to have had a positive impact in prompting reforms in the Western Balkans. Albania, which historically has had a problem with organized crime groups, has significantly increased its police operations, leading to several high-profile arrests. In January 2020, the Albanian government adopted a legislative package introducing new preventative measures against corruption and terrorism.[15] Montenegro, which previously experienced serious drug trafficking issues, has significantly enhanced its international cooperation mechanisms, particularly with Europol

and Interpol, leading to large amounts of drugs seized and crime group members being arrested in 2019.[16] However, Bosnia and Herzegovina still suffer from "systemic shortcomings in the operation cooperation of law enforcement agencies."[17] While these improvements are not present in the entire region, the growth of established security measures is nonetheless notable.

The reduction in crime due to improved security measures also has positive economic effects. As previously discussed, a significant economic barrier in the Western Balkans is the hidden economy, comprising those employed without a work contract, estimated to be around 12% in the region as a whole.[18] In addition to experiencing job instability, such workers are far less likely to gain social security coverage, health insurance, or benefit from any EU support. While the reasons for such a significant hidden economy are varied, organized crime is an important factor, having both direct (i.e., people employed in illegal activities) and indirect (i.e., increasing corruption in public institutions) effects. By compelling reforms in security and justice, the visa liberation conditions help reduce the reach of organized crime, therefore lowering the impact it has on the hidden economy. While the hidden economy is still an issue,[19] as security reforms continue, we can expect improvements in the future.

Conclusions and Recommendations

There is no doubt that visa liberalization has brought significant benefits to the Western Balkans. The opportunity for young people and professionals to travel regularly to the Member States has positively contributed to the employment success of Balkan citizens and deterred many people from going down illegal migration routes. Furthermore, the popularity of this access to the Schengen area, and the threat of it being revoked, has been a significant catalyst for security and justice reforms in the region.

The most significant issue that the Visa liberalization has contributed to is 'brain drain,' the emigration of the Western Balkans' best and brightest to EU Member States. While the EU has stated its desire to help mitigate this issue, it gains significantly from this inflow of cheap skilled labor, leading to a potential conflict of interest. This continues today as the European Commission's 2020 revised methodology on the Western Balkans' accession process only references the issue once and offers no specific strategy to tackle it. Meanwhile, Germany introduced a skilled immigration act in 2020, whose equivalence of qualification conditions heavily favors workers from the Western Balkans.[20]

The solution to this issue is not to stop immigration. If the Western Balkans are to be treated as prospective members, it is crucial that their populations have the opportunities to seek employment within the bloc, just as any of the Member States' populations would.

However, the negative impacts on the economic state of the region must be accounted for. One way to do this is to encourage greater levels of circular integration by providing incentives for emigrants to return home after some years working abroad. The skills they have gained working in strong economies abroad are likely to be highly valuable, which has the twofold benefit of creating significant demand for ex-emigrant workers, and bringing much-needed productivity boosts to their home country. While so-called circular migration requires the Western Balkan governments to make returning seem appealing to emigrants, the EU can also play a role. For example, the bloc could broker bilateral deals with the Balkans that ensure emigrants some of the benefits they enjoyed working abroad at home.

A more comprehensive way of managing remittances sent from emigrants in the Member States would also be beneficial. While remittance levels to the Western Balkans have historically been fairly high, they have generally had little structural impact, generally going immediately towards consumption. Any schemes that ensure

5 World Bank Group & Vienna Institute for International Economic Studies, *Western Balkans Labor Market Trends 2018*, (Washington, DC, 2018).

6 Marina Kostić and Dusan Proroković, "Place and Meaning of the Visa Liberalization Process and Further Emigration from the Western Balkans," in *Visa Free Regime: International and Moldovan Experience*, coordinated by Professor Valeriu Mosneaga, (Moldova State University, 2019), 48-64.

7 Ibid.

8 Alida Vracic, "The Way Back: Brain Drain and Prosperity in the Western Balkans," *European Council on Foreign Relations*, 9 May 2018.

9 Ibid.

10 Allison Carragher, "The EU Is a Dishonest Broker on Western Balkan Demographics," *Carnegie Europe*, 11 March 2021.

11 Blendi Kajsiu et al, *Albania and European Union: Perceptions and Realities*, (Tirana: Albanian Institute of International Studies, 2003), 46.

12 European Council, Council Regulation 539/2001, 21 March 2001.

13 European Commission Report to the European Parliament and the Council, *Third Report Under the Visa Suspension Mechanism*, (2020).

14 Ibid.

15 European Commission, *Fourth Report Under the Visa Suspension Mechanism*.

16 Ibid.

17 Ibid, 7.

18 Macedonian Center for International Cooperation, "Hidden Economy in the Western Balkans: Trends and Policy Options," Policy Brief No. 11, vol. 9, (November 2020).

19 Ibid.

20 Carragher, "EU is a Dishonest Broker."

these remittances go to better use would have a strong and sustainable benefit to the region. One suggestion, made by political scientist Alida Vracic, is for Western Balkans countries to invest three euros for every one euro in remittances it receives.[21] This would not only encourage emigrants to send as much as they can, but it would also mean more remittances are transferred through official channels. In turn, governments would better understand where remittances are sent, and thus also which areas require development.

While brain drain poses a significant issue, we have seen several viable ways to both mitigate and reverse it. However, visa liberalization has overall been highly valuable and arguably the most significant demonstration of the Union's commitment to the Western Balkans, both in terms of their economic performance and as prospective members of the EU.

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21 Vracic, "The Way Back."

War on European Soil: A Comparative Reflection on Human Security Approaches in the Former Yugoslavia and Ukraine

Interview with Søren Jessen-Peterson
by Katarina Leskovar, Christian Juarez and Matthew Schleich

The invasion of Ukraine on 24 February 2022 has triggered the fastest-growing refugee crisis to emerge from a European country since the Yugoslav Wars of the 1990s. In certain respects, responses by the European Union have demonstrated a continuum of revolutionary human security approaches emerging from the aftermath of the conflicts in former Yugoslavia. The European Council's activation of the 2001 "Temporary Protection Directive" on 4 March 2022 provides those fleeing Ukraine with comprehensive assistance including guaranteed access to residence permits, employment, accomodations, health services, and the normal asylum procedure. It is clear this harmonized refugee flow regulatory framework was built upon lessons learned from uncoordinated Member State responses to the 1999 Kosovo refugee crisis in particular. It is the Balkan region's historical legacy that has the potential to provide a wealth of parallel knowledge relevant to the international community's handling of the Ukrainian refugee crisis.

It is this catalog of lived and learned experiences from the Yugoslav Wars that has shaped the policies of both European and international multilateral actors in their approaches to Eastern European internal migratory management at large. This nexus prompts the retrospective basis of our interview with Mr. Søren Jessen-Petersen, the James Anderson Adjunct Professor of Migration and Security Studies at Johns Hopkins University SAIS Europe. Professor Jessen-Petersen's extensive and distinguished career includes service as Assistant UN High Commissioner for Refugees, Director of the UNHCR Liaison Office at UN Headquarters in New York, High Commissioner's Special Envoy to the former Yugoslavia, Chef de Cabinet of the High Commissioner for Refugees at UNHCR Headquarters in Geneva, Director of External Relations at UNHCR Headquarters, Special Representative of the UN Secretary-General for Kosovo, and Under Secretary-General of the United Nations Interim Administration Mission in Kosovo (UNMIK).

Professor Jessen-Peterson has an unparalleled breadth of expertise in the field of migration and human security, and the SAIS Europe Journal of Global Affairs welcomes his reflection on his experiences in former Yugoslavia as we conduct this comparative analysis on the ongoing humanitarian crisis resulting from the war on Ukraine.

Editor's Note: This interview was recorded on 9 April 2022. Given the fluidity of the war on Ukraine, events may have changed before the publishing of this interview.

Christian Juarez: So, Professor Jessen-Peterson, we'd like to start off the interview by asking you about your professional experiences, particularly during your time as a director within the UNHCR and as the High Commissioner's Special Envoy to the former Yugoslavia. To begin, how would you characterize Europe's initial reaction and response to the influx of asylum seekers emerging from the Yugoslav wars?

Søren Jessen-Petersen: Let me say, different from the situation in Ukraine, in former Yugoslavia it was a fairly "slow beginning" because it started first with wars between Serbia and Slovenia in only ten days. Then, war between Serbs and Croats, which lasted longer and brought a lot of displacement and suffering. But it was really only about two years from the beginning of the first conflict, after the declaration of independence by Bosnia, that displacement numbers and suffering rose very quickly and reached dimensions that we hadn't really prepared for.

For that reason, in the summer of 1992, UNHCR, the UN High Commissioner for Refugees, convened a meeting of governments to agree on how we would address this new situation, which was getting worse by the day. And we in UNHCR put forward a seven point plan where we looked at assistance, but one of the points was to urge states outside of the region to provide temporary protection because until the conflict started in Bosnia, those who were displaced in Serbia and Croatia had stayed in the region because of links between families. But with the Bosnian conflict, it developed into a situation that went way beyond the region. It was important for us to appeal to governments to allow those fleeing the conflicts in former Yugoslavia and to provide temporary protection. That was the difference. Initially, the response was positive. But as the conflict dragged on, it became more and more difficult, and states started to lose their support.

Matthew Schleich: Professor, could you expand on the comparison or the differences between Europe's response to the influx of refugees due to the Yugoslav crisis and due to the current Ukrainian crisis?

Jessen-Petersen: Yes, and as I mentioned, the conflicts in former Yugoslavia, in terms of displacement, began rather slowly. A couple of years before Bosnian independence in 1992, displacement was a lot, but it was limited to the region of former Yugoslavia. Here, the displacement and refugee crisis started very, very soon after the Russian invasion. After the war began already, and after a few days, we had tens of thousands that immediately increased to hundreds of thousands. And up until today, six weeks after the start of the war, all in all 11 million displaced persons of which 4 million are outside of Ukraine.

The main difference, and that's why I talked about temporary protection, is that in 1992 temporary protection was an idea that came from the UNHCR. Here, it was the European Union, I think within five days of the start of the conflict, that immediately urged member states to provide temporary protection, meaning allowing the refugees in and not having them go through an asylum process to determine whether they were in need of asylum protection. In the former Yugoslavia, temporary protection only came into action two years after the beginning of the first of the conflicts and was not an EU decision. It was UNHCR that urged states and then the EU states agreed that they would try to provide temporary protection.

So the way Ukraine developed very shockingly, very fast, very quickly, and also the way that the EU then responded by urging member states to provide temporary protection is a major difference. And of course, a very welcomed difference because it in some ways addresses some of the suffering that the Ukrainians are going through.

Katarina Leskovar: I believe you kind of touched on this on the tail end of your point on receptiveness to refugees coming out of the Balkans. Do you believe that asylum fatigue will arise in the case of Ukraine, as it did in 2015, when Europe experienced the massive wave of migrants, asylum seekers, and refugees? And how do you think that that was similar perhaps to asylum fatigue, if it happened, in the nineties?

Jessen-Petersen: Well, I think starting with the last point first, in the case of the former Yugoslavia, there was an initial response after the start of the conflict in Bosnia with the displacement of Bosniaks, Bosnian Muslims, Bosnian Serbs, and Bosnian Croats. Then temporary protection was granted, but not on the basis of an EU decision.

States outside the region of the former Yugoslavia responded differently, and quite a few of them, even before the conflict in Bosnia came to a formal end with the Dayton Peace Agreement, were coming to the UNHCR and saying, "We know that there is some kind of peace in parts of Bosnia. We would like to go ahead and return the refugees," and we were urging them not to do so. So it was only after the Dayton Peace Agreement that the States slowly started to insist on return.

The difference with 2015 was that there was not one group of refugees that were easy to define. They didn't come from either the territory of former Yugoslavia or now from Ukraine, they came from all over the world. Therefore, coming up with a united political response was difficult. Secondly, it also happened very fast and there was no guidance coming from the EU. Europe was divided, and member states acted on their own. Some closed their borders, there was total chaos, and it was a very messy response.

Whereas today, it is an easily defined group. The objective conditions calling for refugee status are, to most countries, very very clear. This prompted the EU to immediately decide that temporary protection should be given immediately without status determination. So it's in many ways three different situations and I will certainly hope and prefer that the response now would introduce the idea of temporary protection. And if in the future, there are crises at the level experienced by Syrians, and now the Ukrainians, that temporary protection will be given and not discriminated between various groups, various nationalities, et cetera.

Leskovar: Furthering on that point, was there equal treatment and reception with respect to all groups of asylum seekers fleeing the conflicts in the Balkans?

Jessen-Petersen: Yes and no. First of all, let me be clear because I'm talking about my experience in UNHCR. There is no discrimination on the basis of nationalities. It is very clear because UNHCR is, like States, bound by international conventions, human rights conventions, refugee conventions, and the equality of treatment based on the individual situation. Whether he or she is a Syrian or Congolese, Ukrainian or a Croat, it is exactly the same approach that should be applied in accordance with international human rights and international refugee law.

Schleich: Obviously the role of international organizations is incredibly complicated in conflict situations, but I wanted to get your opinion. What do you believe the role of multilateral and international organizations should be in ensuring the equal treatment of all asylum seekers?

Jessen-Petersen: Well, let's now talk about the UN. The UN is an organization of 193 member states and it is certainly based on the principles of equality. That's clear also in accordance with the UN Charter. However, it is member states, and we see it right now in the UN Security Council, that determine political action. Unfortunately, and I should say as a former humanitarian worker, it is not up to humanitarian organizations. They look only at the needs of the persons irrespective of nationality. The needs are based on objective conditions and subjective conditions.

Whereas political institutions look at national interests and state interests, and that is the reason why for example, the Security Council of the UN is sadly, tragically unable to take decisive action on stopping the conflict in Ukraine, also in preventing the conflict a few months back. So for humanitarians, there is no difference because it's based on human security, whereas the states in the Security Council look at it first and primarily on the basis of, unfortunately, their own national interests and not in the interests of their mandate or what they should do, which is to look at the interest of peace and security irrespective of their

individual political interests.

So when there is a big conflict, unfortunately, humanitarian workers and organizations depend on political action to prevent conflicts causing displacement so that a solution can be found to the humanitarian suffering. Without political action, humanitarian organizations can only provide emergency assistance and they do so irrespective of nationalities, et cetera, only on the basis of humanitarian needs. And as we see now in Ukraine, the humanitarian needs and the humanitarian suffering is colossal.

Leskovar: Building on the subject of humanitarian needs, one of the most heartening responses in support of the Ukrainian people has been seen through the massive fundraising efforts that have been earmarked for Ukrainian humanitarian aid. However, as we discussed in your course, such efforts also reveal the imbalance of funding available for responses to concurrent global humanitarian crises. What actions can multilateral organizations take to alleviate such institutional factors which hinder equitable operations?

Jessen-Petersen: Well, first of all, I mean there is a significant difference between what's happening in Ukraine and causing refugee exodus and internal displacement. Contrary to previous conflicts of this significant level, we know what's going on. You see it almost second by second, some of the worst violations. You see it! Whereas just 30 years ago in former Yugoslavia, there were reporters on the ground, but there were not, as now, minute to minute reports on what was actually going on. And if I could just say, we don't have TV reporting moving around in Congo, or moving around in Afghanistan, Myanmar, or Yemen reporting minute to minute or day to day on what's going on; how people are suffering, being displaced, and having their human rights violated. So that's a big difference.

The pictures are coming in. When you want to do something, you support it. The international organizations are exactly up against that problem because even if the numbers of Ukrainian refugees have reached record numbers all over the world,

there were already 80 million displaced people, and now this is adding another 11 million or so. But the other 80 million are basically in countries in the Global South, with very little attention, and certainly very little media coverage.

So all that international organizations can do, as they do on a daily basis is, yes this sounds a little unfortunate, but use the current crisis in Ukraine. Nobody can be ignorant of what happens there now. Use that to fundraise with the risk that all the funds go into one situation. So I know from my own background that staff in the UN humanitarian internal organization and NGOs are working daily trying to keep all the other crises on the agenda by trying to raise funding. But just over the last three or four weeks, there have been two pledging conferences. One trying to mobilize funding for the very difficult situation in Afghanistan, where less than 50% of the needs assessed by the UN were raised. Then there was another pledging conference on Yemen where there are more than 2 million displaced persons. The pledging conference on Yemen provided only 20% of the needs.

I remember my time with UNHCR when we had the crisis in former Yugoslavia, we got a lot of funding, more than what we could use while we were underfunded in Africa and other parts of the world. And sometimes we actually asked donors who would come in maybe for the fourth or fifth time with funding for the former Yugoslavia and say, "That's very good of you and all, however, is there any way that we could suggest we move some of that funding to other parts of the world?," because we were not just funded, we were overfunded. So organizations try very hard, but you cannot drive donor responses beyond just appealing and reminding them about needs in other parts of the world. It is a very difficult situation.

Juarez: Thank you, professor. On a different note, I kind of want to talk about something that I remember from class. Personally, one of the most memorable points you made in your class was based on the optimism that you felt when describing the future of migration and migration policy. Can you elaborate on this and explain to us why you expect this area will improve?

Jessen-Petersen: Yeah. What I did say in our very first class, when I was giving an overview of what we were going to cover over the next 13 weeks, I did express a degree of, yes, optimism that the populist political parties in Europe, the U.S. and elsewhere, were running out of steam. And my view was that whereas populism certainly was very prominent during and following the refugee and migration crisis in Europe in 2015 and 2016. By 2018 or so, the political agenda in elections from 2010 right up to 2016 and 2017, including Brexit in 2016 had immigration on top of the political agend, driven by populist political parties. In 2018, there were elections to the EU Parliament, and there was a concern that populist political parties in Europe would move forward and increase their support. That did not happen. By 2018, climate change has moved onto the agenda and was at the very top of the agenda. Then, a little over a year later, we got the pandemic, so health issues moved up, and migration moved down so it didn't play the same decisive role it had played in many elections such as in 2010, 2012, 2015, and 2016, including Brexit.

But now unfortunately, just over the last couple of days, we have seen developments that to me would also suggest that clearly populists parties are not running out of steam. In Hungary, clearly anti-immigration sentiments were at the top of the agenda, without any doubt because they were referenced constantly by Prime Minister Orbán. And we also see now that anti-immigration sentiment, unfortunately once again, is very prominent in the French elections. And what we are seeing there is exactly the same thing that has happened in other European countries. For these elections, even political parties, let's say those in the political center, are starting to move over to the political right. They have started compromising their statements on migration policies in order to make sure that they also get some of the votes that would go through the populist political parties. We have seen clearly that President Macron is increasingly becoming very very negative on a lot of migration issues because he is losing ground to the declared anti-immigration candidate Marine Le Pen.

I'm seeing again the issue of autocracy among populist political parties, and I think it's not wrong to say that the war in Ukraine is also a war between liberalism and autocratic regimes. So the optimism I had sort of dampened after seeing what happened in Hungary, not only that the autocratic Prime Minister won, but that he won big. Also, seeing the differences in France, for example, between the populist Le Pen and Macron. And then with the war, where really what is happening, what people are fighting for, what people are dying for in Ukraine is freedom, and it is the freedom to be European and a part of liberal democracies. Therefore, what's happening in Ukraine right now is very much a matter of freedom versus autocracy. So I'm not that optimistic. I hope, as everyone would hope, that the war in Ukraine concludes as a confirmation that freedom is what we all want, and that eventually again in future political elections in Europe that we will focus on climate change, on dealing with the pandemic, and with growing political and economic insecurity not using migration and migrants as a scapegoat for economic difficulties.

Juarez: I do think it's important to contextualize the fact that you had this belief several months ago when the course began and given the recent developments with Ukraine, do you mainly attribute this change in belief to be caused by the situation in Ukraine, or do you attribute it mostly to domestic politics in Europe? Or is it maybe both? Or do you see other factors contributing to this as well?

Jessen-Petersen: I think it is a bit of both. I said earlier, a very big difference between the war in Ukraine and other conflicts like Syria and the former Yugoslavia, that this one is transmitted directly into our homes and onto our screens 24 hours a day. So nobody can be in doubt of what's happening. Nobody. And then there was the very, generous reception of Ukrainians, although all receptions should be generous.

The fact that the states, which had been the most critical of the EU's attempts over the past 5-10 years of coming up with a common comprehensive

migration asylum policy, the so-called Visegrád countries: Poland, Slovakia, Czech Republic and Hungary, are now the countries in the forefront, with open borders, welcoming and immediately inviting in Ukrainians. The hope that somebody like me would have is that this way of receiving refugees reminds all of us that when we talk about displacement, whether its internal displacement or refugees, what we're seeing on TV right now or on social media is happening every day to Syrians, to Yemenites, to Congolese, to Ethiopians, et cetera. And rather than seeing the response to Ukraine as a specific response to a specific situation, one might see it as a guide on how we should move forward in developing more humane refugee and migration policies. That I think is an opportunity.

One of the other reasons that countries are receiving the Ukrainians with open hearts, open homes, open houses, et cetera, is of course that the Ukrainians are very clear. They want to go back the sooner the better; actually, a few are already returning right now. This, of course, is where we have a challenge. I still believe, based on 30 years of work with refugees, that essentially all refugees want to go back and return to their own place. But I also know that if they have been away for 5 or 10 years, the conflict is still ongoing.

It may be a difficult prospect, but I hope we can learn from the response to Ukraine and that we can push government leaders, political parties to understand that all human beings have to be treated equally, irrespective of where they come from and not have specific arrangements and specific protection arrangements for specific groups. Can we do that? It's too early to say, but I hope there's an opportunity. So in a way Christian, I'm back to the optimism that I expressed two months ago, but seeing what's happening right now in Ukraine it is difficult to be optimistic. I hope in the medium or longer term we can use this as an opportunity. But meanwhile, people are paying an unbelievable price for this madness and insanity that we are seeing.

Leskovar: To close the interview on, again, a forward thinking question, as Special Representative of the UN Secretary-General to Kosovo and Head of the UN Interim Administration Mission in Kosovo, you have written extensively on the challenges which arose during peacekeeping and peacebuilding efforts. What parallels, if any, do you see arising in post-conflict Ukraine?

Jessen-Petersen: Yeah, I think this is again, as I said many times, a very different situation. First of all, this is a war. It is a war, and not sort of the internal kind of conflict we have seen over the last 20-30 years. It is also a war, as I mentioned earlier, where the UN Security Council is divided. Where regions of the world, governments within regions of the world, are divided on the causes of the conflict, and therefore on the response. Because in Kosovo, at the time, there was an agreement in the UN to establish the United Nations mission that I led for two years. There was a clear mandate of what that mission should do, and therefore, on the basis of a unanimous decision by the UN Security Council, it was very clear what that mission would be, and what I as the Special Representative should and could do. It was also very clear that the end of the mission in principle should be the moment when a political decision would be taken to determine the status of Kosovo. Unfortunately, that was also the moment where the unity that had existed while I was there, and had support from all governments, broke down.

But I'm saying this because what you need in all situations, and in Ukraine, is a political decision to end the conflict. That decision should ideally then end in a mandate on how to rebuild Ukraine, from trauma, from destruction, et cetera. That should be based on a clear mandate so that those moving in to support the Ukrainian government have a clear mandate on what to do. So in the case of Ukraine, we will not have a peacebuilding mission, because to be clear a peacebuilding mission requires that the five permanent members of the UN Security Council agree to establish a peacebuilding operation with a clear mandate. One of the parts of such a mandate would be, for example, the protection of civilians. We will not have such a peacekeeping mission in Ukraine. It is most likely that any peacebuilding effort will be evidently led, and should be led, by Ukraine. In this case, the support will come from the European Union, the European Bank for Reconstruction based in London, and from bilateral donors, rather than from the UN.

So, it will be a different set up without peacekeeping, but hopefully we will get to an end of the war with a clear mandate on how the Ukrainian government can rebuild. This, of course, would be massive, almost at the level of the Marshall aid that came to Europe after the Second World War, and the impact of that, as we all are aware of, will be based on the magnitude of needs and complexity of the tasks.

I think that there is only one thing that's clear, the government of Ukraine will be in charge. But how regional organizations get involved, again, depends on the Ukrainian government. Unfortunately, you cannot compare previous experiences, though there are a lot of commonalities. We will not have a clear peacekeeping mandate that defines what should be done by whom and how. The contours in setting up peacebuilding will certainly be around the government of Ukraine, in charting support major from European institutions, bilateral donors, nongovernmental organizations, et cetera.

But all of that depends on how the war ends, when it will end, how it will end. And there we unfortunately do not know.

Leskovar: Thank you for your time Professor Jessen-Petersen.

Building Capacity for Refugee Protection: A Tool for Crisis Prevention

Claudio Delfabro Demarchi

Abstract

The failure of governments, civil society, and international organizations to act and adequately manage human mobility and displacement worldwide is regrettably stark. National and regional structures have demonstrated they are ill-equipped with the necessary procedures, responsibilities, knowledge, and skills to address mass displacement. The lack of preparedness by key international, national, and local stakeholders lies at the heart of the current refugee crises.

In light of such trends, capacity-building initiatives focused on protection can provide a crucial platform for bringing all relevant stakeholders together and developing common knowledge, principles, and best practices to respond to forced displacement.[1] In order to achieve this, international organizations, governments, non-governmental organizations, and academic institutions must rethink completely the way they design and implement capacity-building programs. These should not be a traditional top-down training exercise but a dynamic, innovative, and, above all, inclusive environment. Collaborative learning and the construction and consolidation of responsibilities and procedures have the potential to avert the emergence of refugee crises, or the characterization of migrant flows as such by third parties, by making sudden and mass displacement manageable.

Introduction

Never in modern history has the world been inhabited by such a high number of forcibly displaced persons as we are witnessing today. The United Nations High Commissioner for Refugees (UNHCR) estimated that by mid-2021 more than 84 million people around the world had been forced to flee their homes.[2] Among them are over 26 million refugees (the highest number ever recorded), four million asylum seekers, and 48 million internally displaced persons.[3] These dire figures are concentrated in a number of crises across the world, some new, some longstanding, and some resurfacing after years.

Persistent mass displacement continues to affect countries such as Afghanistan, Colombia, South Sudan, Myanmar, Turkey, Iraq, Ukraine, Uganda, Pakistan, Nigeria, and Bangladesh, among others. Moreover, such trends do not seem to be headed for a reversal in the near future, as the impact of climate change is poised to exacerbate existing vulnerabilities driving tens of millions into displacement in the next decades.[4] Beyond such alarming numbers, the risks associated with flight have also dramatically multiplied as restrictive measures preventing access to territories have put the lives of those who seek safety in severe danger.[5]

"*Any one of us can see that we are heading in the wrong direction*", Filippo Grandi, UN High Commissioner for Refugees proclaimed, as states are increasingly struggling to respond to and govern human mobility and forced displacement.[6] In light of such trends, capacity-building initiatives focused on protection can provide a crucial platform for bringing all key actors together and developing common knowledge, principles, and best practices to tackle displacement.[7] In turn, the collaborative construction and consolidation of responsibilities and procedures to tackle human mobility have the potential to avert the emergence of crises by making sudden and mass displacement manageable.

The Issue: Crisis as Lack of Preparedness

A situation becomes a crisis when it cannot be immediately and efficiently managed, leaving responsible actors operating in the dark without clear guidance.[8] The lack of preparedness by key stakeholders lies at the heart of the current deficiencies in addressing human mobility and displacement worldwide.[9] In particular, asylum systems and humanitarian interventions around the globe suffer from a lack of clearly defined roles, responsibilities, and processes as well as a dearth of adequately trained personnel. Such a

context creates the perfect breeding ground for political agendas to engage in scapegoating and degrade protection as incompatible with national security interests.[10] This is further aggravated by the limited cooperation and scarce exchange of best practices among states and stakeholders at all levels.

This systematic pattern of unpreparedness is directly connected to the recurrent emergence of refugee crises, as relevant actors are not properly capacitated to efficiently manage displacement. Moreover, widespread lack of preparation hides a double failure on the part of states and protection stakeholders.

In the first place, there is a failure to recognize and grasp the systemic changes that occurred in the context of refugee protection and refugee law during the recent decades.[11] Migratory flows are increasingly "mixed" as persons with different needs travel together *en masse* for varying reasons along the same few routes that remain accessible, given widespread restrictions in accessing territories.[12] Consequently, the large numbers of persons on the move along with the wide divergencies in their profiles have rendered the provision of differential needs-based protection significantly more complex.

Refugee crises today are compounded by further complicating characteristics such as the emergence and acknowledgment of a new cast of non-state persecutors, new forms of persecution,[13] and state's increasing measures to

1 According to the Inter-Agency Standing Committee (IASC), an inter-agency forum of UN and non-UN humanitarian partners, protection is defined as "all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law (i.e., HR law, IHL, refugee law)." IASC IDP Protection Policy 1999.

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4 Viviane Clement, Kanta Kumari Rigaud, Alex de Sherbinin, Bryan Jones, Susana Adamo, Jacob Schewe, Nian Sadiq and Elham Shabahat, "Groundswell Part 2: Acting on Internal Climate Migration," *World Bank* (Washington, DC.: World Bank, 2021), https://openknowledge.worldbank.org/handle/10986/36248.

5 Bill Frelick, Ian M. Kysel and Jennifer Podkul, "The Impact Of Externalization Of Migration Controls On The Rights Of Asylum Seekers And Other Migrants," *Journal on Migration and Human Security* 4, no. 4 (2016): 190-220, https://doi.org/10.1177/233150241600400402.

6 Filippo Grandi, "Opening Statement at the 72nd Session of the Executive Committee of the High Commissioner's Programme," *UN High Commissioner for Refugees*, 2021, https://www.unhcr.org/admin/hcspeeches/615ac6ca4/opening-statement-72nd-session-executive-committee-high-commissioners-programme.html.

7 According to the Inter-Agency Standing Committee (IASC), an inter-agency forum of UN and non-UN humanitarian partners, protection is defined as "all activities aimed at obtaining full respect for the rights of the individual in accordance with the letter and the spirit of the relevant bodies of law (i.e. HR law, IHL, refugee law)." IASC IDP Protection Policy 1999.

8 Uriel Rosenthal, Arjen Boin and Louise K. Comfort "The Changing World of Crisis and Crisis Management," in *Managing Crises: Threats, Dilemmas and Opportunities*, ed. Uriel Rosenthal, Arjen Boin and Louise K. Comfort (Springfield: Charles C. Thomas, 2001) 5–27.

9 Erika Feller, "Asylum, Migration and Refugee Protection: Realities, Myths and the Promise of Things to Come," *International Journal of Refugee Law* 18, no. 3-4 (2006): 509–536.

10 Michał Krzyżanowski, Anna Triandafyllidou and Ruth Wodak, "Mediatization and Politicization of Refugee Crisis in Europe," *Journal of Immigrant & Refugee Studies* 16, no. 1-2 (2018).

11 Feller, "Asylum, Migration and Refugee Protection."

12 Nicholas Van Hear, Rebecca Brubaker and Thais Bessa, "Managing Mobility For Human Development: The Growing Salience Of Mixed Migration," *Human Development Research Paper 2009/20* (2009).

13 Andrew I. Schoenholtz, "The New Refugees and the Old Treaty: Persecutors and Persecuted in the Twenty-First Century," *Chicago Journal of International Law* 16, no. 1 (2015): 81-126.

restrict access to territory[14] and to prosecute civil society actors providing aid to asylum seekers.[15] Moreover, additional complexities include the threat multiplier effect of climate change and environmental degradation,[16] the recourse to dangerous sea and land crossings,[17] the rise in the number of protracted refugee situations[18], and linkages between refugee movements and transnational crime.[19]

In a world of ever-changing and emerging realities, the very meaning of refugee protection is still limited by a restrictive interpretation of the 1951 Refugee Convention by national authorities.[20] This is coupled with unproductive debates within the international community on the mandates of international organizations and the responsibilities of states while the applicability of broader frameworks, such as international human rights law, is often overlooked.[21]

Secondly, a deficient response to the ongoing crises worldwide also reveals a lack of political will to build the capacity needed to cope with and manage displacement itself. The politicization and securitization of refugee and migration issues has often led to a zero-sum game between protection and what many perceive as national security interests. This, in turn, pushes politicians to avoid appearing "soft on migration," making governments reluctant to invest an adequate amount of resources in building sustainable structures and human resources for the training on and execution of protection measures.

As evidenced by the wide divergence in refugee recognition rates between countries with similar asylum systems, including on a prima facie basis,[22] even some well-endowed states have been unwilling or unable to deliver higher standards of protection.[23] Moreover, international cooperation has become increasingly focused on enhancing the capacity of transit countries to halt migratory flows through border control support and in-kind contributions.[24] Frequently, governments have bought into the convenience of short-term solutions and adopted short-sighted, top-down approaches in the hope or expectation that the problem would subside. On the contrary, mass migration flows and refugee crises are here to stay.

The Role of Capacity-Building as a Tool for Crisis Prevention

Against this background, the role of governmental and non-governmental training institutions in building the capacity of stakeholders within the global regime of refugee protection is of primary importance.[25] In the context of protection, the capacity-building is here conceived as the reinforcement of human, institutional, or community performance, skills, knowledge, and attitudes on a sustainable basis[26] and with the aim of enhancing the capabilities of states to meet their international obligations.[27] This involves supporting states in acceding to and harmonizing between relevant international legal instruments for the protection of displaced persons and the enforcement of their human rights, assisting the development of national legislation and procedures for the fair and humane treatment of displaced persons, as well as the building of synergies and independent monitoring mechanisms among private and civil society actors.[28]

Through such an endeavor, training institutions can provide key protection-stakeholders with the tools to develop structures and operational systems that will enable refugees and other persons of concern to benefit from effective protection. In the area of crisis prevention and management, capacity-building should not only aim at stocking up procedures, structures, and resource reservoirs but construct robust professional communities of practice that are able to effectively intervene and cooperate when needed.[29] In this sense, capacity-building programs ensure that protection responses are not improvised and do not rely on personal experience or on the collective memory of previous interventions, which might differ from ongoing situations.[30]

By undergoing such a process, capacity-building enables relevant actors to tackle the challenges and changing nature of forced displacement through the application of appropriate legal frameworks, a coherent distribution of responsibilities and accountability frameworks, and the implementation of best practices. Conversely, the establishment of rigorous procedures and the adoption of legal safeguards contribute to shielding protection and humanitarian interventions from politicization and securitization and at the same time contribute to the coherent interpretation of international law across its different bodies. The structured and efficient management of forced displacement prevents the emergence of crises or the characterization as such by third parties.

As it has been demonstrated, in a situation of crisis, those authorities that are better structurally prepared, well-engaged in network cooperation, and able to learn from previous emergency situations, perform significantly better in their responses.[31]

Capacity-Building Beyond Training

In order for capacity-building to bring about change in the public management of crises, such an endeavor should not be seen as a standalone initiative. Capacity-building should not be framed as a one-time training, but rather as a process in which all of those who have a role in protection at all levels can come together and jointly assess the situation, identify weaknesses and opportunities, and forge ways to coordinate their response.[32]

As a result, capacity-building can become a catalyzer for sustained synergies among different protection stakeholders. In fact, as a United Nations report clearly states "[c]apacity-building is self-liquidating but in a manner that leaves neither a void nor a wasteland."[33] Training should

14 Special Rapporteur on the human rights of migrants, "Report On Means To Address The Human Rights Impact Of Pushbacks Of Migrants On Land And At Sea," *Human Rights Council A/HRC/47/30*, 2021, https://undocs.org/en/A/HRC/47/30.

15 Eugenio Cusumano and Matteo Villa, "From "Angels" to "Vice Smugglers": The Criminalization of Sea Rescue NGOs in Italy," *European Journal on Criminal Policy and Research* 27 (2021): 23–40.

16 United Nations, "Climate Change Recognized As 'threat Multiplier', Un Security Council Debates Its Impact On Peace," *UN News*, 2021, https://www.un.org/peacebuilding/fr/news/climate-change-recognized-%E2%80%98threat-multiplier%E2%80%99-un-security-council-debates-its-impact-peace.

17 "Protection at Sea," *United Nations High Commissioner for Refugees*, 2021, https://www.unhcr.org/protection-at-sea.html.

18 James Milner, "Protracted Refugee Situations," in *The Oxford Handbook of Refugee and Forced Migration Studies*, ed. Elena Fiddian-Qasmiyeh, Gil Loescher, Katy Long and Nando Sigona, (Oxford: Oxford University Press, 2014) 151-162.

19 Sharon Pickering, "Transnational Crime and Refugee Protection," *Social Justice 34*, no. 2 (2007): 47–61.

20 "Convention and Protocol relating to the Status of Refugees," *United Nations High Commissioner for Refugees,* 2010, https://www.unhcr.org/3b66c2aa10.

21 Vincent Chetail, "Moving Towards an Integrated Approach of Refugee Law and Human Rights Law," in *The Oxford Handbook of International Refugee Law*, ed. Cathryn Costello, Michelle Foster and Jane McAdam, (Oxford: Oxford University Press, 2021).

22 A prima facie approach means the recognition by a state or UNHCR of refugee status on the basis of readily apparent, objective circumstances in the country of origin or, in the case of stateless asylum seekers, their country of former habitual residence. UNHCR, Guidelines on International Protection (2015).

23 "Capacity-Building and Protection," *Refugee Survey Quarterly* 22, no. 2/3 (2003): 414–19.

24 Frelick, Kysel and Podkul, "The Impact Of Externalization Of Migration Controls."

25 United Nations High Commissioner for Refugees, "Strengthening Protection Capacities in Host Countries," *Global Consultations on International Protection*, 2022, EC/GC/01/19, https://www.unhcr.org/protection/globalconsult/3b95d78e4/strengthening-protection-capacities-host-countries.html.

26 Kemlin Furley and Jenifer Otsea, "A Practical Guide to Capacity Building as a Feature of UNHCR's Humanitarian Programmes," *UNHCR Centre for Documentation and Research*, 1999, https://www.unhcr.org/partners/partners/3bbd64845/practical-guide-capacity-building-feature-unhcrs-humanitarian-programmes.html.

27 United Nations High Commissioner for Refugees, "Strengthening Protection Capacities in Host Countries," 2022.

28 "Capacity-Building and Protection."

29 Paul't Hart and Bengt Sundelius, "Crisis Management Revisited: A New Agenda For Research, Training And Capacity Building Within Europe," *Cooperation and Conflict 48*, no. 3 (2013): 444–61.

30 Ibid.

31 Rahel M. Schomaker and Michael W. Bauer, "What Drives Successful Administrative Performance during Crises? Lessons from Refugee Migration and the Covid-19 Pandemic," *Public Administration Review* 80 (2020): 845-50

32 Phil Connors and Yaseen Ayobi, "Humanitarian & Disaster Management Capacity Development in the Pacific," *Center for Humanitarian Leadership*, 2016, https://centreforhumanitarianleadership.org/wp-content/uploads/2018/10/20161310AbridgedPacificHumanitarianResearch.pdf.

33 Furley & Otsea, "A Practical Guide to Capacity Building as a Feature of UNHCR's Humanitarian Programmes."

thus act as a platform through which clear structures, procedures, and frameworks for accountability are identified, concerted action is mutually agreed upon, and sustained commitment is established. This, in turn, will facilitate the identification of necessary skills for all professionals involved in the protection and the management of displacement situations, preventing their degeneration into crises. Furthermore, such a process will clear the way for the introduction of more equitable and predictable burden- and responsibility-sharing among stakeholders and the development of durable solutions, as the Global Compact on Refugees calls for.[34]

In order to achieve this, capacity-building interventions should display the following characteristics: clarity in terms of the legal frameworks, skills, and knowledge that should be mastered; dynamicity in their methodological approach; and, above all, inclusiveness in nature. Firstly, the efforts of training institutions should reach beyond the mere illustration of international refugee law as such and recognize the substantial changes that have occurred in the interpretation of relevant legal frameworks, present the development of regional instruments, domestic laws, and local best practices, and acknowledge the prominence of complementary bodies of international law such as human rights law.[35]

Moreover, capacity-building should focus on developing the precise skills needed to address today's challenges in forced displacement, such as conducting risk assessment, establishing individual case management, and promoting community-based protection mechanisms. Capacity-building programs aiming at enhancing such skills should be built upon concrete experiences and lessons learned from other emergencies.

Secondly, capacity-building needs to be interactive, innovative, constantly evolving, and adopt a collaborative approach. Traditional ways of doing capacity-building based on lectures and the enumeration of the relevant legal principles are no longer relevant or effective. Beyond the utilization of conventional classes, training methodologies should be expanded with the aim of providing well-rounded preparation. Activities should include case study analyses, roundtable discussions, joint scenario development, role-playing simulations, stakeholder mapping, and full-scale exercises tailored to the specific context and audience, thus strengthening experiential learning for individuals with different profiles.

Capacity-building delivered by governmental and non-governmental training institutions should not be a top-down exercise but lead to horizontal, peer-to-peer exchanges among practitioners in which common challenges are identified in both policymaking and practice. The sharing and in-depth analysis of best practices or ideas for implementation are crucial to support professionals and their organizations in overcoming the issues they encounter in their daily work.

Thirdly, all relevant stakeholders involved in the protection of displaced persons should be capacitated and included in training on an equal basis following a whole-of-society approach—in line with the Global Compact on Refugees. The audience should therefore not be only composed of "adjudicators", such as policymakers, government officials, or refugee status determination officers, but also of practitioners, police officers, judges, academics, journalists, teachers, medical personnel, etc. In particular, professionals on the frontlines of both prevention and protection should be systematically included, in order to effectively address the human dimension of forced displacement.[36] An inclusive capacity-building effort is key to ensuring ownership, structured coordination, and effective implementation.

Ultimately, coordination between international organizations, governments, and non-governmental organizations becomes fundamental for establishing such a framework for capacity-building.[37] While state and non-governmental organizations should integrate protection capacity-building into national programming, international organizations and United Nations agencies should act as enablers for national systems and all relevant stakeholders to assume greater responsibility and leadership in the process. Donors should carefully examine how to best strengthen and support national institutions' mandates and responsibilities with regard to protection through capacity-building programs for key actors at the regional, national, and local levels. At the same time, capacity-building projects targeting host and transit countries cannot be exploited simply as a way to avoid the responsibilities of donor states.[38]

Conclusion

The failure of governments, civil society, and international organizations to act and adequately manage human mobility and displacement worldwide is regrettably stark. National and regional structures have demonstrated they are ill-equipped with the necessary resources, procedures, responsibilities, expertise, and skills to mitigate the risks and negative impacts related to mass displacement. As a result, all too often displaced persons see their basic human rights denied if not outrightly violated.

This should force us to rethink completely the way we design and implement capacity-building programs. Capacity-building of stakeholders must go beyond training and material resources, which often are aimed at halting human mobility rather than protection. Instead, capacity-building programs should be platforms where stakeholders come together to assess and interpret the situation, learn the relevant legal framework and its application, define roles and responsibilities, develop their skills, and exchange best practices.

Capacity-building should not be the traditional top-down training exercise but a dynamic, innovative, and inclusive environment where all relevant actors are equipped to perform their roles and learn from each other before the situation turns into an unmanageable crisis.

34 "Global Compact on Refugees," *United Nations,* 2018, https://www.unhcr.org/5c658aed4.

35 Schoenholtz, "The New Refugees and the Old Treaty."

36 Tamara Domicelj and Carolina Gottardo, "Implementing The Global Compacts: The Importance Of A Whole-Of-Society Approach," *Forced Migration Review* 60 (2019): 79-82.

37 Hart and Sundelius, "Crisis Management Revisited."

38 "[Capacity-Building and Protection]."

Genocide and Human Displacement

Audrey Elliot

The genocide studies canon is well-developed in its study of the conditions that have led to genocide. Current research seeks to deconstruct genocide as it was defined in 1948 by the Convention on the Prevention and Punishment of the Crime of Genocide (UNCG) and determine which occurrences fit within archetypal cases such as the German Holocaust or Rwandan genocide.[1] The effects of genocide on societies and their survivors have been widely researched, and yet little attention has been given to migration and the external displacement of people due to genocidal conditions. This paper will analyze the relationship between naming a genocide and refugee or asylum seeker flows.

To frame this analysis, I will use Jonassohn's question "How would our understanding and explanations be affected if we were to study genocide, famine, and refugees not in isolation, but as different aspects of the same phenomenon?"[2] I expect that the mainstream naming of genocides will provide international and intrastate policy space for increased refugee and asylum seeker applications.[3] Challenging the relationship between displaced people and genocide, raises questions of legitimacy of atrocities and victims' plights, which has powerful implications for planning future responses of pressing human rights abuses.

Hinton identifies a key issue in genocide studies: by focusing on genocide prevention, researchers miss the important experiences that occur after genocide.[iv] Conversely, Straus asks more narrowly of genocide survivors, "Why could a group not be relocated? Why could a group not be incorporated or coopted?"[5] This highlights the presumption that internal relocation or incorporation of displaced groups is the natural result of genocide because the economic means of relocation may be destroyed. Alternatively, genocide survivors do seek refugee or asylum status in other countries during and after genocide. This timeline of genocide and migration is complicated by whether or not genocide has formally ended. This necessity of a distinct end to genocidal violence suggests a hierarchy of victimhood amongst survivors and the dead. It privileges the experiences of survivors and regards perpetrators of genocides versus other mass atrocities as worthy of different interventions. As a result, if intervention does not occur during a genocide, survivors must seek refuge through migration after atrocities end.

Structural factors, such as race, ethnicity, law, nationality, class, and religion, within states can be driving sources of intergroup conflicts that escalate to genocide. However, differentiating survivors and victims from perpetrators based on these identities is complicated because most violent mass killings have taken place in societies where groups are relatively homogeneous and share these factors.[6] External actors may fail to recognize genocide, and label it as civil war or other human rights

abuses that are not as dire as genocide. If groups perpetrating and surviving genocides are similar, well-substantiated claims for asylum or refugee status based on one of these factors become difficult to prove. Such factors are ingrained in international law, yet law often does not reflect the nuance and discretion that is necessary to determine genocidal intent in homogeneous social groups.

Ethnicity is particularly important to identify and consider when deconstructing genocide prevention, intervention, and response. Hinton describes ethnicity as a "social category linking a group of people who perceive themselves to share ancestry and identity markers (language, food, dress, religion, and so forth)."[7] This definition of ethnicity reflects the sameness or homogeneity that may be present in groups where genocidal crime occurs. Social science conceptions of ethnicity, however, do not necessarily transfer to international law. For instance, Conley-Zilkic notes, "The legal definition of genocide limits the victims to ethnic, national, racial or religious groups. While such "groupness" often describes victim selection, it rarely accounts for endings."[8] This clarification of legal groupings implies that violence based on ethnic grouping or other social groupings does not inherently account for genocidal intent. International conceptions of asylum law also leave group identities muddled. Individuals may seek asylum from persecution on protected grounds including race, religion, nationality, political opinion, and membership in a particular social group. Yet ethnicity is not a protected ground for asylum. Rather, it may constitute membership in a social group, but survivors and their lawyers must prove this.

These frameworks for international law are derived from international norms established in Western countries over the 19th and 20th centuries. Western colonizing countries privileged intervention in their own regions over their colonies. Bellamy describes the norms toward colonies' violence as a "much more lenient, set of conditions governed

by the doctrine of the civilizing mission and ideology of selective extermination."[9] This is a way of privileging certain people and communities over others, creating racialized, nationalized, and gendered inequalities. Moses describes how states excuse their violence politically by framing it in security terms.[10] Such framing depicts the power of international norms and naming in creating a structure that requires various levels of response, when in fact there is often no overarching, central response.

The Responsibility to Protect doctrine of the late 20th century makes these norms even more theoretically interesting and has rich implications for migrants. The Responsibility to Protect is framed as the international community's burden of humanitarianism. It does not emancipate citizens or reinforce their rights; its only claim is "to sustain bare life."[11] The language of this humanitarian effort again reflects a prioritization of punishment and a focus on perpetrators of genocide, rather than on victims' and survivors' rights post-genocide. Although the language is intended to make civilians beneficiaries by using a language of rights that is nation-centric and that differentiates wars, counterinsurgency, and genocide, survivors are left disempowered.[12] Straus affirms that it is "unwise" to overly differentiate between genocide and other forms of mass violence, as both use some sort of group or social logic to hurt civilians.[13]

When seeking asylum or refugee status, most individuals apply under the 1951 United Nations Convention Relating to the Status of Refugees (the Refugee Convention) or the 1984 United Nations Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment (CAT), not the 1948 UNCG. Still, these conventions are not all encompassing in their

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1 "United Nations Convention on the Prevention and Punishment of the Crime of Genocide," adopted on December 9, 1948, *UN General Assembly*, A/RES/260, www.hrweb.org/legal/genocide.html.

2 Kurt Jonassohn, "Famine, Genocide, and Refugees," in *Society Abroad* (1993), 73.

3 Alex Hinton, "Critical Genocide Studies," *Genocide Studies and Prevention: An International Journal* 1, no. 3 (2012): 13.

4 Ibid., 8.

5 Scott Straus, "Introduction" and "Part I: Concepts and Theory" in *Making and Unmaking of Nations* (2015), 32.

6 Benjamin Valentino, "Introduction: Mass Killing in Historical and Theoretical Perspective" and "Chapter 1: Mass Killing and Genocide," in *Final Solutions* (2013), 2.

7 Alex Hinton, "Critical Genocide Studies," *Genocide Studies and Prevention: An International Journal* 1, no. 3 (2012): 5.

8 Bridget Conley-Zilkic, "Chapter 1," in *When Mass Atrocities End* (2016), 4.

9 Alex J. Bellamy, *Massacres and Morality: Mass Atrocities in an Age of Civilian Immunity* (Oxford University Press: 2012), 941.

10 Dirk Moses, "Introduction" in *The Problem of Genocide* (2021), 9.

11 Mahmood Mamdani, "Responsibility to Protect or Right to Punish?," *Journal of Intervention and Statebuilding* 4, no. 1 (2010): 54-5.

12 Ibid., 57-59.

13 Straus, *Making and Unmaking of Nations,* 31.

protections against inhumane treatment, nor do they accurately count and represent those effected by genocide. Their provisions, as in the UNCG, have narrow aims of punishment and carceral justice, as outlined in the UNCG Articles IV, V, and VI, rather than preventative means. Therefore, we see "repeated inaction in the face of genocide."[14]

A current account of the violence against the Rohingya in Myanmar considers the increasing death toll and efforts to eradicate the group as worthy of asking, "Is this genocide?"[15] The implications of this are that fleeing mass violence is not enough. Groups must be fleeing genocidal intent, and yet, currently, there is no data that accessibly reflects how many people migrate, seek asylum, or are refugees as a direct result of genocidal violence across cases. The absence of accurate data on migration flows reflects a lack of power among survivors to tell their stories in immigration court.

The Rwandan genocide provides an opportunity to examine international response to refugees fleeing mass violence. This period of conflict resulted in the expulsion of refugees to nearby Uganda. These refugees returned in later years with militarized and politicized intent that was utilized in the genocide.[16] Had international intervention in the form of resource distribution occurred, refugees might have been socialized in a way that did not exacerbate the effects of genocide. De Waal determines that choice of story mattered when other Rwandan refugees claimed asylum. In Rwanda he saw the way in which testimonies "began to change- for example in asylum hearings and trials- and these accounts served less to speak unheard truth to power than to bolster the new

apparatus of power in Rwanda."[17] The naming and journalistic coverage of genocide shaped the legal context in which survivors told their stories during asylum and refugee cases.

To begin shaping research in terms of migration flows during genocide, one study conducted a global analysis to determine whether genocides and civil wars resulted in more internally displaced persons (IDPs) or refugees. The findings suggested that genocides lead to more refugees and civil wars to more IDPs, though the study was limited by lack of information about states' immigration policies.[18] This study is an important step in analyzing the effects of genocide on migrants. In this vein, policy changes to asylum law would make the incorporation of genocide victims more possible. Frelick suggests a "complementary protection standard" to be extended to people who "face the threat of cruel, inhuman, or degrading treatment or punishment, or serious threats to life or physical integrity if returned to their countries because of a real risk of violence or exceptional situations" yet are not covered by international law.[19] Genocide merits special consideration for refugee seekers or asylum seekers under United States and international law, to provide protection for these extremely vulnerable groups.

The process of answering the question posed at the start of this essay provides clear indicators of space for future research and policy action. First, I recommend further quantitative research that goes beyond a survey of the literature and considers genocide-related migration. Too often the cases of genocide that do not fit the traditional scale or canon of genocide studies are neglected in study and intervention, and as Lemarchand says, "Scale makes little difference when human lives are at

stake."[20] Second, I recommend further qualitative, collaborative research between genocide studies and forced migration scholars to best gauge how genocide impacts refugees and asylum seekers. Sharing expertise between these two subfields of international studies is particularly important for cultivating a policy narrative that prioritizes and legitimizes the lived experiences of genocide survivors, while providing tangible legal structures to support them before, during, and after genocides occur. Ultimately, this work requires an activist orientation that emphasizes the victims' rights over those of perpetrators and builds on current trends of deconstruction in the in the field of genocide studies.

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14 Rene Lemarchand, "Unsimplifying Darfur," *Genocide Studies and Prevention* 1, no. 1 (2006): 1-12.

15 Kate Cronin-Furman, "Calling a Genocide a Genocide," *Slate* (2017), http://www.slate.com/articles/news_and_politics/foreigners/2017/10/the_word_genocide_is_over-used_but_it_applies_to_what_s_happening_to_the.html.

16 Sarah Kenyon Lischer, "Civil War, Genocide And Political Order In Rwanda: Security Implications Of Refugee Return," *Conflict, Security & Development* 11, no. 3 (2011): 261-84.

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17 Alex De Waal, "Writing Human Rights and Getting It Wrong," *Boston Review* (2016): 12, https://bostonreview.net/articles/alex-de-waal-writing-human-rights/.

18 Stephen Shellman and Will H. Moore, "Refugee or Internally Displaced Person? To Where Should One Flee?," *Comparative Political Studies* (2006): 620.

19 Bill Frelick, "How to Make the US Asylum System Efficient and Fair," *Human Rights Watch* (2021), https://www.hrw.org/news/2021/05/21/how-make-us-asylum-system-efficient-and-fair.

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20 Lemarchand, "Unsimplifying Darfur," 1-12.

Refugees And Healthcare:
Moving Beyond Contagious Diseases and Corrosive Narratives

Fadi Issa, M.D. and Michael Court, M.D.

Introduction

Before the escalation of conflict in Ukraine, the United Nations High Commissioner for Refugees (UNHCR) estimated that 82.4 million people were forcibly displaced around the globe, with refugees accounting for 26.4 million and 48 million internally displaced people. Moreover, 83% of refugees are hosted in developing countries and 73% are hosted in neighboring countries. The UNHCR estimates that as of March 22, 2022, there were 3,626,546 people globally being forced to flee their homes to seek safety and protection in neighboring countries.

The story of health and refugees is one of the ever-increasing inequalities; an antiquated system unfit to meet the realities of global population movements, and of a clash of principle and pragmatism with the overt politicization of an innate human right. It is a story that all too rarely has the dignity and rights of the individual at its core, and all too often focuses solely on clinical burden and cost. The clinical and healthcare challenges facing refugee populations are real, and while some of these health challenges are what is traditionally seen as 'refugee medicine,' the majority resonate from the collision of established health requirements recognizable in any society, with an international system inadequate and many times unwilling to meet those needs.

On an individual or community level, these disparities and inadequacies are a stain on the global system in the 21st Century. Beyond that though, refugee healthcare challenges must be seen in a broader context. Consideration of healthcare as a contributor to the refugee movement, rather than simply a symptom of it, allows for a much broader discussion around the issues. Drawing the link between the erosion of accepted international norms on the protected status of healthcare, the weaponization of healthcare degradation, and drivers of the refugee crisis allows us to consider Refugee Healthcare in a context that considers healthcare as an independent determinant of national and global security. To treat the medical challenges of refugee healthcare without addressing the drivers of those challenges would be equivalent to addressing a patient's symptoms with no attempt to diagnose and manage the underlying cause, an approach that would garner a charge of negligence in any clinical setting.

Rights and the changing face of health

The UNHCR's 1951 Refugee Convention, along with its 1967 Protocol addressing the status of refugees, has health as a key and protected right, including 'equivocal healthcare standards' stating that refugees should have access to the same quality healthcare that those in the host country do. The political context within which the accepted norms and rights of the refugee were conceived have changed significantly, but that change is dwarfed by the change in healthcare over that same period. Healthcare inequalities globally have grown by almost all measures, with a significant portion of morbidity and mortality in low- and middle-income countries coming from medical conditions fully amenable to treatment or prevention with modern medicine. Infant and childhood mortality and morbidity remain stubbornly high across parts of the world that are net contributors to refugees. The cost and burden of healthcare globally have increased, with mounting economic pressures and rationing of services occurring. As an indication of this, consider that in 1951, the year the UNHCR convention occurred, the only regularly used radiological investigation was plain film X-ray, only four antibiotics had been discovered, and only two were regularly used. There were no treatments for autoimmune conditions now considered mainstay, and

no chemotherapy agents that had been trialed. The first antipsychotic medication, Chlorpromazine, would only be discovered later that year, a polio vaccine not for another four years, whilst treatments for chronic conditions such as hypertension, asthma, chronic obstructive pulmonary disease (COPD) and non-Insulin dependent diabetes would take decades. These medical advances come at a cost and are a challenge for many healthcare systems to meet with equity of access. This is amplified for the stateless migrant and presents a real challenge to host nations to meet increasing demand and needs whilst balancing their responsibility to their own citizens and health systems.

Refugee Health Inequalities

Refugees and migrants are often in good health, the arduous nature of being a refugee means those who are frail and sick often do not move. Despite this and particularly in the West, narratives exist that migrants are sources of communicable disease and a risk to a nation's public health. This is mostly a political narrative based little on fact. Migrants' health status typically reflects the nation they are moving from, and whilst many are exposed to conditions that put them at risk from food and water-borne conditions due to lack of hygiene on the journey, the reality is that most diseases spread in a population occur AFTER arrival in the host nation. Rates of HIV for example in migrants and refugees accessing Europe from the middle east increased post-arrival, not before. Refugees and migrants are not mass importers of disease, and the narrative around that serves nothing but a political agenda. There are, however, well-established needs for some refugee populations, and protocols and priorities exist for healthcare delivery in rapidly forming refugee populations, as outlined by the SPHERE standards. These are based predominantly around populations moving from areas with severe malnutrition and poor existing public health systems. The early immunization of measles is the often-quoted example, a programme to address this in unvaccinated populations due to its extreme transmissibility (R0 =12). To this could be added COVID-19, particularly due to the most recent variants. Key health determinants in refugee populations include:

> Chronic illnesses such as cardiovascular diseases, hypertension, and diabetes, the lack of prevention measures, primary healthcare follow-up, and medication accessibility lead to deterioration of the chronic disease, which will burden the healthcare with emergency urgent needs. High resource allocation conditions are

actually rarer in refugee populations, however, result in worsening the survival rates among refugees.

Mental health illnesses such as depression and post-traumatic stress disorder (PTSD) are concerns in refugee populations. The lack of specialized mental health clinics providing pharmacological and psychotherapy for refugees leads to an increase in the rate of suicide and domestic violence, including child abuse.

Sex and gender-based violence (SGBV), which can include sexual and physical abuse, mental health concerns, and economic harm based on gender. Unfortunately, the lack of security and protection for refugees increases the incidence of SGBV cases.

Health as a refugee driver

Health is a societal enabler and a key tenet in any societal system, supporting cohesion, security, and safety. As such healthcare is a mechanism of legitimating authority. It fills a basic human need, and any organization or group that enables it is likewise legitimized. It is for these exact reasons that healthcare systems have been supported by organizations such as Hezbollah, Boko Haram, and the Taliban, despite doing such whilst simultaneously disrupting or attacking established governmental or non-governmental healthcare efforts. The increasingly flagrant targeting of healthcare in conflict zones undermines the social fabric of communities and seeks to delegitimize the authorities they support. In such a way, health is a determinant or driver of migration, as people seek safety and security. It is not the only driver, but if those migrating do so in order to meet their basic human needs, then healthcare is often a major part of that. Therefore, the rising attacks on healthcare contribute to the disruption of basic community infrastructure, leading to an increased humanitarian crisis. More effort is needed to stop such attacks on healthcare personnel and facilities, not because they are protected under law - which they are, nor because attacks on healthcare are morally repugnant - which they are, but also because attacks on healthcare have implications beyond country borders, as it drives a migrant crisis.

Impact of Refugees on Healthcare Systems

There are ample examples in the medical literature demonstrating that the influx of refugees can overwhelm

the host country's health systems. With the increased placement of refugees in host country communities rather than in camps, as seen recently in the Middle East and Europe, the immense burden placed on the health system can stress their ability to provide proper medical treatment for both the refugees as well as for the host country population.[1] For example, throughout the Syrian crisis Jordan has been hosting over 673,000 registered refugees, with over 70% residing among host Jordanian communities and 30% residing in camps.[2] Documented in a 2021 UNHCR report, ten percent of the refugees have a serious medical condition.[3] Jordan is now facing a significant challenge as the healthcare system is dramatically strained due to excessive demand for its limited resources. Prior to late 2014, primary, secondary, and most tertiary public healthcare facilities were free for all refugees registered under UNHCR. Since late 2014, refugees have had to pay a co-payment equal to uninsured Jordanian citizens, because of the economic pressure on the host communities. The result has been that many refugees cannot afford basic healthcare.

In Greece, the impact of refugees on the health system has exacerbated the economic crisis the country was already facing. UNHCR reported that 2.28 million refugees arrived in Europe in 2015 and 2016 alone, from which 1,015,100 entered Greece.[4] A total of 1,112,332 refugees have arrived in Greece by sea since 2014.[5] Currently, 103,000 refugees live in Greece,[6] leading to critical public health issues affecting emergency

response and stretching health and social service, placing a burden on local hospital resources. Regional and international non-governmental organizations (NGOs) have been playing a crucial role in the primary healthcare of the immigrants, by some estimates providing half of their health requirements.[7]

Conclusion

With the Ukrainian war amplifying the global humanitarian and refugee crisis, the world is witnessing a catastrophic impact on both refugees and host country health systems. A fundamental change in the global approach toward refugees is needed to create sustainable solutions. Innovative approaches such as bolstering host country health systems to accommodate the influx of refugees, and consensus-driven unified global strategies to manage all aspects of refugee healthcare and minimize the duplication of efforts, are of paramount importance now more than they have ever been in recent history.

1 Shannon Doocy, Emily Lyles, Laila Akhu-Zaheya, Ann Burton, and Gilbert Burnham, "Health Service Access and Utilization Among Syrian Refugees in Jordan," *International Journal for Equity in Health* 15, no. 1 (14 July 2016): 108, https://pubmed.ncbi.nlm.nih.gov/27418336/.

2 Mujalli Mhailan Murshidi, Mohamed Qasem Bassam Hijjawi, Sahar Jeriesat, and Akram Eltom, "Syrian Refugees and Jordan's Health Sector," *The Lancet* 382, no. 9888 (20 July 2013): 206–07, https://www.thelancet.com/journals/lancet/article/PIIS0140-6736(13)61506-8/fulltext.

3 "Registered Persons of Concern Refugees and Asylum Seekers in Jordan," Reliefweb - Informing Humanitarians Worldwide, last modified February 7, 2022, https://reliefweb.int/report/jordan/registered-persons-concern-refugees-and-asylum-seekers-jordan-31-january-2022.

4 Murshidi, Hijjawi, Jeriesat, and Eltom, "Syrian Refugees and Jordan's Health Sector," 206–07.

5 "Refugee Population By Country or Territory of Asylum: Greece," The World Bank, accessed March 28, 2022, https://data.worldbank.org/indicator/SM.POP.REFG?locations=GR.

6   Ibid.

7 Ourania S. Kotsiou, Panagiotis Kotsios, David S. Srivastava, Vaois Kotsios, Konstantinos I. Gourgoulianis, and Aristomenis K. Exadaktylos, "Impact of the Refugee Crisis on the Greek Healthcare System: A Long Road to Ithaca," *International Journal of Environmental Research and Public Health* 15, no. 8 (August 2018): 1790.

Taking Stock: Two Years After The Global Compact's Call For More Data On Forced Displacement

Sajjad Malik

Two years after agreement on the Global Compact for Refugees, progress towards goals of easing pressures on host countries, enhancing refugee self-reliance, expanding access to third-country solutions, and supporting conditions in countries of origin for return in safety and dignity offer a mixed story. At the same time, efforts to expand the scope and availability of comparable data are beginning to show their promise. As more data leads to more evidence, the logical next question is: how do we bridge the gap between research and action to inform programming, policy and advocacy that improve the lives of the displaced and their hosts?

Introduction

In 2018, the UN General Assembly passed the Global Compact on Refugees, which established the strategic directions for refugee response, including the importance for nations to share the responsibility of improving the fates of refugees, people whose lives have been torn apart by conflict, persecution, violence, and severe climate patterns.[1] To help realize this vision, UNHCR, together with the international community, has embarked on its own transformation. Solutions are now a greater focus from the start. There is an active shift away from encampment and parallel systems for refugees, wherever possible, and an emphasis on strengthening national and local infrastructure for both refugees and their host communities.

Two years on since that global commitment, representatives from around the world met for a High Level Officials Meeting (HLOM) in December 2021. This event was foreseen in the Compact to take stock of progress towards easing pressures on host countries, enhancing refugee self-reliance, expanding access to third-country

solutions, and supporting conditions in countries of origin for return in safety and dignity. What did we learn from this event and where do we stand on unlocking the promise of the GCR, particularly in its call for more timely, reliable and comparable data and evidence?

Progress towards the Global Compact's Objectives

The picture that is emerging shows both progress and ongoing challenges. The Global Compact on Refugees Indicators Report, which covers the period 2016-2021, shows that low and middle-income countries are receiving more support to manage the responsibility and costs of hosting refugees.[2] Legal access to decent work, freedom of movement, and access to national education systems show signs of improvement. Yet practical barriers remain, such as non-recognition of educational qualifications, lack of fluency in local languages, and hesitancy of firms to employ refugees. On the downside, durable solutions—

1 *Global Compact on Refugees*, UN doc A/73/12 Part II, (New York: United Nations, 2018).

2 United Nations High Commissioner for Refugees, *Global Compact Indicators Report,* (Geneva: UNHCR, 16 November 2021), https://www.unhcr.org/global-compact-refugees-indicator-report/.

such as citizenship or return and reintegration of refugees to countries of origin—remain elusive and a large portion of funding needs for comprehensive responses are left unmet. Based on the indicator report and stocktaking event, the HLOM outcomes document (forthcoming) provides 15 recommendations and outlines engagement opportunities for the future.

With the pandemic and associated economic shocks continuing to ravage refugee and host communities alike, the tools set out in the Global Compact have proven to be needed now more than ever. First, while the pandemic was devastating to so many, refugees experienced disproportionally worse outcomes on income, food security, and access to education.[3] Second, despite movement restrictions in the midst of the pandemic, millions more fled their homes, resulting in additional risk, complexity and uncertainty.[4] Continued efforts to improve socio-economic inclusion, as well as targeted interventions to address specific vulnerabilities, are desperately needed to address refugee poverty, which stands at alarming levels even before the pandemic.

Innovative approaches have emerged to allow States and other stakeholders to use Global Compact principles in their responses. Of particular note, increased and timely investment to include refugees into high frequency phone survey efforts has improved the landscape of comparable socioeconomic data of refugees and hosts helping to inform mitigation and response efforts. Other examples of innovation include the expansion of remote delivery mechanisms. Among UNHCR operations 85% adapted to provide services and assistance remotely. Examples include delivering high-risk pregnancy telemedicine in Jordan and contactless cash in Ecuador. After school closed in March 2020, UNHCR quickly developed and

implemented distance learning programmes that reached over 100,000 refugee, internally displaced and host community children.[5] Many of these innovations will remain even when the pandemic abates.

More data than ever before, but many refugees remain statistically "invisible"

The critical role of data and evidence to underpin these efforts and live up to the promise of the Global Compact is widely recognized. In this regard, significant progress has been made to measure the financing to refugee situations, access to third-country country solutions and refugee self-reliance using administrative and other data sources.

Household-level information on socioeconomic and living conditions are also crucial to enable evidence-based programming, policy, and advocacy responses by UNHCR and partners. The many obstacles to collecting this sort of data on forcibly displaced persons are well documented. Most refugees live in low- and middle-income countries, which face their own struggles delivering timely data for nationals; these are further complicated by challenges in forced displacement settings.[6] On top of that, refugees are frequently excluded from data collection activities led by national governments for reasons both practical and political. Displaced populations are by nature highly mobile and often difficult to identify. Security, access and cost further contribute to their "invisibility" in national statistics, leading to a blind spot in the central call of the Sustainable Development Goals and 2030 Agenda to "Leave No One Behind".

This has recently begun to change, with the increasingly substantial number of datasets, reports and analyses that capture socioeconomic impacts of displacement. A growing number are produced

by or in collaboration with national governments. This has been accompanied by a shift in culture at UNHCR towards responsible data sharing, based on processes put in place to anonymize, document, and make datasets more broadly available. At the time of writing this, UNHCR's Microdata Library records some 400 surveys and public and licensed datasets for partners, analysts, and researchers.[7] Increasing access to quality microdata decreases duplication of efforts and increases efficiency, allowing resources to be used where they are most needed.

Still, the Global Compact on Refugees Indicator Report points out that more progress is needed. Data on access to decent work and movement rights in law (de jure) are available for only 25 countries accounting for 11.1 million, or just over half (54%), of the world's refugees, while those for education access cover 40 countries and poverty estimates are available for only 5 countries. Two other recent studies speaking to the socioeconomic impacts of the pandemic using representative, comparable household surveys were able to cover less than 40% of the global refugee population.[8] [9] More needs to be done to close these gaps.
The lack of coverage is compounded by difficulties in comparing the data that do exist. In the absence of inclusion into national surveys, much of the data collection on forcibly displaced persons has been left to humanitarian agencies and their emergency counterparts in the government. Until recently, this often led to site-specific approaches and heavy reliance on needs assessment to direct assistance. Increasing alignment with international standards offers many benefits, among them opportunities to speak the language of national policymakers and to facilitate humanitarian-development collaboration.

Technology offers both solutions and additional challenges. In the early months of the pandemic, national statistical offices and others limited face-to-face data collection and many suspended their survey efforts. UNHCR faced similar challenges in maintaining its refugee registration system. Over time, systems and processes were adapted and new tools developed to allow for remote servicing.

One example is the COVID-19 High-Frequency Phone Surveys implemented by the World Bank and national statistical offices, which were rapidly designed, deployed and adapted at low cost to deliver timely information in 70-plus countries globally.[10] Through the efforts of the World Bank, UNHCR and the World Bank-UNHCR Joint Data Center, more than 10 of these surveys included sub-samples of refugees and other forcibly displaced persons, together covering over 100,000 respondents in total.[11]

What is important now is to build on these efforts and seek opportunities to further institutionalize them into national systems, where possible.

Emerging evidence is starting point for ongoing efforts

The evidence provided by the Indicator Report is a starting point and will inform where to focus interventions in the future, especially as the international community develops new contributions for the next Global Refugee Forum in 2023. The HLOM also provided an opportunity for sharing countless examples of the efforts of different national governments, development partners, non-governmental organizations, civil society, and refugee-led groups to address the challenges of forced displacement. Some of these expand on the work of nearly 350 "Good Practices" documented in advance of the first Global Refugee Forum in 2019.

3 Jeffery Tanner, Harriet Mugera, Domenico Tabasso, Maja Lazić and Björn Gillsäter, "Answering the Call: Forcibly Displaced during the Pandemic," *JDC Working Paper Series on Forced Displacement* 1, no. 2 (2021), https://www.jointdatacenter.org/answering-the-call-forcibly-displaced-during-the-pandemic/.

4 UNHCR, "Mid-Year Trends 2021," https://www.unhcr.org/statistics/unhcrstats/618ae4694/mid-year-trends-2021.html.

5 UNHCR, *Global Report 2020*, (Geneva: UNHCR, 2020), https://www.unhcr.org/the-global-report.html.

6 Paul Corral, Alexander Irwin, Nandini Krishnan, Daniel Gerszon Mahler, Tara Vishwanath, *Fragility and Conflict: On the Front Lines Against Poverty,* (Washington, DC: World Bank, 27 February 2020).

7 UNHCR, "Microdata Library," https://microdata.unhcr.org/.

8 Helen Dempster, Thomas Ginn, Jimmy Graham, Martha Guerrero Ble, Daphne Jayasinghe, and Barri Shorey, "Locked Down and Left Behind: The Impact of COVID-19 on Refugees' Economic Inclusion," *Policy Paper 179*, (Washington DC: Center for Global Development, 8 July 2020), https://www.cgdev.org/publication/locked-down-and-left-behind-impact-covid-19-refugees-economic-inclusion.

9 Tanner et. al, "Answering the Call."

10 World Bank, "Covid-19 High Frequency Monitoring Dashboard," https://www.worldbank.org/en/data/interactive/2020/11/11/covid-19-high-frequency monitoring-dashboard.

11 Joint Data Center, "JDC Support to Integrating forcibly displaced populations into COVID-19 High Frequency Phone Survey," https://www.jointdatacenter.org/jdc-covid-19-hfps/.

Fueled by new sources of data, an expanding body of knowledge is emerging from academic institutions and research agencies in search for solutions. A review of recent publications compiled by the Joint Data Center demonstrates some of the trends.[12] Of more than 400 publications, the largest numbers focus on "integration, inclusion and social cohesion", "impact on host communities and host countries" and "education." Still others tackle diverse topics such as return, labor market development and firms and decisions to flee. On the other hand, the review also shows the concentrated geographic scope of this work: one-half of the studies concentrate on a total of ten countries and one-third focus on Jordan, Lebanon, Syria, or Turkey. More needs to be done to tackle important questions from the many other, often neglected areas affected by forced displacement.

Bridging the gap between evidence and action

As more data leads to more evidence, we confront the next logical question: How do we bridge the gap between research and action to inform programming, policy and advocacy that improve the lives of the displaced and their hosts? Answers to this are also emerging, with UNHCR regional and country offices expanding their use of evidence through a range of actions from increasing data savvy staff, improved targeting of assistance, tracking of inclusion efforts, protection outcomes and responsible data sharing.[13]

Data and evidence on effective responses to forced displacement are fundamental to UNHCR's increasing engagement with development actors. Humanitarian-development collaboration is based on growing awareness that forced displacement is relevant to poverty reduction and other development objectives, on the one hand; on the other, humanitarian aims such as inclusion and self reliance necessitate development tools and

resources. We have found that our most effective collaborations are based on complementarity, mutual influence, and practical action at country level. The importance of intragovernmental collaboration between humanitarian and development departments is equally crucial.

In turn, these efforts are shown to have largely positive effects on development partners themselves, the policies of host governments and, most importantly, refugees and host communities. In Jordan, Syrian refugees receiving work permits were shown to have higher monthly incomes and indicate fewer specific legal or physical protection than those without a work permit. In Ethiopia, more refugee children received birth certificates following the government's pledges linked to the Global Compact; in turn, this increased school attendance. In Niger, land transformation projects created social housing for both host communities and refugees.[14]

The urgency of the pandemic also necessitated a reprioritization of the humanitarian response in the short term, while creating new opportunities for humanitarian-development cooperation going forward. This includes openness among some governments to consider inclusive policies, particularly in relation to health systems and interventions. The Global Compact on Refugees Indicator Report shows increases in Official Development Assistance for refugee situations and number of partners contributing to complementary responses, and the share devoted to humanitarian assistance also rose from 67% to 74% during this time.[15]

Achieving the vision of the Global Compact

While the demand for evidence will only become more vital, using it to drive change in policy and institutional and operational decisions requires

more work to shift UNHCR's way of doing business to be driven by evidence. In practice, UNHCR and its development partners often have limited influence on many of the key factors affecting host government policies towards refugees.

Developed by the World Bank with UNHCR input, the Refugee Policy Review Framework (RPRF) provides a comprehensive picture of existing domestic policies, practices and developments over time in fourteen countries eligible for the Window for Host Communities and Refugees under the 18th and 19th replenishments of IDA.[16] The framework is organized around four main policy dimensions – Host Communities, Regulatory Environment and Governance, Economic Opportunities, and Access to National Public Services – with cross-cutting themes of Gender and Social Inclusion.

In doing, it provides an excellent starting point to engage Governments and key stakeholders strategically and systematically in efforts to ensure more predictable, mutually reinforcing and better targeted support to unlocking solutions pathways such as local solutions (Art 100 GCR), Complementary Pathways (Art 85 GCR) or one of the traditional durable solutions.[17] The RPRF is well timed to inform pledges and advocacy in advance of the next Global Refugee Forum.

Our aim is that by 2025, UNHCR is a trusted leader on data and information related to refugees and other affected populations, thereby enabling actions that protect, include, and empower. Increasing investments in household survey are a crucial part of this vision, allowing UNHCR and stakeholders (including partners, member states and donors) to use evidence to make strategic decisions, inform actions and plans.[18]

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12 Joint Data Center, "Resources," https://www.jointdata-center.org/resources/.

13 UNHCR, "Using Socioeconomic Evidence in Forcibly Displaced Contexts," vol. 1 (Geneva: UNHCR, June 2021), https://www.unhcr.org/publications/brochures/60d-1dc4c4/using-socioeconomic-evidence-forcibly-dis-placed-contexts-vol-1-june-2021.html.

14 UNHCR Evaluation Service, "Evaluation of UNHCR's Engagement in Humanitarian-Development Cooperation," ES/2021/05, (September 2021), https://www.unhcr.org/research/evalreports/61af7be94/evaluation-unhcrs-engage-ment-humanitarian-development-cooperation-sep-2021.html.

15 However, a large share of this increase can be attributed to specific contributions to Turkey that took place during the reporting period.

16 Leila Hanafi, Melissa Marie Johns, Rebecca Emilie Anne Lacrois, Khadija Shaikh, Paige Marie Casaly, Alain Willy Aeschlimann, *Refugee Policy Review Framework: Technical Note,* Report no. 159251, (Washington, DC: World Bank, 25 May 2021), https://documents.worldbank.org/en/publication/documents-reports/documentde-tail/159851621920940734/refugee-policy-review-frame-work-technical-note.

17 *Global Compact on Refugees*, UN doc A/73/12 Part II.

18 UNHCR, *Data Transformation Strategy 2020-2025: Supporting Protection and Solutions,* (Geneva: UNHCR, 13 September 2019).

Learning from Crises: Perspectives from Europe's Ukrainian and South America's Venezuelan Migration Crises

Jacqueline Mazza and Guillermo Caballero Ferreira

Venezuela and Ukraine are the two largest contemporary forms of "man-made" migration crises, both of historic proportions. Venezuela's crisis resulted from internal political and economic implosion, while Ukraine's externally driven by Russian aggression. In just seven years, more than 20% of the Venezuelan population – six million people – have fled staggering and rapid political and economic deterioration, predominantly to neighboring South American countries. In less than one month since the Russian invasion of Ukraine, more than 3.5 million Ukrainians have fled, again predominantly to neighboring Eastern European countries in similar geographic patterns to Venezuela's. This article analyzes the key features of the two historic migration crises by scale, pace, and migrant characteristics as well as analyzes the apportionment of rights of residency and work in host countries. It finds that the startling and swifter pace of Ukraine's migration crisis is likely driving a quicker and more comprehensive set of policy responses. In contrast, it finds that the slower evolution of the Venezuelan crisis, the lower fiscal and administrative capacity in South America, coupled with a collective disbelief that the outflows could continue for so long without reversal by the Maduro government, likely explains the more disparate set of policy responses and critical underfunding of the Venezuelan crisis relative to its needs.

Introduction

The brutal Russian invasion of Ukraine in late February 2022 has driven more than 3.5 million migrants out of Ukraine to neighboring countries in just three weeks. The continuing outflows of principally women and children is the fastest growing migration crisis the modern world has seen. It is topping all too quickly the surge of one million Syrian migrants that came to Europe in 2015-16. In South America, the political and economic implosion of Venezuela since 2015 has evolved into yet another historic migration crisis, with more than 6 million Venezuelans flooding neighboring South America over seven years.

This article looks at what is being learned from the two largest and still ongoing migration crises in the world – Venezuelans largely to South America and Ukrainians to Eastern and Western Europe. It examines these two migration crises first in terms of key features - size, pace, and disparate geographic impacts, and second in terms of the rights provided to migrants to live and work in receiving countries.

I. The Ukrainian and Venezuelan Migration Crises by Key Features: Scale, Pace, and Migrant Profiles

The 2015+ Venezuelan and 2022 Ukrainian migration crises represent distinct instances of the massive exodus of migrants in short periods with highly concentrated burdens on neighboring countries. In terms of scale, Venezuela's exodus of now six million migrants in seven years outpaces the now over 3.5 million from Ukraine (data from March 18, 2022), but perhaps not for long. By mid-April 2022 (five weeks of conflict), the numbers had grown to 4 million and were still climbing.

This section examines the distinct patterns of these large outflows in both crises and identifies the disproportionate impacts of each crisis on neighboring countries. To clarify terms, those persons fleeing conflict are understood to be refugees. Refugees are defined by the United Nations as those fleeing their country because of fear of "persecution, conflict, generalized violence or other circumstances." It is a legal definition based on a 1951 UN Convention and is embedded in the authorization for the UNHCR (United Nations High Commission for Refugees) which has played a central role in responding to the Venezuelan, Syrian and now Ukrainian crises.[1] As there is a general understanding that Venezuelans and Ukrainians are compelled rather than choosing to leave their countries, there is a natural tendency to apply the term refugees to all these fleeing nationals. However, each receiving country has distinct legal processes for determining and granting asylum status and other rights to refugees once within their borders and too date only a limited number of Venezuelans have been formally designated refugees.

This article thus uses the broader term migrant to apply to all those fleeing from Ukraine and Venezuela. UNHCR, for example, reported only 49,102 Venezuelans had been recognized as refugees by March 2021.[2] While there is no official international definition of migrant, the United Nations characterizes migrants as anyone who changes countries for either short or long-term residence whether legally sanctioned or not.[3] Venezuelan migrants' designation as refugees and asylees has been subject to different delays in host country legal processes. With so many backlogs in asylum procedures, Brazil began granting Venezuelans presumptive, or *prima facie,* refugee status in 2019-20, but they have a proportionately smaller population of Venezuelans than other South American countries (see Map 1). Ukrainians fleeing war in their country are commonly referred to as refugees because of the obvious armed conflict. By using the universal term of migrant, the current article seeks to compare both migration crises on a more common basis. This permits an analysis of the rights of residency, work, and school attendance in the next section as those provided in direct response to the two crises irrespective of the individual designation of refugee or asylum status.

Contemporary Origins and Pattern of Outflows from Venezuela. While less than a decade apart, the Ukrainian and Venezuelan migration crises have quite distinct contemporary historical origins: one driven by wartime expulsion, the other by political and economic implosion. Economic deterioration was already present in 2013, when Venezuelan President Hugo Chavez died. He had progressively moved his country in a more authoritarian direction and had drained funds and investment from the state-run oil industry. His hand-picked successor Nicolas Maduro won a highly contested snap election in April of 2013 by the narrowest margins in Venezuelan history, with a recount refused to the opposition. Maduro's staggering mishandling of the economy since 2013 and misappropriation and disinvestment in the oil industry accompanied persecution of the opposition led to historic declines in economic growth, rising internal violence and the highest levels of hyperinflation ever recorded in the world – one million percent by January 2019.[4]

Venezuelans began fleeing in large numbers by 2015 for both economic and political reasons – political persecution, torture, sharp rises in poverty, food, and medicine shortages. The first waves, called at the time "airplane migrants," were principally those with the resources to emigrate by plane and included higher-skilled workers and professionals to both South America and the United States. In the first years of the crisis larger scale migration was held off as the Colombia-Venezuelan border, particularly the town of Cúcuta swelled with "daily migrants:" Venezuelans crossing the border daily to buy goods and medicine unavailable on Venezuela's empty shelves. The economic downfall then became so rapid – two-thirds of the economy lost by 2019 – and the rise in poverty so great – from middle-income status to a 90% extreme poverty – that nearly all predicted that Maduro could not politically survive such dysfunction and

1 United Nations, "Refugees and Migrants," accessed March 18, 2022.

2 RV4 Interagency Coordination Platform for Venezuelan Refugees and Migrants from Venezuela.

3 Ibid.

4 Tim Padgett, "Is Venezuela Finally Pulling out of the World's Worst Economic Tailspin?" WLRN Radio, January 18, 2022.

high outflows of citizens and would be compelled to work with the opposition and reverse course. Daily migrants turned into international migrants with the largest numbers first going to nearby Colombia. Figure 1 shows the increase by year of the total number of Venezuelan migrants worldwide, climbing to a total of over six million by February 2022.

and were more severely malnourished and less educated. The COVID-19 crisis brought on even greater vulnerabilities as due to border closures and restrictions, desperate migrants turned to human smugglers to get them across illegal border crossings, making them more vulnerable to robbery, violence, and sexual exploitation. These later waves of Venezuelan migrants posed even greater

Distinct from Venezuela's rolling and ever swelling crisis over seven years, Ukrainians made last minute decisions to leave their country, fleeing the unprovoked bombardment of Ukraine and invasion of Russian troops. The Ukrainian government continues to compassionately seek safe corridors and organize transportation for its citizens to leave. The International Rescue Committee (IRC) reported that over two-thirds of migrants they had come into contact with were women and children and that, due to the characteristics of this population, they were particularly worried about gender-based violence as well as trafficking and exploitation of children.

Figure 2 below shows the weekly climb of migration outflows during March 2022 from under one million to 3.5 million. These figures also include a currently unknown number of third-party nationals (TPN), non-Ukrainians who had been living in Ukraine and driven out by the Russian invasion. Estimates are of course rolling and understandably speculative as they are based on daily reports from multiple sources, including border crossings, reception centers and international and non-profit agencies. Nonetheless, the slopes of Figures 1 and 2 look remarkably similar except the Ukrainian outflows are measured in weeks and the Venezuelan outflows in years.

Figure 2 does not contain the additional millions who are internally displaced within Ukraine. As of March 18, the UNHCR estimated that 1.9 million people were internally displaced within Ukraine.[6] They also indicated that millions more Ukrainians were stranded in war-affected areas, unwilling or unable to leave due to security risks and blocked infrastructure. Just how many internal migrants will become international migrants is uncertain. A March 8 survey by the International Rescue Committee found that 21% of those stranded within Ukraine in the areas they served had no intention of trying to go further.[7] Internal displacement was not a factor in the Venezuelan migration crisis except for the estimated 60,000 - 100,000 Venezuelans who had lost housing and tried to return to Venezuela between March and September 2020 only to be quarantined in squalid shelters and prevented from returning to their Venezuelan homes for weeks.[8]

It is too early in the Ukrainian migration crisis

6 UN OCHA, Ukraine: Humanitarian Impact Situation Report, March 18, 2022.

7 UNHCR, Ukraine Situation Flash Update #1, March 8, 2022.

8 Mazza, "Venezuelan Migrants under COVID-19," 4.

Figure 1: Yearly Increases in Venezuelan Migration: 2015-2022

Source: UNHCR, RV4 Venezuelan Refugees and Migrants in the Region, compiled, February 2015-2022.

The first waves of migrants to Colombia by the end of 2018 were predominately young, moderately educated, and ready to engage in the labor force. Over 75 percent were working age, and 83 percent of those had completed at least secondary education, that is proportionately more educated than the Colombian young working age population. The biggest differences in educational attainment in the first waves were in the 25-34 age group.[5] The waves of migrants coming from Venezuela after 2018, however, were poorer and walking on foot. Those crossing over the Brazilian border were predominantly indigenous peoples from the Western areas where Brazil borders with Venezuela. These later waves of migrants had lived through growing food and medicine shortages

demands on struggling national governments to address hunger, malnutrition, and poor health within their borders.

Contemporary Origin and Patterns of Outflows from Ukraine. The Ukrainian migration crisis was also politically created by the external aggression of Russia; there were no internal political or economic drivers motivating Ukrainians to flee. The world watched in horror as Ukraine was invaded on more than five fronts and subjected to aerial bombardment beginning on February 28, after weeks of Russian claims that they would not invade. The Ukrainian government asked all able-bodied men from 18-60 to stay and defend the country. As a result, the vast majority of Ukrainian migrants are reported to be women, children, elderly men and the disabled.

5 Dany Bahar, et. al., "Integrating Venezuelans into the Colombian Labor Market: Mitigating Costs and Maximizing Benefits," Brookings Institution Policy Brief, December 2018.

Figure 2: Increase in Ukrainian Migration by Week: March 2022

Source: UN OCHA, Ukraine: Humanitarian Impact Situation Report, Weekly data to March 18, 2022.

to have skill profiles and assessments done for Ukrainians refugees seeking to resettle in Eastern and Western Europe. However, knowing the high proportion of female migrants in the current pool, we can draw on recent labor force data from the International Labor Organization (ILO) and World Bank for the Ukrainian nation as a whole to approximate some key characteristics of the female-dominated labor pool. Education levels of females in Ukraine is on average remarkably high and significantly higher for females than males. In 2020, 47% of men and 63% of women had some tertiary (university-level) education. The 2020 labor force participation rate for women, at 48% is in comparison relatively low compared both with other European countries with high education levels, signaling a reduced percentage of highly-educated women with current employment experience.[9] Those women who were working in Ukraine in 2020 worked disproportionately – 73% – in the services sector, while women comprised only 13% of both the industrial and agricultural sectors.[10]

The Migration Crises by Geographic Impacts and Migrant Destination

While the migrant outflows from each of these crises differed in speed, pace, and profile of migrants, each demonstrates a clear similarity in the disproportionate impacts on neighboring countries. Table 1 combines the most recent geographic distribution of both Venezuelan and Ukrainian migrants in each country's top seven receiving countries. In both migration crises, the top seven recipient countries are all neighboring countries within the same region. Colombia and Perú combined host 52% of all Venezuelan migrants, while similarly, Poland currently hosts 55% of all Ukrainians.

To compare the Venezuelan and Ukrainian crises using common UNHCR statistics, the percentages represent totals for all Venezuelan migrants

per country as a percent of total Venezuelan migrants in the world, and likewise all Ukrainian migrants as a percent of world totals. For the Latin American receiving countries, a regional percentage is given in parenthesis, specifically the percentage of Venezuelan migrants as a total in South America. These additional figures show the relative disproportionate weight that Colombia and Perú bear within South America.

Venezuela. Map 1 below shows -- by size of circle -- the proportions of Venezuelan migrant settlement in neighboring South America. Even as outmigration rose from one million early in the crisis (2015) to six million by 2022, Perú and Colombia remained the top hosting countries of Venezuelan migrants every year. Chile has more recently become the third South American host country attracting largely poorer Venezuelans migrating on foot through Colombia and Perú from 2018 onwards.

Map 1: Geographic Concentration of Venezuelan Migrants in South America

Source: UNHCR, R4V Latin America and the Caribbean, Venezuelan Refugees and Migrants in the Region Report, April 2021.

Colombia's role as the top recipient of Venezuelan migrants can be linked both to geography and history. Colombia shares a 1,378-mile border with Venezuela, with both official border crossings and hundreds of miles of dense jungle where non-official crossings occur. Colombians remember well their shared history of migration with Venezuela. Venezuela opened its doors to Colombians migrating during its long civil war with the FARC and ELN rebel forces which only officially ended in 2016; Colombians also migrated to Venezuela for jobs during its oil boom years. Colombians and

Venezuelans now share families across borders; Colombian President Ivan Duque has called the Venezuelans "our brothers."
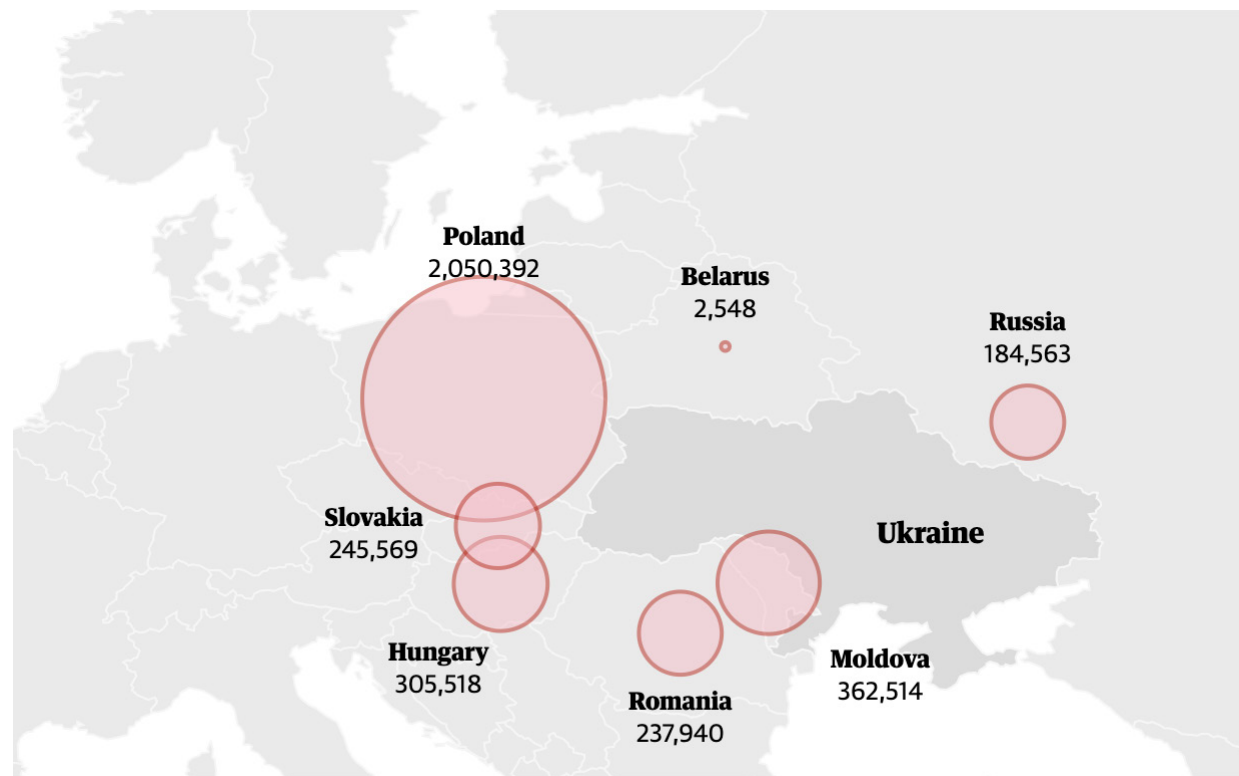
In the early years of the Maduro administration, Venezuelan migration was highly concentrated in border towns and the capital city of Bogotá but has, over time, distributed throughout the country in smaller towns and agricultural areas as well. Venezuelan migrants to Perú are instead still highly concentrated in the capital city of Lima.

Table I: Top Migrant Receiving Countries as of March 2022					
Of Venezuelans			**Of Ukrainians**		
Receiving Country	**# of VZ migrants**	**% of VZ migrants (world totals)**	**% of UK migrants (world totals)**	**# of UK migrants**	**Receiving Country**
Colombia	**1.84 M**	30.5% (36.9%)	55.1%	2.08 M	Poland
Perú	**1.29 M**	21.4% (25.9%)	14.2%	535,461	Romania
Ecuador	508,900	8.4% (10.2%)	9.7%	365,197	Republic of Moldova
Chile	448,100	7.4% (9.0%)	8.2%	312,120	Hungary
Brazil	261,400	4.3% (5.2%)	6.6%	250,036	Slovakia
Argentina	170,500	2.8% (3.4%)	6.1%	231,764	Russian Federation
Panama	121,600	2.0% (2.4%)	0.1%	3,765	Belarus

Source: Data compiled by the authors from the following: UNHCR, RV4 Venezuelan Refugees and Migrants in the Region Report, as of February 2022; UN OCHA, Ukraine: Humanitarian Impact Situation Report, as of 3:00 p.m. (EET), 20 March 2022. Figures are for only the top seven receiving countries, not all Ukrainian and Venezuelan migrants worldwide. (%) Share of Total Migrants in Latin America and the Caribbean region.

9 World Bank, "School Enrolment: Secondary and Tertiary-Male and Female," The World Bank Group; International Labor Organization, "Ukraine Country Profile," ILOSTAT, 2017.
10 The latest Ukrainian labor force data by sector is from 2017.

Map 2: Geographic Concentration of Ukraine Migrants as of March 2022 in E. Europe

Source: UNHCR, Ukraine Refugee Situation, March 18, 2022.

Proximity remains the principal driver of the destination of Venezuelan migrants. While South America is the most dominant sub-region, the Latin American and Caribbean region overall receives the vast majority of Venezuelan migrants. Of the estimated 6.04 million Venezuelan migrants in the world in February 2022, more than 4.99 (82%) million are hosted in the Latin American and Caribbean region. [11] This geographic burden is particularly noteworthy because of the Latin American and Caribbean region's poorer economic conditions and concentration of informal, low-paid work.

Ukraine. Map 2 provides the proportionate flows of Ukrainian migrants to neighboring destinations in the first month of the crisis (March 2022). In their proportions, these flows show remarkable similarities with Venezuela in the high concentration on key bordering neighbors. Poland, a country of approximately 37.8 million people, took in more than two million Ukrainians by late March, although some may be later transported further to other Western European nations. Poland, like Colombia, serves as the lead nation for receiving Ukrainian refugees and migrants. There were already one million Ukrainians living in Poland, so a portion of the refugees can be housed with families. Their languages are similar, and they share a "tangled" history in the words of the *Economist*.[12]

After Poland, the next group of top receiving countries are smaller Eastern European neighbors, each bearing a relatively similar proportion of Ukrainian refugees and migrants: Romania (14.2%), Republic of Moldova (9.7%), and Hungary (8.2%) (Table 1). As a percentage of their current national population, Poland is absorbing a particularly high percentage of Ukrainians – 5.4%, with Romanian absorbing what constitutes 2.7% of its 19.2 million population. The high initial geographic concentration in the case of Ukraine reflects the "wartime" evacuation nature of the crisis. International organizations and national governments have set up receiving centers for fleeing Ukrainian in key border countries. The Ukrainian government bravely organized transportation, mainly by bus and train, to get Ukrainians out as quickly as possible to safety in bordering countries.

The Venezuelan migrant crisis has remained highly regionally concentrated in the same South American receiving countries through all seven years of the crisis. While it is too early to make the same predictions for the Ukrainian crisis, there are clear signals that Ukrainian refugees and migrants will have more freedom of movement within the European Union, other Western European countries and even Japan to resettle to third countries after first transiting to the top receiving countries of Eastern Europe. The European Union and Western European countries are providing more automatic rights of residency as well as work. The Schengen area of the European Union permits free movement across its borders and countries such as Germany are beginning to provide transportation to Ukrainian refugees from border countries. This ability to move more systematically and easily away from border countries was not offered in the case of the slower-moving Venezuelan crisis. The following section analyzes the different rights of residency, work and international support for the two migrating populations.

II. Rights of Residency, Work and Support for Venezuelan and Ukrainian Migrants

This section examines how and whether Venezuelan and Ukrainian migrants are provided the legal right to live and work after fleeing their native

countries. It alas well as rights for their children to attend school in receiving host countries. It finds that the swifter understanding of Ukraine as an explosive crisis of historic proportions is likely driving a quicker and more comprehensive set of policy responses to enable Ukrainians to live and work outside of Ukraine more easily in the midst of war in their country. South America, in contrast, has become a web of very different processes, leaving more than half of Venezuelan migrants in the region without legal status by March 2021. A new initiative by the Colombian government, however, offers the most extensive protections yet to Venezuelan migrants living in their country.

Access and Rights of Residency and Work

For Venezuelan Migrants. As the first waves of migrants fled Venezuela, the South American neighboring nations showed relative openness to receiving Venezuelans,[13] particularly given their own economic struggles and weak institutional capacity. However, as the pace of Venezuelan migration accelerated new laws and procedures enacted in South American countries and poor labor markets couldn't keep pace with the unexpected high volumes. Depending on which Latin American country a Venezuelan would enter, transit through, or seek semi-permanent residency, Venezuelans faced lengthy bureaucratic processes and uncertain outcomes. Access to basic health and social services for migrants was very limited except for emergency services. As a result, international donors began creating migrant-specific additional programs to serve social service needs, but coverage was understandably spotty. The most cumbersome legal processes were receiving the right to work in formal sector employment and the right of residency. No two countries had similar processes. Nearly all Latin American and Caribbean countries permitted Venezuelan children to enroll in school, although many schools were overburdened with little capacity to absorb more school children. Asylum processes were particularly slow, and thus the focus became on mass "regularization" campaigns to "legalize" Venezuelan migrants who

11 RV4 Inter-Agency Coordination Platform for Venezuelan Refugees and Migrants, "Venezuelan Refugees and Migrants in the Region - February 2020," February 2020.

12 "Charlemagne: A Continent Coping," *The Economist,* March 12, 2022, 46.

13 Andrew Selee and Jessica Bolter, "An Uneven Welcome: Latin American and Caribbean Responses to Venezuelan and Nicaraguan Migration," *Migration Policy Institute*, 2020.

were already living in their countries but without explicit authorization (e.g., valid papers) for residency and work.

The enacted regularization procedures turned out to be poorly adapted to mass migration. Many national permit processes had selective eligibility requirements and short time frames, requiring frequent renewals. Work permits could be a separate process from residency, also with different time frames for renewals. Many Venezuelan migrants didn't have the knowledge, time or even the qualifying documents to apply. Perú, Colombia, Chile and Brazil had instituted their own types of temporary residency visas with special procedures. As characterized by the Washington Office on Latin America (WOLA) et al. in their 2020 study *Labyrinths of Documents*: "The exponential increase in Venezuelan migration in the last five years has stressed the standards and practices of migration and asylum systems and the countries of the region have implemented diverse and differing systems in reaction."[14]

By late 2018-19, three of the six top receiving South American countries were backtracking on inclusionary policies for Venezuelan migrants. Ecuador, Chile, and Perú were making it more difficult to obtain legal status, likely believing this would discourage more immigration and divert Venezuelans to other nations. Ecuador and Perú required passports with visas for official entry even though they were aware that the Maduro government was no longer renewing passports for its citizens. By all accounts, the 2018-19 restrictions in these countries led to more Venezuelans crossing "illegally" at more dangerous, non-official borders to avoid being turned back, making more migration in the region "irregular."

Special regularization processes are currently the dominant way Venezuelans are to acquire the national "papers" needed to have the right to live, secure decent housing, and work in the formal sector in South American countries. Year by year, as these processes became overwhelmed, more and more Venezuelans were living in South America under irregular status, highly concentrated in doing

precarious, informal work.[15] As late as March 2021, UNHCR's data from national governments found that only 2.2 million Venezuelans had received some form of regularization status. However, this figure included duplications and expired permits, so the current number of regularized Venezuelan migrants is both much lower and not precisely known. Asylum numbers are also low for Venezuelans—only 49,100 Venezuelans received asylum in the top six South American host nations and over 600,000 still have asylum claims pending.[16] Regularization for Venezuelan migrants in South America has turned out to be a patchwork of different qualifying regulations and bureaucratic procedures that have worked both slowly and for far too few. This mix of legal statuses has infinitely complicated the delivery of services to migrants, as migrants without the proper papers qualify for so few nationally run services.[17] South America has yet another assortment of donor-driven food and medical programs, initiatives of local governments with large migrant populations, non-governmental organizations, and national governments, all trying to patch up and support migrant needs on too small of a scale. The March 2021 figures reveal that less than a third of five million Venezuelan migrants in the top South American host countries had qualified for time-limited rights for residency and work.

Colombia, however, has offered a way forward out of the patchwork of permits. As the largest receiving country of Venezuelan migrants, Colombia has demonstrated relatively more generous processes to grant temporary residency and formal work status. It had previously created a separate work visa program, the PEP (in Spanish the *Permiso Especial de Permanencia*) in 2019. The PEP enabled Venezuelans to work legally in Colombia for from 90 days up to two years and allowed for two-year renewals. However, the PEP

14 Washington Office on Latin America (WOLA) et al, "Labyrinths of Documents: "Executive Summary, 1.

15 Mazza, "Venezuelan Migrants Under COVID."
16 RV4 Inter-Agency Coordination Platform for Venezuelan Refugees and Migrants, "Venezuelan Refugees and Migrants in the Region - February 2020," UNHCR, February 2020.
17 For a review of the wide differences in services eligibility for Venezuelan migrants under COVID-19 in the top six South American host countries, see Mazza, "Venezuelan Migrants under COVID-19," December 2020.

too was highly bureaucratic, and employers shied away from hiring Venezuelans for formal jobs, both for the scarcity of formal work and for the uncertainty that the Venezuelan PEP's would be renewed.[18]

However, in March 2021, Colombia President Ivan Duque made a stunningly generous announcement: Colombia would create a plan to give qualifying Venezuelans, ten years of legal residency, access to all services, and the ability to work without restrictions. Colombia's new proposed Temporary Protective Status (known as "TPS") for Venezuelan migrants has been called by international leaders "historic" and "one of the most important humanitarian gestures in decades."[19]

Colombia's TPS is far more generous than anything any country has yet provided to Venezuelan migrants. TPS will not be granted automatically nor under a *prima facie* assessment. There is yet another new bureaucratic process that was initiated in May 2021 to obtain TPS. Migrants must register with a new online format, then submit biometric data, have their case reviewed, then have their document printed and sent to them. Migración Colombia (the Colombian ministry managing migration policy) reported that 1.8 million Venezuelan migrants had registered with the online system as of January 31, 2022.[20] In the first eight months, more than 700,000 TPSs have been approved, and 531,431 Venezuelans have physically received their TPS documents.[21] Those with the PEP work permit are being encouraged to transition to the new TPS. While the Colombian Ministry of Foreign Affairs still has the right to extend or limit the 10-year TPS at any time, the extension of TPS to half a million Venezuelans in its first year is a major leap forward. The ten year time period reduces bureaucratic burdens, but most importantly advances local integration of migrants, enabling them to live with less precarious

18 Mazza, "Venezuelan Migrants," December 2020.
19 Luisa Freier, "Colombia Went Big on Migration: Will Others Follow?" *Americas Quarterly,* February 11, 2021.
20 Colombia. Ministerio de Migración, "*Estatuto Temporal de Protección*," January 31, 2022.
21 "Venezolanos con Permiso de Protección Temporal no podrán votar," *La Nación,* March 10, 2022.

housing, more stable employment, and have access to national social services. This reduces the need for separate donor-financed services for migrants who have no access to health care or stable housing, a lesson to be brought forward to the growing Ukrainian crisis.

For Ukrainian Migrants. On March 3rd, only eight days after the first Russian bombs were shot into Ukraine, the European Union had agreed to a "Temporary Protection Directive" (TPD) that provided all those holders of a Ukrainian passport with the common standard of up to three years of residency and the right to work in the European Union. This is the first time the European Union has used the TPD since it was created 20 years ago in response to the refugees coming from the breakup of Yugoslavia.[22] The European Union's rapid response is uniquely based on a universal European-wide standard, relatively long periods of residency, work and schooling rights and access to services. This combination of rights for migration management is unprecedented in the speed of provision so early in the crisis, the scope of its application across distinct national borders, and the focus on reducing administrative burdens.

Now, each of the EU-receiving countries is moving forward under the guidance of the TPD with specific national procedures and eligibility for temporary protection, but eligibility must be immediate. Germany is exempting all displaced persons from Ukraine (including third party nationals who were residents in Ukraine) from the requirement to hold a residence permit until May 23, 2023. This means that they can enter and live in Germany now and have a full year to apply for temporary residence. Meanwhile, they are also eligible for medical and social services. In addition to temporary residence, Slovakia is providing a stipend to Slovak families that take in Ukrainian

22 Council Directive 2001/55/EC of 20 July 2001 sets "minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between the Member States in receiving such persons and bearing the consequences thereof."

migrants.[23]   Poland's current plan is to issue temporary protection for one year from March 4, 2022, with the possibility of further extension for six months. Poland also adopted a related, complementary bill that allows Ukrainian citizens, their spouses, children, and close family members of Pole Card holders, who left Ukraine even before February 24, 2022, to stay and work in Poland with simplified administrative formalities, as long as they had come directly to Poland. .A particular advantage in Ukrainian resettlement will be in helping them travel to Ukrainian families already in Europe. A 2018 survey by the UN International Organization of Migration (IOM) found that one-quarter of Ukrainians reported they have or had a family member that had previously worked abroad.[24]

Many non-EU countries such as Norway, Sweden and Switzerland are enacting protocols following the TPD of the EU. One notable exception is the United Kingdom (UK). The UK still requires Ukrainian nationals to apply for a visa before entering Britain. They enacted an online visa application and required Ukrainians to submit biometric data. The Foreign Office was openly discouraging Ukrainians from showing up at the British Consular office in Calais, France to apply in person for a visa, sending them away and telling them to apply online. The *Manchester Guardian* termed it "a marginal simplification of the web of bureaucracy that Ukrainians attempting to take refuge in the UK face."[25]   This criticism of the British approach echoes the problems that resulted from more heavily bureaucratic approaches utilized in all South America to slow down the ability of many refugees to integrate into receiving countries, leaving migrants facing greater social and labor market marginalization.

Within the EU, as well as around the world, the response to the Ukrainian crisis has been predominantly generous and ground-breaking.

The most difficult work though lies ahead in the implementation phase which must continue to adjust to a war in Ukraine that may go in unpredictable directions. Reliance on the current capacity of schools and stock of low-cost housing in Europe, for example, will likely not be sufficient in the medium-term.

Perspectives on Learning from Crises

Mass migration crises on the scale of Venezuela and now Ukraine likely will not be the last.   By analyzing the key attributes of both crises and how and whether rights of residency and work are provided to migrants, this article sought to aid collective learning. Learning that not only applies to these ongoing crises but also to the currently unimaginable future ones.

While of distinctly different origins, Venezuela and Ukraine share the common characteristic of disproportionate impact on their geographic neighbors. In both cases, there are clearly "lead" countries—Poland and Colombia—both in terms of receiving the largest share of migrants and in terms of national policies to respond to the crisis. Poland received more than two million migrants within the month of March 2020 alone, while Colombia more than two million over the span of seven years.

Due to their different origins, the profiles of fleeing migrants were quite different, offering distinct types of integration challenges. In the case of Venezuela, the relatively younger and more educated left in the first waves, with the much poorer and lesser-skilled dominating the larger post-2018 waves. Fleeing war, the current wave of Ukrainian migrants are predominantly women, children, and elderly men. Women from Ukraine on average have proportionately higher levels of university education and proportionately less work experience, signaling different challenges for labor market integration than those posed to South America.

South America's web of permits, applications, and reapplications reflects its lower economic levels, its poorer fiscal and administrative capacity, and the slower escalation of outflows. It also likely reflects

collective wishful thinking that the outflows would soon slow—won't the Venezuelan government have to address the economic and political collapse driving migration?   Colombia's newest TPS initiative for Venezuelans is a remarkable exception for a developing receiving country, but further widens the differences in policies, support, and rights for Venezuelans in South America.

While not likely directly learning from the Venezuelan crisis, the European Union can see a mass migration crisis coming clearer than South America did. With its Temporary Protective Directive, the European Union is poised to overcome one of the biggest weaknesses of the international and regional approach to the Venezuelan crisis: the devolution of residency and work permission into a confusing set of short-term permits that were difficult to deliver.   Holding back legal residency, work permits, and services has not discouraged migration into South America, but rather has created *defacto barrios* of millions of migrants living in "irregular status" which has resulted in even greater demands on struggling national governments to address increased poverty, hunger, and malnutrition within their borders.

Europe should stay attentive to avoid the establishment of European *barrios* filled with Ukrainians waiting to access services, unable to seek work or attain semi-permanent housing. The promise of the TPD must be secured through the painstaking work of national government implementation strategies.

No bureaucratic timeline will be able to predict when Ukrainians can safely return home. Shortened periods of eligibility for residency and work by individual EU states will not be decisive in discouraging where migrants go, as it wasn't in the case of the more restrictive policies of Chile, Ecuador, and Perú for Venezuelans. Best practices in migrant resettlement and placement tells us that dispersal of the population can significantly increase employment outcomes.[26]   A key missed lesson from the Venezuelan crisis to the current Ukrainian-receiving countries is the advantage

in getting migrants and refugees *as quickly as possible* into secure housing and employment. Better migration management, not restrictions on residency and work, is the more effective way of reducing burdens on host countries.   The objective of migration management in cases of mass migration would best be to put more and more migrants into the position of being able to take care of their families and themselves while they await a better future in their homeland.

23 ICMPD, "Integration of Ukrainian Refugees: The Road Ahead," March 8, 2022.

24 "Migration in Ukraine: 2019 Facts and Figures," International Organization for Migration, Geneva, 2019.

25 Kaamil Ahmed, Annie Kelly et. al., "How European Response to Ukraine Refugees Differs from UK," Manchester *Guardian, International Edition* online, March 11, 2022.

26Modelling for the United States suggests strategic placement of refugees could increase employment outcomes by up to 38%.

Going North on a Plane Rather Than a Train: Regulated Visas as an Alternative to Irregular Migration from Central America

Cristobal Ramonón and Reva Resstack

Since 2014, irregular migration from El Salvador, Guatemala, and Honduras to Mexico and the United States has steadily increased. As a result, the respective governments of each country have struggled to reduce irregular migration and guarantee international refugee law in the process. This article frames the persistence of irregular migration in the context of a dearth of accessible regular migration pathways. It then examines the H-2B nonagricultural seasonal visa program in the United States, which the Biden administration has posited will supplant irregular migration from the region through nationality-specific allocations. The viability of employment-based visas as an alternative to irregular migration is discussed. We conclude with a series of recommendations for the governments in countries of origin and destination to channel irregular movement into regular pathways in the short- and medium-term.

Introduction

Irregular migration northward from Central America has grown steadily since 2014. A particularly high level of encounters at the U.S.-Mexico border in 2021 has made clear that the United States and its regional partners face a long-term challenge to promote orderly and regulated migration in the region.[1] While providing the possibility of asylum in the United States and Mexico is vital,[2] other regular channels such as employment-based visas are rarely considered as an alternative to irregular migration, despite evidence that motivations for emigration often include both security and economic factors.[3] Demographic trends indicate that people will likely continue to emigrate from Central America until roughly 2050.[4] Providing safe and transparent legal pathways could be critical to reduce unauthorized migration to the United States and establish regulated migration processes as the norm.

The Biden administration has formally recognized the expansion of the H-2B nonagricultural seasonal visa program as a means to meet these objectives in the short- to medium-term.[5] The visa offers an opportunity for Salvadoran, Guatemalan, and Honduran nationals, among others, to legally work in the United States for limited periods of time, with the option to renew their visa conditional on compliance. This temporary visa meets employer demand and creates potential for returns on development while visa holders are in their country of origin during the off-season.

Despite the H-2B program's promise in helping to manage migration from Central America, some issues may impact its efficacy in reaching these goals. Assessing the viability of regular pathways to supplant irregular migration requires theoretical and practical evaluation of the regular pathways being considered. Theoretically, there is a large gap in the literature surrounding the impact of regular migration on irregular migration, and no causal evaluation of this relationship in the North American context exists to date. A causal study would clarify the relationship between regular and irregular migration specifically in the Northern Triangle and properly assess whether the H-2B initiative has met its objectives.

Practically, several challenges persist that limit the implementation of the H-2B program. Historically, U.S. employers have hired workers predominantly from Mexico through this program. Only 4.71% of H-2B visa holders between 2014 and 2020 were from El Salvador, Guatemala, or Honduras. As such, logistical and financial costs will be incurred as the H-2B program expands in the three Northern Triangle countries. Recruiters and employers who exploit migrant workers during the recruitment and employment processes present threats to these programs as well. Finally, the prospect that migrants with H-2B visas may fail to comply with its requirement to return to their country of origin could undermine the program's efficacy in meeting these broader goals.

This article provides recommendations[6] to make the H-2B visa a more effective tool for managing irregular migration from Central America. As we argue, the H-2B program and other regulated employment-based programs are important instruments in developing a migration management framework in the region.[7] In order to expand the H-2B program's presence in Central America, U.S. policymakers must advance domestic-focused measures as well as regional cooperation with El Salvador, Guatemala, and Honduras. These measures will not entirely curtail irregular migration to the U.S.-Mexico border. Yet temporary work visas offer one pathway to mitigate current and future irregular migration in the region.

To this end, we review the historical trends in regular and irregular migration in North America to frame the discussion of the H-2B visa program in the United States. We discuss the existing literature on the relationship between regular and irregular migration. We then explore the practical challenges that remain for successful substitution of regular pathways for those that are irregular. We conclude with a series of recommendations that U.S. policymakers can incorporate within the U.S. immigration system and in conjunction with the three countries to put forth regular pathways as effective tools to reduce irregular migration from Guatemala, El Salvador, and Honduras.
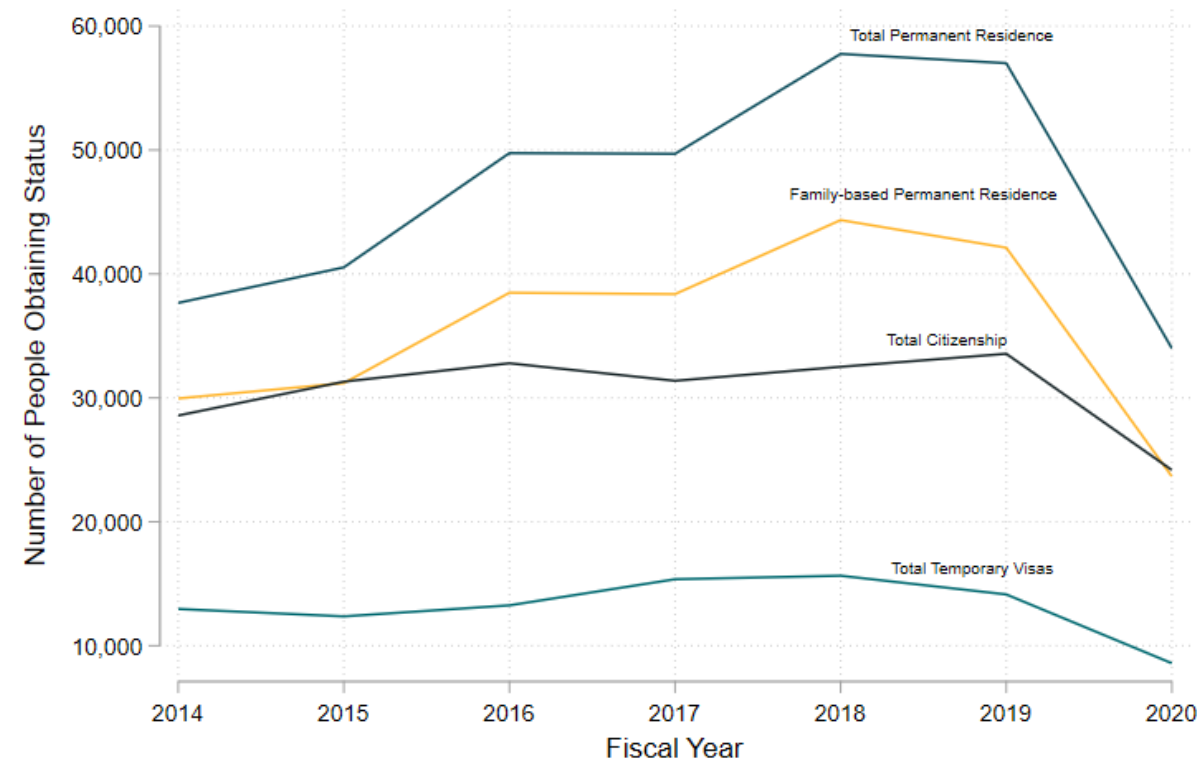
Migration Trends in North America since 2014

Aside from interruptions to global mobility in 2020, migration from El Salvador, Guatemala, and Honduras has been increasing to Mexico and the United States through both regular and irregular channels. The most common U.S. migration pathways that individuals pursue are family-based, given the large Central American diaspora that has lived in the United States for decades.[8] This has allowed many people to thereafter pursue U.S. citizenship. However, temporary visas for tourism, business, or employment remain the least common

1 "Southwest Land Border Encounters," U.S. Department of Homeland Security Customs and Border Protection, last modified March 15, 2022, https://www.cbp.gov/newsroom/stats/southwest-land-border-encounters.

2§ Andrew Selee et al. *Laying the Foundation for Regional Cooperation: Migration Policy & Institutional Capacity in Mexico and Central America* (Washington, D.C.: Migration Policy Institute, 2021), https://www.migrationpolicy.org/research/regional-cooperation-migration-capacity-mexico-central-america; Doris Meissner, *Rethinking the U.S.-Mexico Border Immigration Enforcement System: A Policy Road Map* (Washington, D.C.: Migration Policy Institute, 2020), https://www.migrationpolicy.org/research/rethinking-us-mexico-border-immigration-enforcement; Randy Capps, Doris Meissner, Ariel G. Ruis Soto, Jessica Bolter and Sarah Pierce, *From Control to Crisis: Changing Trends and Policies Reshaping U.S.-Mexico Border Enforcement* (Washington, D.C.: Migration Policy Institute, 2019). https://www.migrationpolicy.org/research/changing-trends-policies-reshaping-us-mexico-border-enforcement.

3 Michael Clemens, "Violence, Development, And Migration Waves: Evidence From Central American Child Migrant Apprehensions," *Journal Of Urban Economics* 124, No. 103355 (July 2021), Doi:10.1016/J.Jue.2021.103355.

4 Sarah Rose, Reva Resstack, and Helen Dempster, *Addressing the "Root Causes" of Irregular Migration from Central America: An Evidence Agenda for USAID* (Washington, D.C.: Center for Global Development, 2021), https://www.cgdev.org/publication/addressing-root-causes-irregular-migration-central-america-evidence-agenda-usaid.

5 "Administrator Samantha Power on New H-2B Visa Allocations for Northern Central America and Haiti" (statement), United States Agency for International Development, last modified April 1, 2022, https://www.usaid.gov/news-information/press-releases/dec-20-2021-administrator-samantha-power-new-h-2b-visa-allocations

6 The authors developed these recommendations as part of a coordinated initiative between the Migration Policy Institute and the Center for Global Development. Related publications include Cristobal Ramón, *Investing in Alternatives to Irregular Migration from Central America: Options to Expand U.S. Employment Pathways* (Washington, D.C.: Migration Policy Institute, 2021), https://www.migrationpolicy.org/research/alternatives-irregular-migration-central-america.; Rose, et al., *Addressing the "Root Causes."*; Michael McDonnell and Reva Resstack, *Work Visas to the US: How Do We Make Sure Women from the Northern Triangle Don't Get Left Behind?* (Washington, D.C.: Center for Global Development, 2021) https://www.cgdev.org/blog/work-visas-us-how-do-we-make-sure-women-northern-triangle-dont-get-left-behind.; and Michael Clemens, Reva Resstack, and Cassandra Zimmer, *Harnessing Northern Triangle Migration for Mutual Benefit* (Washington, D.C.: Center for Global Development, 2021) https://www.cgdev.org/publication/harnessing-northern-triangle-migration-mutual-benefit. Some recommendations also came from an internal 2022 MPI memorandum on ethical recruitment proposals written for stakeholders working with MPI and the Center for Global Development.

7 For analysis of how the H-2A nonagricultural program can adopt similar measures, see: Ramón, *Investing in Alternatives to Irregular Immigration*.

8 Erin Babich and Jeanne Batalova, *Central American Immigrants in the United States* (Washington, D.C.: Migration Policy Institute, 2021). https://www.migrationpolicy.org/article/central-american-immigrants-united-states.

Figure 1. Regular Migration from the Northern Triangle to the United States, 2014 - 2020

Note: Figures here are aggregated across Guatemala, El Salvador, and Honduras.
Source: DHS Yearbook of Immigration Statistics

Figure 2. Irregular Migration from the Northern Triangle to the United States and Mexico, 2014 - 2020

Source: U.S. Customs and Border Protection; MX Instituto Nacional de Migración

visa issued to those from Guatemala, El Salvador, or Honduras. A majority of applications for tourist visas, for example, get denied in each of the three countries.[9]

This trend can also be observed in Mexico as more people from the Northern Triangle countries have settled there. Between 2015 and 2020, the share of Guatemalans among the immigrant population in Mexico increased from 4% to 5% and the share of Honduran immigrants increased from 1% to 3%. Additionally, Mexico's Commission for Refugee Assistance (COMAR) received 70,000 asylum requests in 2019, more than double the 30,000 requests in 2018. Hondurans have filed the majority of asylum applications in Mexico over the last five years.[10]

However, relative to regular pathways, irregular pathways remain much more accessible for people to reach the United States from the Northern Triangle. As a result of extensive trafficking networks and high visa denial rates at U.S. Consulates in the region, many people migrate without documentation each year.[11] The exact number of people who pursue irregular migration to Mexico and the United States each year is elusive, given the informal nature of such movements; however, the number of *encounters* at the U.S. Southern border alludes to the predominance of unregulated pathways.

Irregular migration substantially increased during 2021. This may be a result of a confluence of factors. The Migrant Protection Protocols (MPP), which require asylum seekers to remain in Mexico for the duration of their US immigration proceedings, and the Title 42 policy which, citing COVID-19 health precautions, permits automatic expulsion of most adults, have been identified as potential reasons for the increase in apprehensions during 2021.[12] Other driving factors include increased levels of violence, worsening economic conditions, and decreased access to in-person education in countries of origin.[13]

The number of encounters may be a misleading proxy for the number of people migrating irregularly in this instance, however, due to Title 42. Under this policy, people who enter the United States without documentation can be automatically expelled without formal deportation processing. This results in shorter processing times and no documentation of unlawful entry, both of which allow people to reenter multiple times. According to U.S. Customs and Border Protection, "prior to the pandemic, about one in eight border encounters involved a person previously encountered during the prior year. However, since CBP began expelling noncitizens under the CDC's Title 42 public health order to limit the spread of COVID-19, the repeat encounter rate jumped to more than one in three encounters, including almost half of single adult encounters."[14] Thus, the number of total encounters at the U.S. Southern
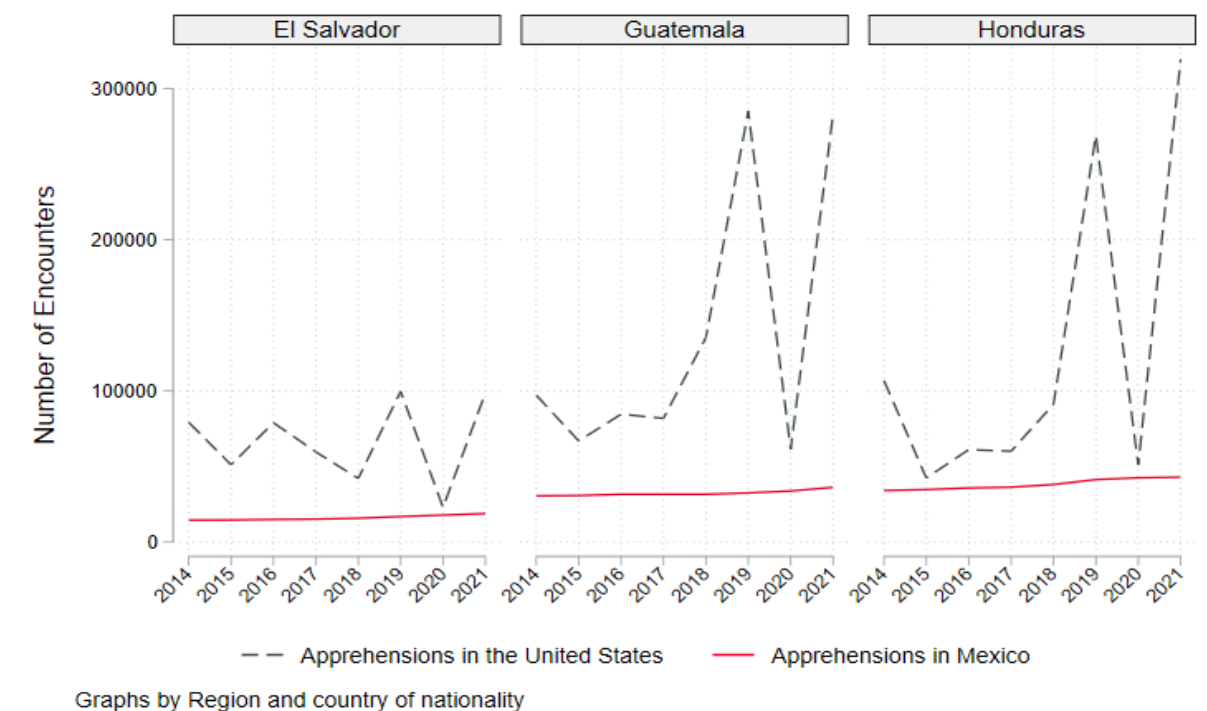
9 "Adjusted Refusal Rate - B-Visas Only by Nationality Fiscal Year 2020", U.S. Department of State, https://travel.state.gov/content/dam/visas/Statistics/Non-Immigrant-Statistics/RefusalRates/FY20.pdf.

10 Selee et al. *Laying the Foundation for Regional Cooperation*.

11 "Central America and Mexico: Operational Update, July 2021," UN High Commissioner for Refugees, last modified August 31, 2021, https://reliefweb.int/report/mexico/central-america-and-mexico-operational-update-july-2021.

12 American Immigration Council, *A Guide to Title 42 Expulsions at the Border* (Washington, D.C.: American Immigration Council, 2021), https://www.americanimmigrationcouncil.org/research/guide-title-42-expulsions-border.

13 International Crisis Group, *Virus-proof Violence: Crime and COVID-19 in Mexico and the Northern Triangle* (Brussels: International Crisis Group, 2020) https://www.crisisgroup.org/latin-america-caribbean/83-virus-proof-violence-crime-and-covid-19-mexico-and-northern-triangle; and Maria Micaela Sviatschi, "Spreading Gangs: Exporting US Criminal Capital to El Salvador," *American Economic Review*, Forthcoming. Draft available at http://www.micaelasviatschi.com/wp-content/uploads/2021/11/making_agang25x10.pdf.

14 "CBP Releases Operational Fiscal Year 2021 Statistics," U.S. Department of Homeland Security Customs and Border Protection, last modified January 3, 2022, https://www.cbp.gov/newsroom/national-media-release/cbp-releases-operational-fiscal-year-2021-statistics.

border overstates the number of unique people attempting to cross.

Despite the incompleteness of apprehension data of immigrants detained at the border by U.S. Border Patrol, both the United States and Mexico recognize increased levels of irregular migration across their borders. Previous initiatives between the two countries, such as the Working Group on Migration and Consular Affairs of the Mexico-U.S. Binational Commission in 1997, the Repatriation Strategy and Policy Executive Coordination Team (RESPECT) in 2016, and the U.S.-Mexico Agreement in 2019, have demonstrated a willingness to cooperate bilaterally.[15] Yet, all of these initiatives have focused on irregular migration without addressing access to regular pathways. The United States and Mexico must coordinate regionally to better encourage and manage regular migration. Given the increase in apprehensions at the U.S.-Mexico border and resulting policy tensions among the two countries, there is a pressing demand for an alternative system.

Regular Migration as a Substitute for Irregular Migration

Due to the aforementioned difficulties in obtaining accurate data, little *causal* analysis exists that evaluates the efficacy of regular pathways in reducing irregular migration. It is difficult to empirically attribute a change in the volume, timing, or composition of migration to a particular policy change; the *correlation* between policy and migration changes does not prove there is a *causal* link. There are a small number of rigorous empirical studies that cite additional interaction variables, such as socioeconomic conditions or changes in border enforcement, which further complicate the relationship.

Data and research design limitations mean that existing studies cannot properly test for substitution effects; as such, they may overestimate the effects of policies of migration patterns.[16] This highlights the need for more empirically informed

insights about the short- and long-term effects of migration policies, such as the H-2B visa, on separate migration categories, including irregular migration from specific municipalities of origin.

Bither and Ziebarth (2018) evaluate Germany's Western Balkans Regulation, which made work visas accessible to six countries in the region that had little chance of receiving asylum.[17] The number of asylum applications from the Western Balkans dropped after the regulation was introduced, from 120,882 first-time asylum applications in 2015 to 10,915 in 2017. Meanwhile 117,123 work contracts for applicants from the Western Balkans were pre-approved. But the authors argue that while the correlation is evident, identifying the causal relationship is difficult. There were simultaneously a number of other policies introduced at the same time, including border restrictions, faster asylum processing times, and the closure of the irregular route. The authors did not attempt to identify a causal relationship.

Clemens and Gough (2018) evaluate the relationship perhaps most similar to that which is presented here.[18] They argue that while there is little evidence that regular migration channels can directly substitute for irregular channels, the U.S.-Mexico example illustrates that, under demographic and economic pressure, substantial legal channels for economic migration are necessary to curb irregular migration. However, these legal labor mobility pathways only suppressed irregular migration when combined with robust enforcement efforts. The authors did not attempt to identify a causal relationship.

Gutierrez et al. (2016) compared statistical data from a number of sources including the US Immigration and Naturalization Service and the US Customs and Border Protection for the time

period 1942 - 2015, to compare the number of temporary work visas issued to Mexicans by the US and the number of apprehensions of Mexicans who had migrated irregularly.[19] There is some historical evidence that shows that changes in illegal flows mirrored the changes in apprehensions over the studied timeframe; comparing the number of temporary work visas and the number of apprehensions illustrates an inverse relationship, but the authors did not attempt to identify a causal relationship.

The inadequacy of regular pathways to fill the demand for migrant labor is a major factor driving irregular migration, but regular pathways tend to be more available for male workers than female workers. Women migrants with low levels of education tend to work in non-seasonal, non-temporary sectors such as care for children and the elderly. Consequently, female workers can be particularly vulnerable as these sectors lack regular pathways.[20]

More inventive research strategies are needed using a comparative case study approach to assess specific phenomena, and draw conclusions about what works and what does not in terms of policies to discourage irregular migration and encourage regular migration.[21] It is a challenge for policymakers to encourage migrants to engage with regular rather than irregular pathways, as those migrating irregularly are often the most distant from government outreach. For example, migrants from Myanmar often migrate irregularly to Thailand due to porous borders. There exists a Memorandum of Understanding between the two countries, but many irregular migrants are unaware of this or consider it too expensive.[22] Thus, targeted communication strategies are vital in implementation.

Regular Migration to Deter Irregular Migration from Central America

In light of the promise that regular pathways hold as an alternative to irregular migration, the Biden administration has issued nationality-specific allotments of the H-2B visa designated for nationals from El Salvador, Guatemala, and Honduras. The H-2B program makes 66,000 visas available for employers every fiscal year; however, the U.S. government has often issued additional visas beyond this cap.[23]

Beginning in FY2017, there have been exemptions to the H-2B visa cap beyond the mandated 66,000 visas in response to high levels of employers' demand for the visa.[24] Couched in special appropriations bills, these blanket exemptions to grant more than 66,000 visas attest to the H-2B program's importance in advancing U.S. economic interests in certain industries, such as landscaping, housekeeping, and amusement parks.
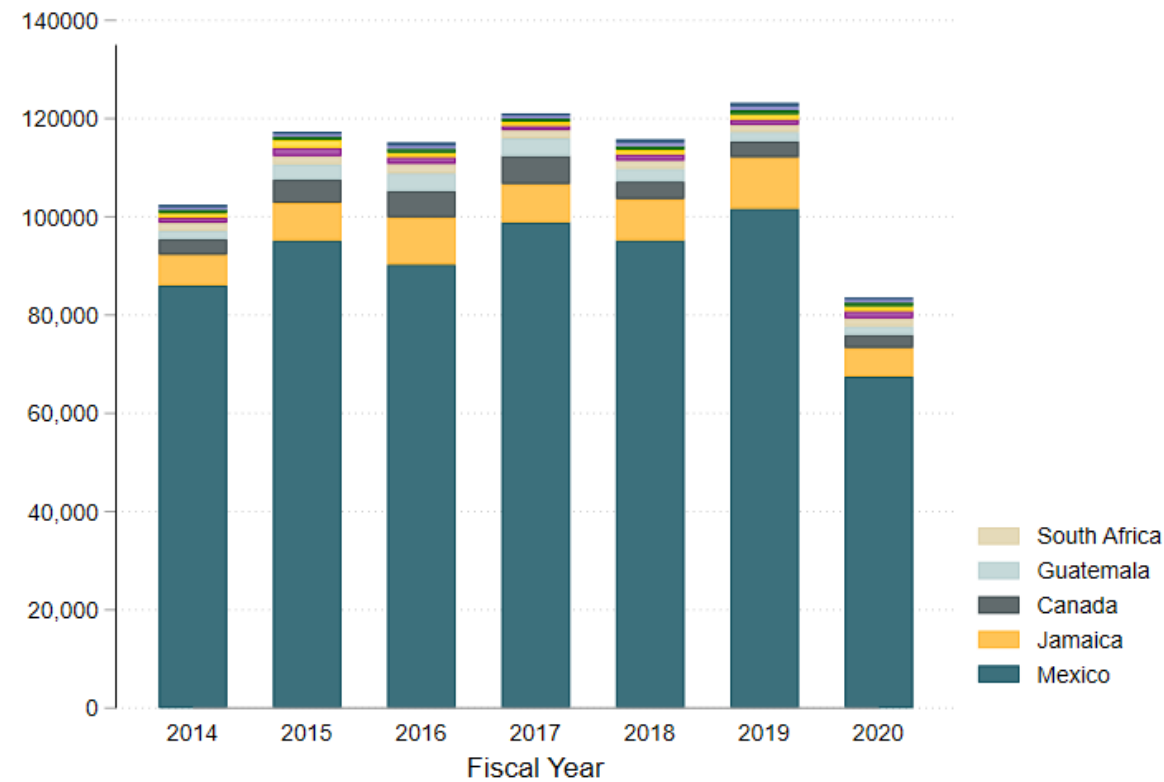
Then, beginning in FY2020, the Biden administration announced a nationality-specific visa allotment for employers hiring employees specifically from Guatemala, El Salvador, and Honduras. A total of 6,000 visas were designated for this purpose, with the caveat that if all visas were not issued by a certain date, the remaining amount would be returned to the general pool - those of which most often go toward employees from Mexico. This was partly motivated by the premise that expanding access to regular visas would reduce irregular migration from the three countries.

The H-2B nonagricultural seasonal visa allows U.S. employers to recruit noncitizen employees for up to three years, provided the employers cannot locate U.S.-based workers and employ their workers for a minimum number of hours. Given the high demand among employers for visas as issued under the nationality-specific allotments, the program's expansion could prove to be successful in substituting for irregular migration if implemented correctly.

15 Clare Ribando Seelke and Joshua Klein, "Mexico: Background and U.S. Relations," *Congressional Research Service*, R42917, https://crsreports.congress.gov/product/pdf/R/R42917.

16 Mathias Czaika and Hein De Haas, "The Effectiveness of Immigration Policies," *Population and Development Review* 111, no. 3 (September 2013): 487–508. doi:10.1111/j.1728-4457.2013.00613.x.

17 Jessica Bither and Astrid Ziebarth, *Creating legal pathways to reduce irregular migration? What we can learn from Germany's Western Balkan Regulation* (Berlin: Migration Strategy Group on International Cooperation and Development and The German Marshall Fund of the United States, October 2018), https://www.gmfus.org/sites/default/files/Creating%20Legal%20Pathways%20to%20Reduce%20Irregular%20Migration.PDF.

18 Michael Clemens and Kate Gough, *Can Regular Migration Channels Reduce Irregular Migration? Lessons for Europe from the United States*, Center for Global Development, February 2018, https://www.cgdev.org/sites/default/files/can-regular-migration-channels-reduce-irregular-migration.pdf.

19 Carlos Gutierrez, Ernesto Zedillo and Michael Clemens, *Shared Border, Shared Future: A Blueprint to Regulate US-Mexico Labor Mobility*, (Washington D.C.: Center for Global Development, 2016), https://www.cgdev.org/publication/sharedfuture.

20 McDonnell and Resstack, *Work Visas to the US.*

21 Anna Triandafyllidou, Laura Bartolini, and Francesca Guidi, *Exploring the Links Between Enhancing Regular Pathways and Discouraging Irregular Migration* (Geneva: IOM, 2019), https://publications.iom.int/system/files/pdf/exploring_the_links_2019.pdf.

22 The United Nations Economic and Social Commission for Asia and the Pacific, *Towards Safe, Orderly and Regular Migration in the Asia-Pacific Region* (Geneva: United Nations, 2018), https://www.unescap.org/sites/default/d8files/knowledge-products/Migration%20report.pdf.

23 U.S. Congressional Research Service, *The H-2B Visa and the Statutory Cap* (Washington, D.C.: Library of Congress, 2020), https://crsreports.congress.gov/product/pdf/R/R44306/8.

24 Ibid.

Figure 3: Top Ten Countries of Origin for Recipients of H-2B Visas (stacked), 2014 - 2020

Source: U.S. Department of State[25]

Practical Challenges to Substitution of Irregular Migration

As the U.S. Government expands the H-2B program for individuals in El Salvador, Guatemala, and Honduras, it faces three primary challenges: coordinating with ministries in countries of origin, guaranteeing migrant workers' rights, and ensuring visa holders comply with return requirements.

There was some initial doubt among practitioners that these nationality-specific visas would even be used; decades of hiring through recruitment networks primarily in Mexico would make it seem feasibly impossible to quickly build strong, equivalent networks in El Salvador, Guatemala, and Honduras. For at least the past two decades, the majority of H-2B visas (74%) have been issued to workers from Mexico, followed by 10 percent from Jamaica, and just 3 percent from Guatemala.

Contrary to initial doubts, the first special H-2B allotment, issued in the spring of 2020, was in overwhelming demand from employers - those who actually apply for the visa on behalf of potential employees.[26] It is not publicly clear why the total 6,000 visas were not ultimately issued in time, but the Seasonal Employment Alliance attributes this confusion to a lack of coordination with Ministries of Labor in Guatemala, El Salvador, and Honduras. It is critical that the participating governments communicate legal timelines to ensure that the visas allotted for each country are properly issued.

In addition to issues related to hiring individuals, the H-2B program also faces frequent violations of workers' rights. The H-2 program prohibits all entities involved in recruitment from charging migrants any fee, meaning that employers must cover all of the recruitment costs.[27] Yet many have reported that illegal charging of fees during the recruitment process is a rampant problem, even among recruiters who may appear to be reputable.[28] There is widespread agreement among practitioners that additional monitoring and regulation is needed to curtail this informal practice.[29] Some private, ethical recruitment agencies, such as CIERTO Global and Stronger Together, operate in the region but their efforts primarily focus on Mexico and Guatemala. Expanding the market share of ethical recruitment organizations poses a challenge.

Finally, the H-2B program as a substitute for irregular migration may be threatened if visa holders want to reside permanently in the United States; the visas are temporary and currently do not offer "dual intent," or the possibility to later apply for permanent residency on the basis of being an H-2 visa holder. The H-2B program, as well as the H-2A program, have been successful in generating circular forms of migration from Mexico. The factors driving migration from Central America, however, range from persistent corruption and violence to protracted economic barriers that are not as widespread in Mexico.[30] Visa overstay, or staying without proper legal status, may pose a challenge to the regular benefits

of the H-2 program.[31] However, current overstay rates for people from Guatemala, El Salvador, and Honduras with nonimmigrant visas are equivalent to those from other countries.[32]

The H-2B Program as a Component of Regional Cooperation on Managing Migration

The United States can implement policies to mitigate these challenges and improve the management of migration from Central America. Rather than simply focusing on changes to the U.S. immigration system, U.S. policy responses should pair these reforms with cooperation with the Guatemalan, Honduran, and Salvadoran governments to ensure these legal pathways address the scale and scope of irregular migration from the Northern Triangle in a sustainable way.

First, U.S. policymakers can create policies relating to logistics, labor law, recruitment certification, and returns to countries of origin. To expand the reach of the H-2B program while strengthening protections for workers, the following should be considered:

In the near-term, exemptions to the H-2B cap for people from El Salvador, Guatemala, and Honduras should continue. This allows employers to hire more people from those three countries and creates a regular, accessible, and cheap alternative to migrating irregularly.[33]

Logistics. U.S. Citizenship and Immigration Services can also address financial and logistical costs by introducing temporary fee waivers for employers' or recruiters' air transportation costs, H-2B application forms, and consular processing. These measures could be phased out once employers create sustainable channels to hire workers from the region, which can be measured by a specified

25 "Nonimmigrant Visa Issuances by Visa Class and by Nationality," U.S. Department of State, https://travel.state.gov/content/travel/en/legal/visa-law0/visa-statistics/nonimmigrant-visa-statistics.html.

26 Gray Delany, *SEA Statement on Additional Visa Release* (Leesburg, VA: Seasonal Employment Alliance, 2021), https://sealabor.com/2021/12/20/sea-statement-on-additional-visa-release/.

27 "20 C.F.R. § 655.20(p) - Notice of Acceptance: H-2B Temporary Non-Agricultural Program," U.S. Department of Labor, https://www.law.cornell.edu/cfr/text/20/655.20.

28 Ramón, *Investing in Alternative Pathways,* 9.

29 For a center-left perspective, see: Daniel Costa, *Temporary Work Visa Programs and the Need for Reform* (Washington, D.C.: Economic Policy Institute, 2021), https://www.epi.org/publication/temporary-work-visa-reform/. For a center-right perspective, see: David Bier, *H-2B Visas: The Complex Process for Nonagricultural Employers to Hire Guest Workers* (Washington, D.C.: Cato Institute, 2021), https://www.cato.org/publications/policy-analysis/h-2b-visas-complex-process-nonagricultural-employers-hire-guest-workers.

30 Emmanuel Abuelafia, Marta Ruiz-Arranz, and Giselle Del Carmen, *In the Footprints of Migrants: Perspectives and Experiences of Migrants from El Salvador, Guatemala and Honduras in the United States* (Washington, D.C.: Inter-American Development Bank, 2018), https://publications.iadb.org/publications/english/document/In-the-Footprints-of-Migrants-Perspectives-and-Experiences-of-Migrants-from-El-Salvador-Guatemala-and-Honduras-in-the-United-States.pdf; Anita Isaacs and Jorge Morales Toj, "Guatemala Is America's Best Chance to Fix the Immigration Problem," *The New York Times,* June 7, 2021, https://www.nytimes.com/2021/06/07/opinion/kamala-harris-guatemala.html.

31 Congressional Research Service, *H-2A and H-2B Temporary Worker Visas: Policy and Related Issues,* R44849, 9 June 2020, https://sgp.fas.org/crs/homesec/R44849.pdf.

32 U.S. Department of Homeland Security Customs and Border Protection, *Fiscal Year 2020 Entry/Exit Overstay Report* (Washington, D.C.: U.S. Department of Homeland Security, 2021), https://www.dhs.gov/sites/default/files/2021-12/CBP%20-%20FY%202020%20Entry%20Exit%20Overstay%20Report_0.pdf.

33 "For First Time, DHS to Supplement H-2B Cap with Additional Visas in First Half of Fiscal Year," U.S. Department of Homeland Security, last modified January 31, 2022, https://www.dhs.gov/news/2021/12/20/first-time-dhs-supplement-h-2b-cap-additional-visas-first-half-fiscal-year.

level of diversification among the nationalities of H-2B visa holders.

Labor law. The U.S. Department of Labor can require H-2 petitioning employers to submit evidence of ethical recruitment with each petition, similar to the requirements of a Labor Certification Application. Further, the agency could make regular consular visits to worksites compulsory, bar H-2 employers that have previously been on debarment lists, and require proof of compliance from any potential employee, ensuring that they will adhere to the validity period of their stay.

Recruitment certification. The U.S. Consulates could also make access to the H-2B cap-exempt visas contingent on the completion of a certification program that would certify that employers and recruiters engage in safe recruitment at the firm-level.[34] Firms that successfully complete the certification process, which can also require compliance with regulations in the countries of origin, would be eligible for the cap exemption, as well as associated fee waivers.

Returns to Countries of Origin. The U.S. Agency for International Development can make important changes to ensure returns on development while visa holders are in their country of origin during the off-season. In coordination with U.S. Consulates, service providers can offer programming to visa holders that can serve to guarantee training or employment placement upon return, disseminate newly acquired human capital in municipalities of origin, and ensure that the benefits and rules of the program are properly communicated at the community level.

U.S. policymakers should also work with the labor and foreign ministries in Guatemala, El Salvador, and Honduras to promote safe recruitment in countries of origin and compliance with labor law in the United States. Policy considerations include:

The respective Ministries of Labor could report to the U.S. Department of Labor regarding the compliance of recruiters and employers with U.S. law and the laws in countries of origin.[35] This reporting can help the U.S. agency determine employers' eligibility for the H-2B cap exempt visas, providing another layer of review to ensure employers are in compliance.

The governments of the United States, Guatemala, El Salvador, and Honduras, as well as organizations such as the IOM and ILO, could provide comprehensive "know your rights" training to H-2 visa holders to ensure workers know which practices constitute legal violations.

The U.S. Department of Labor could create a platform through which consular staff from the three countries can report labor concerns during regular visits to H-2B worksites in the United States,[36] including a forum to share best practices with NGOs and other stakeholders.

Conclusion

This essay has shown how the H-2B program may offer a regular alternative to irregular migration. U.S. policymakers and their Central American counterparts are strongly considering this legal channel as they attempt to manage irregular migration from the region. While the United States often considers immigration solely as a domestic policy issue, the scope and complexity of the newest forms of irregular immigration vastly exceed the capacity of solely one government

to address these challenges. Immigration is an intermestic policy area that requires regional and hemispheric cooperation.

The policies discussed herein pose several governance challenges, which the governments of the United States, Mexico, Guatemala, El Salvador, and Honduras have just begun to address. As these nationality-specific allotments continue to roll out, it will be vital that the responsible policymakers properly evaluate their programming. The implementation of nationality-specific labor visa allocations, if seeking to reduce irregular migration, should include a causal evaluation of irregular migration from the regions where H-2B visa holders originate. Evaluations of poverty impact from these temporary visas should also be considered; researchers at Stanford University have already begun such a study in Mexico.[37] If policymakers would truly like to address the hemisphere's migration challenges, further research on legal pathways—and the impacts they had and will continue to have—must be considered. Only by clearly establishing the relationship between regular visas and irregular pathways can such policy discussions progress.

34 The U.S. government can create the program with input from safe recruitment stakeholders such as CIERTO Global, Stronger Together, the International Labor Organization (ILO), and IOM, which has released general principles and good practices for ethical recruitment. The ILO and/or IOM could design and manage the certification process, which may incorporate the IOM's IRIS voluntary certification scheme for this program (see more here: "IRIS Voluntary Certification Scheme," International Organization for Migration, https://iris.iom.int/iris-voluntary-certification-scheme.

35 The Honduran government currently requires foreign recruiters that want to contract large numbers of Honduran workers to register with the agency that oversees these recruiters. The Honduran government also prioritizes working with employers through its referral program to mitigate the actions of unscrupulous employers and recruiters. Guatemala is currently crafting a law that would require foreign labor recruiters to register with the ministry, which will oversee their activities. Honduran Secretariat of Labor and Social Welfare Official, interview with the author, May 19, 2021 and Guatemalan Ministry of Labor and Social Welfare Official, email message to author, November 17, 2021.

36 The origin country governments currently conduct these visits to register complaints from their nationals working in the H-2 program. Honduran consulate staff must visit workers at least once during their stay in the United States to determine if they have problems with their employer. The Guatemalan government has similar requirements for its consulate staff as well. Ramón, *Investing in Alternative Pathways*, 7; Guatemalan Ministry of Labor and Social Welfare Official, email message to author.

37 Beatriz Magaloni and Melanie Morten, "Immigration Law as Development Policy: Mexican Guestworkers and the H-2A Visa Program." Work in Progress.

Dominican Racism and the Contestation of Citizenship

Patrick Sylvain

Citizenship has always been a fraught issue in the Caribbean. Unfortunately, one of the dominant socio-political attributes of Caribbean countries/colonies has been dependence linked to economic production and consumption. Following the conquest of Christopher Columbus in 1492, European settlers transformed the region by establishing large agricultural estates known as plantations, the sites where Black bodies were egregiously exploited. Historically, the total exploitation of Black people has been linked to agricultural production and the demand for commodities such as sugar, cocoa, and consumable fruit by Europe and the United States. Even with their independence from European countries, Caribbean nations, for the most part, have reproduced European color-based social hierarchies. Hence, Blacks remain the ample supply of reserved muscle, or cheap labor. As labor circulates, policies are put in place to prevent the mobility of these laborers deemed exploitable and expendable. Through clever statecrafts, citizenship and representative rights tend to be the mechanisms by which the reserved muscles of certain laborers are controlled. In the Dominican Republic (D.R.), Haitians are the reserved muscles. Yet, their presence, or mobility, on Dominican soil is heavily policed and their human rights are often violated.

After many years of controlling the movement of Haitian itinerant laborers, thousands of Dominicans with Haitian ancestry have been systematically and procedurally denied citizenship and expelled to Haiti without due process. Some Dominicans with Haitian ancestry live in the Dominican Republic without status of citizenship, in violation of their rights as people born within the boundaries of a sovereign state (that happens to be a signatory member to the United Nations

charter on Human Rights). After the carnage of World War II that exposed the moral degeneracy of certain humans in power, several nations propelled their leaders to organize an international political and legal order aimed at protecting human rights. After 1945, with the establishment of the United Nations and its commonly embraced legal Charter, nation-state members (including Haiti and the Dominican Republic), agreed to Article 1 (3) of the UN Charter whose principal aim is that of "promoting and encouraging [the] respect of human rights and fundamental freedoms for all without disrespect as to race, sex, language, or religion." This Article, albeit important, is vacuous for Haitians and a large portion of Dominicans with Haitian descent.

In this paper, the concept of human rights as situated within theories of colonial subjects and intimate violence will be discussed to contextualize the current conflict between Dominican Republic and Haiti. The topic of citizenship is a vigorously debated issue in law, philosophy, and the social sciences. It is a fundamental issue among the charters of the United Nations concerning human rights. For example, Article 29 of the Universal Declaration of Human Rights, section 3, stipulates that these "rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations." This paper examines the Haitian-Dominican conflict by looking at Sonia Pierre's record of human rights and citizenship activism. Another important figure that will be considered is Juliana Deguis Pierre, who spearheaded the challenge for citizenship against the Dominican constitutional court. Additionally, central to this discussion is the contextualization of the particularities of Dominican racism within a Europhilic and capitalist modality, as

well as its aesthetic, religious, and social cultural impacts. These serve as formative elements in the demarcation of a people who occupy the same landmass on the island of Hispaniola. At the paper's conclusion, I make recommendations for mitigating this conflict, in light of its worsening conditions as conservative nationalists occupy key political posts and have a strong presence in social media.

A Brief Colonial History

The Island of Hispaniola, "La Isla Española", received its name as the first colony conquered by Christopher Columbus and settled by Spain in 1492. Since its early positioning as the seat of Western political conquest and a forward base of operation to the rest of the greater Americas, individual rights have been systematically violated as well as a point of contention. In a 1544 journal entry, Christopher Columbus wrote:

> "...an effort will be made to make all these peoples Christian, for that will be easily achieved, since they have no creed or idolaters. And Your Highness will command that in these parts a city and fortress be established, and these lands will be converted."[1]

Columbus' violent imposition of Christianity upon the native Taino people was mostly concurrent with the enslavement of Africans who were forced to accept Christianity upon their arrival to the island in 1503. Throughout the New World, within the colonial as well as the current context, race and religion have qualified in the subjugation of human beings. For example, Juan Ginés Sepulveda, an official historian for the Spanish Royal Court, advocated war against 'devil worshipers and barbarians'. For instance, in his collected writings *In Defense of the Indians*, Bartolomé de las Casas remarks: "violent measures and whatever is probably helpful

should be tried, so that heretics and pagans may acknowledge their error, come to their senses, and thus ask for baptism of their own accord, as many of these Indians did when moved by violence and force of war."[2] This history may seem distant, but the ideologies deployed in the early colonial era around race and religion have had lasting impacts with respect to the current conflict on the island and throughout the Americas.

As a result of the harsh and violent treatment of the indigenous peoples of Hispaniola, by 1548 the Taino population dwindled from over one million inhabitants to less than 500. Increasingly, African slave labor satisfied the Europeans' need to meet demands for sugarcane and other agricultural productions, which led to the systematic racialization of political discourse and practice by 1520. Wars between colonial powers in the New World determined the material control of land and goods, which included Black people as property. Hence, in 1697, when the Treaty of Ryswick was signed between Spain and France, as Spain ceded the Western third of Hispaniola to France, a recognition of differentiated phenotypes emerged, giving birth to a new form of color and affiliative politics. Unfortunately, this colonial arrangement persists.

By 1800, although Spain and France controlled the island of Hispaniola, each colony would follow very different paths: Saint-Domingue was French speaking, with an affluent *Creole* class and large enslaved African population, while Santo-Domingo, was Spanish speaking, with a large mixed-race population and powerful aristocracy. The latter was still linked to Spain, and by this point, had largely halted its practice of slavery, or at least practiced a milder version in comparison to Saint-Domingue. With the intensification of violence against the enslaved people of Saint-Domingue came a massive insurrection that eventually led to a successful revolution. After a treaty was signed to nominally give France control of the entire island in 1796, Francois-Dominique Toussaint Louverture, a general in the colonial army, assumed control of the entire island. Black

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1 Christopher Columbus, *The Journal of Christopher Columbus*, trans. Cecile Jane (New York: Clarkson N. Porter, 1960) 76-7.

2 Bartolomé De Las Casas, *In Defense of the Indians*, trans. Stafford Poole, C.M. (DeKalb: Northern Illinois University Press, 1992), 15.

leaders were now in charge of a segregated island.

From 1804, the year of Haiti's (Saint-Domingue's) independence, to about 1916, the United States militarily occupied both the Dominican Republic and Haiti. Spanish loyalists in the Dominican Republic, who had no desire to live under French or Haitian rule, sought foreign assistance from the United States hoping to restore Spain's sovereignty. In 1795, after the treaty of Basel was signed between Spain and France, the island was unified for the first time, despite the resistance of Spanish loyalists. Meanwhile, Saint Domingue, under the leadership of General Toussaint L'Ouverture, abolished slavery in 1801. L'Ouverture then embarked on a quest to consolidate power with two goals in mind: the abolishment of slavery and the application of the signed Treaty of Basel (which gave Santo Domingo to France). In 1802, Toussaint L'Ouverture was arrested following an act of betrayal and this opened the way for Jean-Jacques Dessalines in 1804 to lead the mostly Black Haitian army to defeat the French and occupy the entire island.

Following France's defeat in Haiti and its several failed attempts at re-establishing slavery in the eastern part of the island, France ceded Santo Domingo back to Spain by reversing the Treaty of Basel in 1809. Things remained unsettled for a number of years as the occupation by Dessalines' army caused white colonizers and the mixed ruling class of Santo Domingo to panic. Eventually, after years of administrative mismanagement and an overall lack of interest in Santo Domingo, Spain finally granted the colony its independence in 1821. One year later, Haiti formally occupied the Dominican Republic militarily and administratively for twenty-two years (1822-1844). The Haitian occupation of the Dominican Republic proved to be costly, and racial and cultural animosities ensued between the two countries. Haiti, at this time endured significant economic, political, and administrative challenges, as well as a massive earthquake in 1842. After only 17 years of independence, Santo-Domingo re-established Spanish rule (1861-1865).

In the next century, under U.S. occupation, racial and religious supremacy was accorded to the Spaniard royalists, who wanted to eliminate the African (Haitian) presence from the land. It wasn't until 1929, that an exact boundary of the territories, mediated by the United States, was marked. With border demarcations came further distinctions and disputes. American racial politics administratively reverberated throughout the island, and in the process, the Dominican Republic became the favored nation as peasant lands were converted into private holdings by American-based sugar companies. By May of 1930, after a military coup, General Trujillo became the United States' chosen dictator. Under the titular power of the presidency, President Trujillo aligned the D.R.'s interests with those of the United States by increasing sugar production. Unfortunately, the Haitian peasants, descendants of enslaved people, bore the brunt of this new racial and economic alignment. According to Ronald Fernandez, the "peasant suffered as American officials killed some, taxed the rest, and despised all with black skin."[3] The American occupation resulted in the commodification of black Haitian labor in a way that mirrored the context of the Antebellum U.S. South. Haiti was increasingly regarded as a supplier of exploited labor in the master-servant culture, with its inhabitants characterized as culturally backward.

Dominican Republic and the Allure of Whiteness

On December 18, 1918, during the United States' guardianship of the Dominican Republic and just two years after the implementation of full military occupation of both Haiti and the D.R., Rafael L. Trujillo Molina consciously wrote "white" as his color (race) on his military enlistment record. Trujillo's choice signals his penchant for whiteness as well as a psychological disposition to distance himself from blackness (or any other racial category that existed in the Dominican Republic). Born in relative poverty in San Cristóbal on October 24, 1891, Rafael Trujillo could recognize who wielded power.

According to historian Valentina Peguero, "[a]s a young man Trujillo dreamed of being a soldier, and he had the skills, talent, and will to accomplish this goal."[4] In 1916, Trujillo worked as a security guard at the American-owned Boca Chica Sugar Mill, where he witnessed the dehumanization of Haitians and the validation of white power. A year later, Trujillo enlisted into the U.S. created Dominican Constabulatory Guard, known as La Guardia, and befriended a few American officers. As Peguero further remarks, after the Marines left, Trujillo "honored both both the organization and instructors by naming the east side of Avenida George Washington 'U.S. Marine Corps.'"[5] Very early on, Rafael Trujillo understood the primordiality of racism within the context of structural power. As the sociologist Adam Michel maintains, "racism can be globally understood as essentialism, if it manifests everywhere through a behavior of exclusion and objectification of a collective as 'other', and despite its diverse manifestations there seems to be a particular relational order" (Sylvain's translation).[6] In other words, race can be and often is deployed as a mode of consensus building and alignment formation within a particular hegemonic regime. This was especially true in the Dominican Republic since President Trujillo established a racialized ideology aligned with whiteness that doggedly persists to this day.

Within the orbit of 'normative' whiteness, it may be surprising to some that a society comprised mainly of Black and mixed-race individuals could develop a contempt for Blackness. Anti-Haitianism, known in Spanish as *antihaitainismo*, which is a particular form of racism that tends to find in Haitians a loathsome presence due to their outward manifestations of their supposed Africanness (the Vodoun religion is a major factor). Hence, in the Dominican context, this anti-Haitianism manifests itself through aggressive Europhilic projects that the

Dominican state embraces. Started in the 1930s and continuing to this day, The Dominican Republic pursued a pro-European migratory policy that seeks to lighten its demography. Thus, within the enclosure of Eurocentric power dynamics Haitians became the antithesis of the wanted and are therefore tactically quarantine from the enlarged realm of citizenship that seeks to accommodate Westerners to its demographic spaces. Anti-Haitianism seems to be welded in the Dominican nationalistic attitudes, as well as in their ways of thinking that the Haitian culture is African-derived and therefore is inherently "barbaric" and "primitive." As the historian and Caribbean scholar, Teresita Martínez-Vergne poignantly observes, with the eugenics movement afoot and the United States establishing its imperial imprints in the region at the time, "the North American giant provided a powerful incentive for the Dominican intelligentsia to align itself with its Hispanic roots, claiming whiteness and cultural proximity to Europe and juxtaposing its experience to that of nearby islands, which they labeled as black, African, and pagan."[7]

Since 1492, after the Spaniards' conquest of the branded "new world"—the Americas—violence has occurred along racialized and religious lines. This has been a by-product of the pilfering of property, repossession of land, and the rendering of the body as *other* for exploitative labor production. "Racist ideologies," as the literary critic and theorist Ania Loomba asserts, "identified different sections of people as intrinsically or biologically suited for particular tasks."[8] Post 1492, Western mercantilist or capitalist ventures have anchored their relations in a pretext of "trade," yet in reality, European powers have always acquired other countries' material resources to serve as the repositories of their national wealth. On the island of Hispaniola, sugarcane or "white gold" developed into the ultimate repository of European wealth, and black bodies became the machines of production

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3 Ronald Fernandez, *Cruising the Caribbean: U.S. Influence and Intervention in the Twentieth Century* (Monroe: Common Courage Press, 1994), 123.

4 Valentina Peguero, *The Militarization of Culture in the Dominican Republic, from the Captains General to General Trujillo* (Lincoln: The University of Nebraska Press, 2004), 59.

5 Ibid.

6 Adam Michel, "Racisme et Catégorie du Genre Humain," *L'Homme* 24, no. 2 (1984): 77.

7 Teresita Martínez-Vergne, *Nation & Citizen in the Dominican Republic, 1880-1916* (Chapel Hill: University of North Carolina Press, 2005), 169.

8 Ania Loomba, *Colonialism / Postcolonialism* (London: Routledge, 2005), 108.

that slavery produced and guaranteed. Since objectification of black bodies has been a normative practice since the institutionalization of the trans-Atlantic plantation slavery, it is not at all a surprise that phenotypical differentiations would be weaponized to the point of devolving into racialized violence and inhumane practices of exclusions within the realm of polity.

In the capitalistic mode of wealth accumulation, power remains entrenched in the dynamics of economic hegemony. Therefore, colonization or neo-colonization remain paramount within humans' racialized hierarchical relations. With the revitalization of the plantation economy under the first official United States occupation (1916-1924), the Dominican Republic populated its sugarcane plantations with Haitian workers—most of them housed in shacks reminiscent of slave cabins—and held within a plantocratic hole where they do not legally exist since they did not enter the country through "legal" migratory procedures since the occupation. The United States, as a neo-colonial and imperial power, just like the European colonial regimes in Africa and Asia, has instilled, as Loomba proclaims, "not only entrenched divisions between the native population, but also used particular 'races' to fill specific occupations such as agricultural workers, soldiers, miners, or domestic servants."[9] Within a few years of the U.S. occupation, as plantations expanded in the D.R. through land seizures and other forms of coercion, migration from Haiti also increased. According to Martínez-Vergne, by 1917, companies were sending agents to the western part of the island to supply the needs of U.S. owned sugar mills. She further claims that, by 1919 ten thousand of the fourteen thousand wage workers in the sugar industry were Haitian.[10]

The Dominican Republic's sugar industry thrives on Haitian itinerant workers who are deemed to be of extremely low value—since they are viewed as expendable and disposable—an echo from plantation slavery. Such is the heritage of colonization, the wearing out of millions of blacks in the fields—the steering of thousands

of so-called "free" Haitians toward psychological traumas that kept them contained in slave-like conditions on sugar plantations known as *bateys*. *Bateys* are confined enclosures within the boundaries of the plantations that became at once places of intimacy and sociopolitical and cultural violence. Despite the anticipation of hardship and physical violence, Haitians maintain their migratory route to the Dominican Republic to escape economic hardship and socio-political violence in Haiti. Their impoverished status heightened their precarity. They toil perilously as laborers in the sugarcane fields, an experience that has molded their socio-cultural identity in the D.R. As the ethnographer Samuel Martínez cogently remarks, "Haitian men in the tens of thousands came to consider the offer of meager wages for backbreaking work attractive enough to risk injury or death by emigrating as cane workers to Cuba and the Dominican Republic."[11] Under president Trujillo's industrialization campaign, sugar became the country's primary export, and the sugar industry was befitted for Dominican Republic's development. However, as the Dominican economy expanded, and as the number of "Dominican" children of Haitian parentage grew, the state systematically refuses to properly confer citizenship. Dominican citizenship functions beyond the legal status of state-conferred rights; it functions as a set of obligations constructed to shape Dominicans into an idealized national form linked to imagined and projected "European roots, while neutralizing the African influences that [were] obtained on Dominican soil."[12] Dominican citizenship is enveloped in a subliminal whiteness that is expressed in idealized versions of *Dominicanidad* as an imagined unclassifiable race, "but undoubtedly conceived as more white than black, as befit the heir to the country's future."[13]

It is understood that racism manifests itself in different modalities. Étienne Balibar affirms that "*colonial racism*, which implied the division of humanity into 'superior' and 'inferior', or 'civilized' and 'barbarian' races [as well as] *prejudice based on skin color* related to segregation or the institution of *apartheid* in post-colonial societies that assigned inferior status to descendants of slaves."[14] However, what characterizes Dominican racism is the fact that its main supporters who embraced the theses of European racism at the end of the 19th century (the supposed biological inferiority of the Negro, his inability to govern, etc.), are themselves descendants of blacks and enslaved people. This is a remarkable paradox. Nevertheless, when one considers the fluidity of racist ideology—its great force of propagation, its subtlety and its power of reproduction—it should not be surprising that it has permeated the collective imagination of a people, or that it pushes one group of people to see in another people the absolute foreigner (despite resembling each other on so many different points) and the ultimate representatives of a barbarous and retrograde race. "Knowing full well that the legacy of Africa flowed in their blood," Martínez-Vergne asserts, "Dominicans declared themselves superior, by virtue of their role, to the West Indian and Haitian immigrants who crossed their borders."[15]

Confined Workers and Denied Citizenship

Since the 1920s, Haitians have migrated to work in the Dominican Republic and have been compelled to cross the border to harvest the large sugar plantations. Haitians were—and some still are—abysmally paid and worked under atrocious conditions as cane cutters. As migrant workers, they lived in barrack settlements on the *bateys*, and after the harvest seasons, many were returned to Haiti. Over the years, a growing number stayed (some were forcefully kept) in those *bateys* and had children born in the Dominican Republic, who had to remain within the confines of the large

sugar plantations. As Lorgia García-Peña reminds us, from 1916 to 1924, during the US military occupation of the D.R., American corporations introduced, "the concept of border patrol and [they] implemented the bracero labor system that brought cheap Haitian labor to cut cane in the US-owned sugar corporations."[16] Regrettably, through various forms of administrative procedures, many of the children of the Haitian migrant workers were never regularized or counted as citizens, therefore, remained paperless in the land of their births. Consequently, as a nationalistic fervor rose over the years, Haitians and Haitian-Dominicans were forcefully deported to Haiti or arbitrarily killed. After a constitutional court ruling (168/13) in 2013, over 250,000 Dominicans of Haitian descent and about 300,000 Haitians became subject to deportation and arbitrary violence through extra-legal practices.

Juliana Deguis Pierre and Citizenship Conflict

On March 24, 2014, Juliana Deguis Pierre walked into the Passport Headquarters at the airport in Santo Domingo requesting her travel documents. She was seeking to attach her U.S. Department of State humanitarian visa so that she could participate in the thematic hearing on the Inter-American Commission on Human Rights (IACHR). According to the *Diaro Libre*, Juliana Deguis Pierre arrived at the passport office with journalists and lawyers. The Director of the Dominican Republic's Passport Headquarters, Mrs. Iris Guaba, claimed that Pierre did not make "a formal request that I can see." Without proper documents, Dominican born Juliana Deguis Pierre could not leave the country, and was accused by the government of being a pawn in the international plot against the nation. Deguis Pierre did not make it to the IACHR to denounce the highly controversial ruling of September 2013, which denies nationality to persons born in the D.R. by undocumented foreign parents. However, through her case, the world became aware that the constitutional right to nationality does not apply in the Dominican Republic. The 2013 law (168-13), based on a

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9 Ibid, 85.

10 Martínez-Vergne, *Nation & Citizen in the Dominican Republic, 1880-1916*, 94.

11 Samuel Martinez, *Peripheral Migrants: Haitians and Dominican Republic Sugar Plantations* (Knoxville: University of Tennessee Press, 1995), 57.

12 Martínez-Vergne, *Nation & Citizen in the Dominican Republic, 1880-1916*, 54.

13 Ibid., 21.

14 Étienne Balibar, "La Construction du Racisme," *Actuel Marx* 38, no. 2 (2005): 11.

15 Martínez-Vergne, *Nation & Citizen in the Dominican Republic, 1880-1916*, 23.

16 Lorgia García-Peña, *The Borders of Dominicanidad* (Durham: Duke University Press, 2016), 207.

constitutional birthright predicated on blood instead of territory, differs from laws of most countries around the world. In most parts of the world, birth on a national territory is grounds for citizenship and constitutional rights. The 2013 constitutional ruling, known as *La Sentencia*, "is part of the troublesome history of Hispanophile anti-Haitianism institutionalized during the Trujillo regime."[17] The right to citizenship is frequently denied in practice to Haitian-Dominicans who are confined in the *bateys*. Even though there is a large group of Dominicans of Haitian descent who identify themselves as Dominicans, with perhaps residual links to Haiti, and in many cases do not speak Haitian Kreyol, the Dominican authorities continue to regard them as foreign nationals who are subject to deportation.

Human Rights Violations and Sonia Pierre's Activism

Sonia Pierre was born in 1963. By the time she was fourteen years old, she organized her first rally against labor abuse in the *bateys* and staged a five-day protest to change the inhumane conditions of the rural migrant camps where Haitians and Haitian-Dominicans lived and worked. Sonia was eventually arrested, but her incarceration generated ample publicity so that some of her demands were eventually met and she subsequently became a voice for the ill-treated workers.

Sonia Pierre was a strong advocate for Haitian descendants' rights in the Dominican Republic. She was born Solange Pierre in a *batey* in Villa Altagracia, San Cristóbal. She, like thousands of others, was born in the Dominican Republic, but her right to citizenship was denied on the grounds that her parents were illegal workers. Pierre's nationality was questioned because she had a birth certificate that erroneously listed her name as Solain Pie (a clear clerical mistake by the government clerk in a town with an extremely low literacy rate). According to Jasmine Huggins, "Civil registrars claimed that her own migrant parents were illegal residents and that her birth

documents had been forged."[18] Thus, Sonia Pierre felt obliged to not only fight for her right to citizenship, but also for those who found themselves in similar situations, as the Dominican government kept implementing laws to keep the large population of Haitian descendants paperless or at least precluded from accessing the required national ID card.

The Dominican Republic's ID card, known as the *Cédula*, is one of the most important documents for any individual residing in that country. It is both a national ID as well as a voting card issued by the national office of *Junta Central Electoral* (JCE). It is the card that legally recognizes one's citizenship, military, and religious status. In verifying the holder's status, the *Cédula* is the identifiable marker. The *Cédula* is constantly changing so that the Dominican government can control its security. Since 2005, the *Cédula* has served as a biometric card that employs advanced codifying data structures to recognize human faces. Consequently, without the *Cédula* one does not legally exist.

In 1983, Sonia formed the organization, Movement for Dominican Women of Haitian Descent (MUDHA), which aims to combat anti-Haitian discrimination and sexism through advocacy, and to establish educational programming, family planning, and a health center. As Dominican officials became more reactionary in their refusal to grant full citizenship to children of Haitian migrants, Sonia became more determined to expose the systemic violation of rights. One example of that exposure is highlighted in Jasmine Huggins' note in The Guardian:

> "In 2001, MUDHA and two
> US law firms presented the
> case Yean and Bosico v the
> Dominican government to
> the Inter-American Court of
> Human Rights. In 2005, the
> court found that the government
> had discriminated against

two Dominican-born girls of Haitian descent by failing to provide them with birth certificates on grounds of their Haitian ethnicity. This was a landmark ruling which called for governmental reparations and an apology to the girls. The Dominican supreme court later rejected the ruling."[19]

Despite the numerous honors and awards that Sonia Pierre received in her fight to extend citizenship to Dominicans of Haitian descent, she and her family inevitably became targets. Pierre was beaten, spat on, forced into hiding, and yet, until her death, she maintained a strong relationship with her nation despite being a staunch critic of the government that obsessed over finding ways to eliminate the presence of Haitians and their descendants. For activists like Sonia Pierre, the legal fight for citizenship rights and proper recognition by the state concerning the ongoing conflict was always a way preventing various forms of violence against individuals who are deemed non-existent like the:

> "...nine-year-old girl [of Haitian]
> descent who was raped, tortured,
> and killed last month. The
> murderer was set free in this
> case...[because] the prosecutors
> in that district said that the girl
> didn't exist. She didn't exist
> because she didn't have a birth
> certificate. And this is what they
> are doing with thousands of us,
> those of us who used to exist.
> We are being erased as human
> beings."[20]

Certainly, every country has the right to control its borders and establish a judicially normative social order that does not infringe upon individual rights. However, it is clear that through the

policies aimed at denying citizenship to Haitian descendants born on Dominican soil, the DR has failed to uphold its responsibilities as a member of the United Nations and the Organization of American States.

After Sonia Pierre died of a heart attack on December 4, 2011, at the age of 48, the Dominican Republic no longer had an internationally recognized human rights advocate who would be filing court cases against the government. As a result, the D.R. Judicial branch rendered close to 50,000 Haitians and Dominicans of Haitian descent as stateless or simply non-existent. The 168-13 ruling became a direct law for racial exclusion that mirrored colonial exclusions of people of color from gaining citizenship rights.

The Constitutional Court Ruling 168-13 is a law that seeks to erase the presence of human beings deemed undesirable as members of the nation. As Jack Donnelly writes in his book *Universal Human Rights: in Theory & Practice*, "a human rights conception of human dignity and political legitimacy rests on the fact that human beings have an essential, irreducible moral worth and dignity independent of the social groups to which they belong and the social roles that they occupy."[21] The state, as a legal and political organization, is the protector and guarantor of rights, and therefore has the power to necessitate loyalty and obedience from its citizens to build a community of people whose members are bound by a common culture, a sense of national solidarity and a heightened awareness of the nation as an entity. However, despite the need for the state to protect its interests and citizens, Winston Langley reminds us of the "principle of nondiscrimination" which states that:

> "every citizen has the right to
> participate in the government
> of her or his country, without
> restriction as to race, color, sex,
> language, political or other
> opinion, national or social origin,

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17 Ibid., 204.

18 Jasmine Huggins, "Sonia Pierre Obituary," *The Guardian*, January 20, 2012, https://www.theguardian.com/world/2012/jan/20/sonia-pierre-obituary.

19 Ibid.

20 Cecily Martin Scott, "Sonia Pierre and Dominicans of Haitian Descent: "We are Being Erased as Human Beings," *Latin America Working Group*, February 16, 2012, https://www.lawg.org/sonia-pierre-and-dominicans-of-haitian-descent-we-are-being-erased-as-human-beings/.

21 Jack Donnelly, *Universal Human Rights: in Theory & Practice* (Ithaca: Cornell University Press, 2003), 27.

property, birth or other status. It also states that restrictions on any other ground must be reasonable."[22]

Paradoxically, from the Dominican Republic's points of view, as succinctly presented by Gerald F. Murray's whitepaper titled, *Dominican-Haitian Racial and Ethnic Perception and Sentiments: Mutual adaptations mutual tensions, mutual anxieties*, argues:

"From the point of view of the local Dominicans the Haitian presence, particularly in its initial stages, is a valued source of field labor that will work for lower wages. But in the eyes of the national media this demographic replacement is construed in the military idiom of invasion. ...Because the term invasion does have a connotation of aggression or even of violence, the phrase "peaceful insertion" might be a more appropriate label to describe the economic and social situation of Haitians in the Dominican Republic. ...I have heard among Dominicans of all social strata allusions to a presumed international plot to solve the "Haitian problem" by unifying the island under one government. More frequently, however, the accusation is that the outside world is expecting the Dominicans to solve the problems of Haiti. ...Perhaps the most frequently mentioned fear of Dominicans concerns the increasing "takeover" of many economic niches, including lower level urban niches, by Haitians. They now dominate

rural agricultural field labor and urban construction sites all over the country."[23]

Whether Gerald Murray replaces the word "invasion" for "insertion", he is nevertheless negating the major factor, which is the systematic denial of citizenship to one sector of the population, namely descendants of Black Haitians (*Haitiano*) who were kept paperless in the *Bateys*. García-Peña correctly remarks that the "conflation of Haitiano has two equally pervasive results: the symbolic and civic exclusion of ethnic Haitians from the nation, and the perpetuation of the notion of the Dominican Republic as a monolithic Hispanic nation."[24]

What is Culture? What role is culture playing in disallowing Citizenship?

Culture as an organized system is performative; therefore, whatever is performed and judged will be ranked in one fashion or another. Rankings of the performative culture might range between "high" and "low", "primitive" and "advanced", or "civilized" and "uncivilized", implying that a form of political thinking, or development of ideology has taken place. As the cultural anthropologists Marcel Danesi and Paul Perron indicate:

"the question of what is culture is hardly a trivial one. To understand human nature is to unravel the *raison d'être* of culture. Although interest in culture is as old as human history, the first *scientific* definition of culture had to await the nineteenth century, when the British anthropologist Edward B. Taylor defined it in his 1871 book *Primitive Culture* as 'a complex whole including

knowledge, belief, art, morals, law, custom, and any other capability or habit acquired by human beings as members of a society.' Taylor's definition was also one of the first ever to differentiate qualitatively between *culture* and *society*."[25]

Marcel Danesi and Paul Perron are correct, the notion of culture is not a trivial one, and as societies erect borders, they are involved in acts of conscious planning, modifying the environment and constructing "communally-established systems of ethics."[26] In the manifestations of social life, religious affiliation becomes part of the habits of association that embellish senses of belonging and the process of survival. Hence, social order and exclusionary politics enter the habits of association as well as "communally-established systems".

In order to form distinction and commonality, a nation or a social group must share familiar rituals certain practices that are embodied by repeated actions that grow to become embraced. Culture is argued to be a complex of symbols and pursued aesthetic values through "*representations* of the collective *persona*," while the nation, according to Danesi and Perron, forms a "problematic" notion where people "experience national sentiments only in relation to some specific situation that they feel unites them in an abstract way."[27] The Dominican Republic as a nation is culturally distinct from Haiti. Dominicans see themselves as Roman Apostolic Christians with a strong Spanish heritage, and with institutional values based on respect for the nation; whereas, Dominicans perceived Haitians to be Africans with anti-Christian values and practices. They see Haiti as being chaotic, poor, linguistically different, and therefore culturally incompatible with their historical heritage. Certainly, the aesthetic values and interests of these two nations logically differ given the effects of their colonial histories and complicated interactions.

As the anthropologist Sydney Mintz reminds us, "the so-called peculiar institution of slavery was so critical in human history that it is also worth asking what it may signify for a general theory of human culture."[28] It is the peculiar institution of slavery (supplemented by U.S. intervention) that has been responsible for the maintenance of the plantation system in Haiti and in the D.R. over time. This legacy has been upheld by Dominicans' expressions of fear of imminent invasion by Haitians to destroy their Spanish heritage, Christian worldview, and relative economic prosperity—all part of the constructed social order of formed habits of beliefs and associations.

In the Dominican Republic's constructed social order, Haitians are the obstacle to be removed, and as Michele Wucker keenly observes:

"Especially during time of conflict, Dominicans and Haitians have drawn lines clearly establishing divisions between groups, delineated by race, culture, language, and nationality (...). These divisions have been played out in the form of the island's tragic history and have been fortified by cultural myths and competing versions of history. Like the dual nature of aggression itself, these stories have the power to sustain or destroy; often they do both simultaneously."[29]

Despite the abolition of slavery (with Haiti being the first modern state to have broken the yoke of slavery), the plantation economy of the D.R. reproduced similar cultural practices to the colonial plantation system. Within this system, an organic development of modern capitalists in conjunction with the Dominican

22 Winston E. Langley, *Encyclopedia of Human Rights Issues Since 1945* (Westport, CT: Greenwood Press, 1999), 99-100.

23 Gerald F. Murray, "Dominican-Haitian Racial and Ethnic Perception and Sentiments: Mutual Adaptations Mutual Tensions, Mutual Anxieties," *Pan-American Development Foundation*, May 24, 2010, 27, http://users.clas.ufl.edu/murray/Research/Dominican_Republic/Dominican_Haitian_Perceptions.pdf.

24 García-Peña, *The Borders of Dominicanidad*, 204.

25 Marcel Danesi and Paul Perron, *Analyzing Cultures: An Introduction and Handbook* (Bloomington: Indiana University Press of Florida, 1999), 3.

26 Ibid.

27 Ibid., 27.

28 Sydney W. Mintz, *Three Ancient Colonies: Caribbean Themes and Variations* (Cambridge: Harvard University Press, 2010), 14.

29 Michele Wucker, *Why The Cocks Fight: Dominicans, Haitians and the Struggle for Hispaniola* (New York: Hill and Wang, 1999), 239.

state devised their own brand of bondage to maintain and control the flow of extremely low-skilled "kept" laborers who were confined to the *bateys*. The confinement of the Haitian workers within colonial-farm structures guaranteed a primary and constant source of subsistence labor. Once again, Lorgia García-Peña astutely posits that, "the structure of power behind anti-Haitianism materializes in the continuous exploitation erasure, and destruction of black bodies for the benefit of national and foreign corporations (such as the Vicini family, Citibank, Nike)."[30] As Haitians and their descendants remain at the bottom of society, they become the dispossessed and disposable class who is bound to the dispositions of the state and its citizens who view Haitians as easily identifiable subjects due to their phenotype, language, and musical/cultural expression. Worst of all, it is the Haitian-Dominicans' non-existent legal status in the country of their birth that makes them extremely vulnerable to finding themselves in precarious situations. According to a 1992 report by Americas Watch and National Coalition of Haitian Refugees, "this regular flow of illegal immigration has taken place over the years with the tacit consent, and often active encouragement of the Dominican government and state sugar-industry authorities."[31]

The history and culture of the Dominican Republic are rooted in Dominicans' sense of territory and their Catholicism inherited from the Spanish. They define the Dominican identity as being rooted in "la Patria" (the nation), and in Christianity; whereas they see Haiti and Haitians as being the opposite in both their values and practice, and therefore in conflict with their nation's ideal. The dominant cultural ideology in the Dominican Republic defines the nation as having one unified culture. They do not consider themselves *creoles* the way Haitians do. Most importantly, they do not see themselves as an amalgamation of subcultures.

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30 García-Peña, *The Borders of Dominicanidad*, 205.
31 Mary J. Camejo, Alejandro M. Garro and Ellen Zeisler, *A Troubled Year: Haitians in the Dominican Republic* (New York: Americas Watch and National Coalition of Haitian Refugees, 1992), 8, https://www.hrw.org/reports/pdfs/d/domnrep/domrep92o.pdf.

Haitian-Dominicans in the Current Dominican Context

The descriptor, *Haitian*, which is associated with a certain set of cultural values and history within the Americas, has in the past 30 years or so, inflicted a level of semiotic and cultural violence on the very person who is directly or indirectly

(the descendants) associated with that term. Currently, in the Dominican Republic, Haitians as a group occupy the lowest-status jobs and are currently being deported back to Haiti. Through a series of recent amendments to the Dominican Republic's constitution that have been passed without national consensus, the Dominican Liberation Party, led by President Danilo Medina, has made key moves in order for his party to gain greater national power. The legislative action of 168-13, which the Dominican Constitutional Court adopted and passed on September 23, 2013, allows the repatriation of Haitians while denying citizenship to Dominicans of Haitian descent on grounds that their parents were or had been in "transit" in the D.R. since 1929. As a result, those who may be deemed "legal residents" in the D.R. cannot be open about their ethnic identity or assert Haitian ethnic kinship for fear of being physically assaulted, wrongly deported, or even killed. Even the adjective "Black" is officially designated as a category assigned to Haitians while dark-skinned Dominicans are categorized as "Indios" or "Morenos". David Howard reminds us of the essentialism of color politics that is embedded in the construction of *Dominicanization* as the Dominican nation purges itself from *Africanization*, which is associated with Haiti:

> "Anti-Haitian sentiment is aligned with the use of the term *indiola*, which extends across all classes in Dominican society. *Indiola* is an ambiguous term, not least because the vast majority of the indigenous population of Hispaniola died or was killed within five years of Columbus' arrival. ...The Haitian massacre of 1937 has been mentioned

as part of Trujillo's 'lightening' project to distance somatically the Dominican nation from its Haitian neighbor and African ancestry. Parallel to physical violence, *indiola* was the ideological assault. Today, most official identity cards describe the color of their holder as *indiola*."[32]

Moreover, not only is the word "Haitian" systematically categorized as "other", the adjective "Black" designates existence as a permanent outsider, and a category that constitutes a threat and un-assimilability to the nation state. The legal and extra-legal threat on the Haitian body is constant. As Howard states, "Haitian and Haitian-Dominicans are regularly deported from Dominican territory by the military, regardless of the legitimacy of their presence, and the concept *dominicanización* remains a popular nationalist platform."[33]

Aside from the normal economic frictions experienced by bordering countries, the exigencies of expressed cultural supremacy by Dominicans vis-à-vis Haitians have resulted in endemic racism in the Dominican Republic. The cultural narrative exists as a portrayal of Haitians as the "out-group", as practitioners of witchcraft (Vodoun) who derive from a chaotic society ruled by magic, fear, and moral disorder. Conversely, Dominicans are characterized as rule abiding Christians, who are family oriented, and the potential victims of illegal and unruly Haitians. *Antihaitianismo*, according to the political scientist Ernesto Sagás, "is a dominant ideology designed to confuse and mislead. As a result, race is confused with nation: Haitians are black; Dominicans are indios."[34] The "us" versus "them" narrative has served as an effective

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32 David Howard, *Coloring the Nation: Race and Ethnicity in the Dominican Republic* (Oxford: Signals Books Limited, 2001), 41.
33 Ibid, 157-58.
34 Ernesto Sagás, *Race and Politics in the Dominican Republic* (Gainesville: University Press of Florida, 2000), 126.

political instrument to maintain national unity, turning fantasies into realities, and thus assuring a nationalistic (and exclusive) citizenry. Again, Sagás asserts, "it is in these deliberate confusions that *antihaitianismo* ideology thrives, and that is also why it has been so difficult to eradicate it from Dominican culture."[35]

Since the constitutional rule of September 2013, which mandates the stripping of, as well as the refusal to grant citizenship to Haitians and Dominicans of Haitian descent, over 50,000 Haitians have been deported, and an estimated 30,000 claimed to have self-deported. Lacking any legal fortitude, the Haitian government's only retaliation has been to disallow Dominican commercial goods into the country that did not enter via a commercial port. In 2015, in a race-based political rift initiated by rightwing and ultra nationalist politicians in order to garner support for the May 2016 general elections, Haitians and Dominicans of Haitian descent became legal targets. Haitian-Dominican plantation workers were especially implicated due to the fact that they were never granted citizenship, labor, or other protections under the "transitory" policy that derived from the U.S. occupation.

Many of the Jim Crow-modeled policies that gave rise to the Dominican dictator Rafaél Leonidas Trujillo (whom the United States supported) are still in effect in the Dominican Republic today. The *antihaitianismo* policy is the brainchild of Joáquin Balaguer, lawyer, Minister of Education, and a successor to Trujillo, who functioned as the intellectual agent of the anti-Haitian politics. It was Balaguer who began the "legal" deportation of Haitians in 1991. According to Americas Watch National Coalition for Haitian Refugees, following allegations of widespread fraud during the May 1990 national elections, when Juan Bosch of the Dominican Liberation Party lost to Balaguer (Social Christian Reformist Party) by 1.7 percent, the Central Electoral Authority was leaning towards an annulment of the votes when violence against Haitians erupted and the results of the elections were accepted in order to maintain stability.

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35 Ibid.

Some twenty-five years later, racial tensions and violence toward Haitians persist. Despite this, the Dominican President's approval ratings relating to his handling of the so-called "Haitian illegals" have been favorable. Dominicans rallied around their President to control the presence of Haitians in their country. Following his February 2015 speech to the National Congress, declaring the deportation of illegals (Haitians) from Dominican soil, President Medina received a robust standing ovation. Prior to and soon after the President's speech, a series of violent acts were committed against Haitians in the D.R., including the public lynching of Claude Jean-Harry, a Haitian shoeshine. On April 19, 2015, parliament agreed to further amend the constitution by allowing a president to be re-elected once.

Since February 2017, there have been a number of Haitians killed in mob attacks in towns such as San Pedro de Macoris, Pedernales, Barahona, Moca, and in Santiago de los Caballeros, where the Mayor of the second most important city in the D.R., Abel Martínez, declared it illegal for "illegal aliens" to conduct business within the limits of the city. A move that many nationalists applauded and advocated for nationwide application. Additionally, nearly 5,000 Haitians and Dominican-Haitians were deported to Haiti by the Dominican Republic's Directorate General of Migration (DGM). The DGM is pursuing a very aggressive policy similar to that of the United States' ICE (Immigrations and Customs Enforcement) in arresting and deporting "illegal immigrants". Furthermore, conservative commentators are vociferously demanding for a wall to be erected in order to create a secure border between Haiti and the D.R. The wall would not simply be a material form of deterrence, but a deterministic marker of difference and exclusion.

Citizenship and Human Rights

The manner in which citizenship is bounded varies from country to country, and almost every nation discriminates between its citizens and non-citizens by one marker or another as rights are reserved, prescribed, and benefits administered. Remnants of colonialism, such as

slavery, racism, and sexism, become instruments of apportionment within the nation-state, regardless of symmetrical or asymmetrical arrangements of citizenship. Notions of citizenship are deeply rooted in ideological understandings and interpretations of nationhood that continue to subdivide people into ethno-cultural groups and where culture, and/or ethnicity is used as an instrument of discrimination. As David Beriss reminds us, the "idea of the culture of others allows some French leaders to argue that immigrants—even scarf-wearing little girls who have probably never lived anywhere but France—belong inescapably to cultures whose values are incompatible with those of the Republic."[36] Inversely, it is never the case that a metropolitan or a continental citizen from the dominant group would be made to feel culturally or ethnically inadequate when venturing into the demographic spaces of the cultural-citizen other. A white, metropolitan French individual feels at home in the Antilles and would be treated with respect without labeling his or her regional affiliation; whereas, the Antillean individual will be labeled and classified without a second thought that he is not a full-blooded citizen. The same is true in the Dominican Republic vis-à-vis a black person who is perceived to be Haitian. Yet, in Haiti, due to colorism, Dominicans are desired instead of being despised. The paradox of self-alienation, cultural racism and "mulatto/a" desirability in the Caribbean, especially on the island of Hispaniola, results in a deep-rooted and superficial sense of superiority that is inherited from the colonial masters. Unfortunately, over two hundred years after the only successful black revolution against a European nation, Haiti has financially paid a burdensome indemnity to France, and Haitians are still collectively *paying* for partially defanging that dehumanizing colonial system.

In 2015, the Dominican Republic presented a modicum of legal opportunity for the individuals facing deportation to prove their right as regularized residents or citizens, despite a de facto policy not to grant citizenship papers

36 David Beriss, *Black Skins, French Voices: Caribbean Ethnicity and Activism in Urban France* (Boulder: Westview Press, 2004), 42.

to the Dominican-born children of Haitian parents. This paperless generation without rights to Dominican or Haitian citizenship has been effectively rendered stateless. Paperless, and simply uncertain about the future, Black Haitians and Black Dominicans of Haitian parentage, are inherently vulnerable in the D.R., as uncertainty renders them to constant fear, dehumanizing them. In the context of ethnic violence, this uncertainty is a very slippery concept and its dynamic range can be placed in the domain of psychological warfare—the fear of not knowing what the future holds, or the fear of being violently separated from your loved ones.

The uncertainty of one's status or the possibility of violence does not lend itself to a universal definition or a systematic approach to analysis; it is simply an element of violence. Haiti also finds itself in a position of uncertainty and vulnerability, and some of its citizens experience multiple manifestations of violence as they exist in multiple cultural expressions, especially in spaces where they are unwanted.

The racialized and hateful construction of Haitians as the undesired *other* must be carefully analyzed within the context of slavery and the constant struggle for freedom and citizenship. Dominicans have chosen their racial position and preferences for a non- Africanized identity. Haitians' Blackness epitomizes a transgressive visibility that disrupts the cognitive reception of whiteness within the Dominican body politic. Black Haitians serve as the permanently undesirable *other*. Regrettably, the Dominican state appears bent on repeatedly resuscitating a law from 1929 in order to selectively strip a targeted group of its citizenship. Such a racialized decision seems unethical and a violation of human rights.

Although Haitians and Dominicans share certain common cultural practices, and were both colonial subjects, the notion of identity (language, skin color, and religion) and the relation of citizens to the state differ tremendously and have thus created a fundamental basis for this ongoing conflict. Since the conflict between the D.R. and Haiti has manifested at different levels of human interaction (cultural, legal, and economic), I wonder to what extent can such a conflict be

resolved when each country's internal politics, albeit at different degrees, are riddled with societal ills? To what extent can "culture" and notions of "citizenship" be used as mechanisms of mediation when there are contested cultural expressions in each country? Finally, is the current conflict resolvable when in one country, namely Haiti, poverty is structurally violent, and a culture of marginalization has permeated throughout the society?

Conclusion

The Dominican Republic has proven its strength vis-à-vis Haiti and has rallied the United States to support its border-control policies and domestic securities in ways that Haiti is currently unable to match. However, it also has lost the moral authority in relation to its treatment of Black people. Between 2013 and 2016, once again, the D.R. proved its organizational capacities at the state level to efficiently execute plans for population control. The D.R. expelled thousands of Haitian-descended people who were camped at the border of Haiti and Dominican Republic, and who had been unable to receive full assistance from the Haitian government. The expulsion, including self-expulsion, of a multitude of dark-skinned, paperless, and denationalized bodies clearly created a humanitarian crisis for Haiti and the Dominican Republic. There were reports of cholera outbreaks at the camps because of widespread unsanitary conditions. As recently as October 2021, while Haitian migrants amassed at the Mexican and Texas border, the Dominican Republic quietly implemented two new sets of policies aimed at curbing Haitian migration to the D.R. The first aims at reducing the number of Haitian pregnant women entering the country, and the second is the suspension of the student visas granted to Haitians.

Given that Haiti is still in the grip of an acute political crisis following the assassination of President Jovenel Moïse on July 7, 2021, various non-governmental organizations denounced the implementation of new deportation orders targeting pregnant Haitian women. Through various news organizations, as well as on social media (@DominicanVoices, @MARADIOFM), the Director of Migration of the Dominican

Republic, Enrique García, confirmed on Friday November 12, 2021, that a group of Haitian women in labor were detained and deported to Haiti on charges of being illegally present on Dominican soil.[37] While the UNICEF representative in Haiti, Bruno Maes (@ BrunoMaesUnicef), wrote on his Twitter

account that UNICEF condemns the actions of the Dominican immigration authorities, women in labor continue to be arrested and deported: "Dominican migration authorities conducted raids to detain and remove pregnant women and anyone who would seem Haitian from several health facilities, regardless of their health condition."[38] According to Maes, at least 130 women were deported with newborn babies. Additionally, the Dominican Minister of Public Health, Daniel Rivera, during a press conference at the National Palace, expressed the trepidation of Dominican authorities as it relates to hospitals lacking the capacity to provide proper care to Dominican women due to the saturation of Haitian women in labor, acknowledging that the government has already spent "10 billion pesos on the birth of Haitian of women," which has been increasing since 2018. Minister Rivera explained that the authorities' action is intended at reducing harm to Dominican women.

The international community would surely applaud the D.R. if it were to confer full citizenship upon its nationals, as Haiti remains in a position of weakness. Additionally, from a conflict resolution perspective, the D.R. would likely find itself in a win-win situation if it were to recognize the people designated as "paperless" and who were born in the D.R.. Those citizens would have greater allegiance to the D.R.— their birthplace—given that the conflict is fully internal in scope and is centered on the issue of citizenship. However, considering the 1937 massacre of over 20,000 Haitians, multiple subsequent waves of massive deportation, and the near constant

violent uprooting of Haitian descended peoples, we can see how Dominican citizenship, just like American or European citizenship, has become a well-guarded commodity that Black bodies are often excluded from attaining.

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37 Dominican Voices, Twitter Post, November 12, 2021, 4:06 AM, https://twitter.com/dominicanvoices/status/1459357061360373764?s=10.

38 Bruno Maes, Twitter Post, November 12, 2021, 1:36 PM, https://twitter.com/brunomaesunicef/status/1459138066015301633?s=10.