FORCED DISPLACEMENT IN CONFLICT SCENARIOS

ETHICS AND HUMAN RIGHTS PERSPECTIVES

Andrea Hellemeyer & Eduardo Díaz-Amado

(EDITORS)

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Forced Displacement in Conflict Scenarios

Andrea Hellemeyer & Eduardo Díaz Amado, editors

Ethics and Human Rights Perspectives

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Foreword

The feeling of being nowhere

Forced migration is a consequence of the conflicts between countries or within them and is one of the most visible acts of violence exercised by the actors involved. Recently, its dimension has become more complex with the inputs from the debate on forced migration caused by natural phenomena. These phenomena result from changes in ecosystems due to human intervention and the resulting pressure on existing natural resources.

The issue is complex and involves different dimensions. Iconic images and facts that summarize the drama of this phenomenon can be traced in the famous video of Angela Merkel responding to a Palestinian girl about the nature of the European Union's political decisions on migrants and refugees; or in the decision to indefinitely prohibit the entry of refugees from Syria to the United States, issued in 2017 by the government of Donald Trump when Syria was immersed in one of the most acute civil wars of the 21st century.

This book offers readers an analysis of forced migration from different perspectives. The chapters analyze aspects that come together when responding to this global problem: legal and ethical challenges emerging in the design of public policies to care for the displaced population, challenges in the conception and attention to the problem when a gender perspective is assumed, or public health challenges when it is understood that the trauma of displacement is not a specific matter of an event that occurred at a specific moment in time, but rather a condition that accompanies those who are forcibly displaced almost to the end of their days.

Due to the exact ephemeral nature that characterizes the phenomenon of displacement, its study entails a high degree of uncertainty. Although the events that cause displacement are most often associated with violence, it takes many different forms, and their consequences depend on the socio-political contexts in which they occur. In this sense, understanding what we mean when we talk about forced displacement implies opening our minds and perhaps accepting the frustration that the problem is constantly changing due to the number of factors that intervene in its evolution. The analysis carried out in the subsequent chapters contributes to this broadening of the perspective and identifies new links between the different dimensions of the problem: legal, political, economic, environmental, and health, among others.

A fundamental value of this publication is the attempt of all the authors to claim, directly or indirectly, the right to mobility, asylum, and care for the migrant population. The analysis of cases based on the experiences of migrants and displaced persons allows us to, once again, appreciate the power of agency and resilience of this type of population. Then the analysis is presented not only as an issue resolved within the legal rules, but it manifests itself with all intensity in the ethical plane.

The visibility of migrants or those displaced by force also implies entering the field of registration that allows dimensioning the problem in terms of public policies. Moreover, this exercise, typical

of liberal democracies, also implies risks and challenges for a population that is already highly vulnerable. The revictimization of those who have suffered forced displacement and the public exposure of their identities are just some of the moral risks when public policies are not designed based on the subjects and their contexts.

However, what would be the context of a migrant? From a very personal perspective, I would dare to say that it is unstable, fragile, and tends to disappear easily. I became aware of this when I listened to a conference by a researcher dedicated to studying the trail of missing persons in migration processes. Supposing it was already difficult to track missing persons in contexts of low mobility. What would it be like to do this work to track the disappearance of people whose characteristic is forced mobility? Understanding these populations' different forms of mobility could become the only way to keep track of them on earth, which is an ethical imperative.

Finally, due to the academic nature of this book, I would like to make a couple of reflections on what it means to investigate global and complex issues such as forced displacement or peacebuilding. This last case concerns me directly due to my current work at the German Colombian Peace Institute (Capaz). The first reflection refers to the possible existence of a limited continuum, on the one hand, by research carried out "on" forced displacement or "on" peace, and on the other, by research designed "to" address the phenomenon of forced displacement or "to" contribute to the construction of peace. This difference makes it possible to identify nuances in producing academic knowledge about these phenomena and even entails methodological discussions that it is not possible to address in this prologue for space reasons.

In the first case, research "on" forced displacement or "on" peace would be determined by the definition of theoretical and conceptual approaches to study an object that is desired to be known. The principle of objectivity that characterizes scientific research would guide the investigative work, and the work methodologies would be more oriented to perfect the instruments of collection and information and inference of the collected data.

In the case of research "to" attend to the phenomenon of forced displacement or "to" contribute to the construction of peace, the conventional idea of objective research is confronted by a more normative investigation where the researcher almost becomes an activist for the cause because a commitment to the subject is required. This reflection is one of the axes of the decolonial perspective on knowledge.

The second reflection has to do with the joint production of knowledge, which results when research processes are carried out with the participation of communities directly affected by the phenomenon under study, in this case, forced migration. This case illustrates the tension between knowledge production with an academic or scientific perspective, sometimes known as "expert knowledge," and other more diverse forms of knowledge anchored particularly in the local. We continue to learn about these latter forms to determine how they dialogue with the so-called "expert knowledge" or "scientific knowledge."

Many of the elements involved in these two reflections can be seen in the later chapters of this publication. The role of researchers in defining the problem of forced displacement is also part

of the reflection. This can be perfectly appreciated in the cases treated in this book, such as the medical personnel who have the power to listen to migrants and institutionalize their narratives from biomedical frameworks of analysis. Another example is that of the researchers who, recognizing their position as academic women "outside" the realities of the indigenous women of the communities they analyze, exercise their role as intermediaries to win a legal trial before the competent authorities.

Forced displacement, as a structural element for conflict resolution and peacebuilding, is a phenomenon that will continue to be discussed and investigated. The agenda will become more and more intricate, and from time to time, we will have to go back to the roots to understand how the new pieces fit together. Undoubtedly, the visibility of the migrants' narratives will provide invaluable evidence to understand new connections between a phenomenon that carries a continuous change in its genetics and the feeling of being nowhere.

Bogota, 18 November 2021

Carlos M. Nupia

Administrative Director

German-Colombian Peace Institute (Capaz)

Instituto Colombo-Alemán para la Paz (Capaz)

Forced Displacement in Conflict Settings

The phenomenon of the displacement of human communities is not new. Since the beginning of time, the need to leave the homeland for various reasons (wars, famines, or natural disasters) has been part of history. However, it is precisely in our days that this phenomenon has become more complex and has reached global connotations. Therefore, this situation requires a multidisciplinary, comprehensive, broad, and purposeful approach. In this sense, both ethics and bioethics offer us a privileged angle for criticism, analysis, and understanding of this problem.

This book brings together the research work that authors worldwide have developed around forced displacement in conflict settings, from various perspectives that have the peculiarity of being located in different geographies. In this way, the book is the perfect occasion to have a conversation between the multiple authors and the themes that it is composed of. A conversation in which, through its encounters and contrasts, will be possible to approach answers to a complex subject that challenges contemporary societies in an increasingly, insistent and pressing way.

The consideration of the political, economic, and social crossings in the conflict scenarios discussed in this book, allows the authors to delve into the consequences that forced displacement brings to the field of subjectivity. As we understand it, (bio)ethics is a practice of thought that invites us to the arduous but urgent exercise of making what marks of our time thinkable.

The mosaic that this book offers, allows us to draft a picture of forced displacement in conflict scenarios as one of the tragedies of our time that demands urgent attention. In the different lines and approaches that make up the pages of this text, we will find the role that legislation, legal frameworks, and political systems can play in offering solutions to this crisis, not only regarding urgent matters but also on the structural and strategic aspects that must be considered in the medium and long term.

Thus, for example, it is worth highlighting the need to address the dire challenges of our time, such as the defense of Human Rights and the need for the various governments and political systems (the European Union, for example) to maintain an adequate asylum policy and migrants' protection. We are in a time when it is necessary to speak frankly, honestly, and seriously about the (bio)ethical and biopolitical implications of concepts such as refugees, borders, displacement, and asylum. It is striking that in our time the subject of migration is still considered a matter of "national security".

The refugees and displaced are subjected to immense suffering. Leaving behind their lands and communities and arriving at places where they are not always welcome, imposes an extra burden, in addition to those already brought by their previous situations. Of course, we speak about those who leave not by choice but because they had no other choice. The impact on the life and health of these people is enormous. The abuses and segregation displaced people are exposed to shed light on the lack of humanity that modern societies have reached in our time. Moreover, things can be even more drastic in the case of children, the elderly, or those with disabilities.

It is necessary, then, as glimpsed in the chapters that form this book, to go beyond the mere reports of dramatic cases, the sole complaint, or the theorizing around the phenomenon. It is not only about rescuing the vulnerable, but also the recovery of the loss of humanity behind all the cases of forced migration that stained our currently convulsed world through a careful, respectful, and supportive approach. This perspective is joined by voices that denounce the suffering and oppression of all those who have lost their land and home and are searching for a safe place for themselves in the world, suggesting at the same time new appreciations and possible solutions.

Having mentioned the above, we highlight the value of the experiences and analyses proposed by the different authors in the following pages. We especially thank them for their significant contributions that made it possible for this project to materialize.

This book reflects fruitful exchanges, debates, and collaborations in different times and settings, highlighting the relevance of interdisciplinary work, open to broadening the horizon of knowledge through multiple perspectives and the always different, and therefore, enriching view from the other. It is a testimony of the collaborative work developed from an ethical and evidence-based perspective, fundamental characteristics of the bioethical view that encouraged us to publish it.

Finally, we cannot end without mentioning that when this book was in the editing phase, we were bitterly surprised by the war in Ukraine. As of March 2022, millions of Ukrainians had to flee their homes to escape bombing by Russian forces. The improvised destinations were initially neighboring countries such as Moldova, Romania, Hungary, the Czech Republic, and Poland, but the diaspora has reached the whole of Europe and other continents. Once again, we are confronted with shocking images of long caravans, refugee camps, devastated cities, wounded people, and dead bodies, making humanity grieve.

Subsequently, this book on ethical-social issues in situations of armed conflict and displacement seems to be sadly timeliness. We are convinced more than ever that refugees and displaced people are a moral test for our world. Our hope is that the following pages will contribute to a better understanding of the problem and conceiving possible solutions. Refugees and displaced people demand ethical sensitiveness, solidarity, and concrete actions from everyone, particularly the States and international bodies and institutions. For those who relentlessly work in the field to attend to the urgent needs of such vulnerable and frequently forgotten people, go our admiration and acknowledgment.

Andrea Hellemeyer

Eduardo Díaz-Amado

Editors

Forced Displacement and Childhood: The Crisis of The Central American Refugee Children

Andrea Hellemeyer

We live in a time that witnesses two phenomena growing in inversely proportional ways. The world population has not stopped increasing, and the territory, far from remaining a solid and stable variable, is seen altered. More precisely, circumscribed and diminished. Wars, political instability, religious persecution, natural disasters, and the irreversible consequences of climate change have made vast portions of the planet uninhabitable.

In 2019, the number of migrants, globally, was estimated at 272 million, representing 3.5% of the world's population. A third of these migrations were directed from the countries of the south to those to the north. Europe, North America, and the Gulf States are among the top three immigration regions. Additionally, during this period, 740 million people were displaced within their own countries. The figures speak for themselves; we are witnessing the second wave of migration in the modern era after the one in the late 19th century.

However, the interpretation of human movements in terms of waves invites further reflection. Undoubtedly, the very idea of a migratory wave is fundamentally based on quantitative data. Figures show such a magnitude of a growth rate that it becomes impossible not to notice their presence. The wave, however, awaits its recession, a return to a certain stillness. Is this image capable of apprehending a problem that presents itself, contrary to the metaphor, in an insistent and sustained manner? Is it that current living conditions incessantly drive towards displacement? In this regard, it is not difficult to verify the decline of National States in their role as guarantors of the preservation of institutional life. Once a State's solid strength has declined in providing social meaning, another state of affairs arises. The firm ground Modernity has once provided is broken down, leaving in its place a fluid medium on which the subjectivities of our time are constituted. Along these lines, migration could no longer be considered in terms of a temporally circumscribed phenomenon of lesser or greater scope, but as a broader model of existence.

This complex problem deserves to be thought of within the background of connectivity. It creates an illusion of absolute ubiquity, providing a feeling of unlimited space without an interior or an exterior and, consequently, without a border. However, we are warned that globalization has a form of a paradox. Promoting, on the one hand, the rapid circulation of products, images, information, and capital (as well as pathogens, COVID-19 pandemic has made it possible to measure in real-time the speed of its expansion); and, on the other hand, increasing uncertainty and fragility due to the hardening of geographical borders. In this sense, the path that migration follows suggests that the increase in migratory movements is likely to persist due to the inability of States to reduce social and economic disparities.

The responses that countries and governments offer to the complex situation of migrants deserve special consideration. Although a few counter-examples could be mentioned, it is possible to perceive a recurrence in which the most powerful Nations States in the world establish the rules of the right to mobility by not accepting to be part of global agreements, to the extent that these international consensuses could become practical impositions regarding of their own immigration policies and, therefore, on the exercise of their sovereignty. Just a short note clarifies this point: A German citizen can travel freely to 177 countries; a citizen of Morocco only to 59; whereas if they are a citizen of a sub-Saharan country, this possibility is reduced to 5. It is not excessive to say that the right to mobility is today one of the most significant inequalities in the world, in a context in which it should be one of the fundamental rights of the 21st century.

Indeed, borders have been expanding at the same rate as intolerant ideas based on the premise of national identity. For those who have not been able to access legal mobility and find themselves trapped in one of the many several available categories: undocumented, deported, illegal migrant, rejected asylum seeker; it is clear that such mobility is only an aspiration for those trying to flee from countries where emigration is a privilege. Let us remember that the Universal Declaration of Human Rights recognized, in 1948, the right to mobilize. Article 13 establishes: "Everyone has the right to freedom of movement and residence within the borders of each State. Everyone has the right to leave any country, including his own, and return to his country." In this way, the inclusion of the right to free movement and free choice of place of residence made it possible, in the years after World War II, to make the situation of tens of thousands of people visible, promoting the guarantee of a fundamental right. A guarantee, that 73 years later reveals its impotence while exposing a fundamental contradiction: While emigration is usually considered a matter that concerns human rights, immigration is considered a matter of national security (Weiner, 1996).

The migration crisis itself, but more importantly, the multiple and severe shortcomings in how nations respond to the said crisis, have led to the violation of fundamental rights and a pressing demand to speak on the right to mobility in the various relevant discussion spaces regarding human rights. Beyond the geographical differences, the scene of hundreds of thousands of migrants waiting at the borders is ominously repeated, making visible what is evident: the radical disconnect between the responses provided and the unique needs of the people who find themselves in a situation of forced displacement. Unfortunately, a common denominator that equals —in its insufficiency and inadequacy— the States that welcome migrants. It is relevant to note that the exposed situation is mainly developed within the rule of law where the States are areas of passage, permanence, or reception of migrants, in which democracy, it is said, will guarantee people's rights.

The human rights violations caused by border closures and the fact that migrants endanger their lives in their attempt to move to where they hope to find a better life, require urgent consideration that must go along with articulated, adequate, and effective international responses. Goals that cannot be achieved if the answers do not intervene on the causes (which are well studied but systematically ignored) that produce migration and forced displacement. Among them, are those that make up the framework of the "narco war" (which we will consider later on in this chapter) that unites Central America and northern South America with the US in a line that does not allow

for detours. Intervening on the causes would mean putting in a series, the elements that make up the pieces of a long-established logic: the geographies destined to produce drugs, the organized crime gangs or cartels that manage them, the drug trafficking to the northern hemisphere for its consumption, arms trafficking from the US to the countries involved, and the forced migration of children fleeing from recruitment by criminal gangs.

The Discourse of Identity

Let us go back to one of the key terms on which this question gravitates: identity. The request to bring to trial one of the European leaders due to his refusal to allow the disembarkation of 116 migrants rescued in the Mediterranean Sea; but more importantly, his own request to be excused from his parliamentary immunity in order to enable the legal trial, only indicates the gradual but persevering advance of nationalist ideas which transforms what could have been an act of justice into a proclamation that amplifies promised policies of care and protection against foreigners that must be expelled. In this way, the Italian extreme right identified under the slogan "Italians first" resonates across the ocean with the well-known formula "America first."

When writing this chapter, what the media has called "A new migration crisis at the doors of the European Union US" is unfolding. The tension on the border between Turkey and Greece increases as the hours pass. While thousands of migrants wait in "the line of fire" in the middle of that hazardous area, in no man's land, the migrants wait for a way to access a new possible life.

Seventy-five million people worldwide are in a situation of forced displacement: refugees, internally displaced persons, displaced by conflicts and natural disasters; and the ominous new nomination: climate refugees. Unresolved conflicts and the increase in social violence were responsible, for the most part, for the 10.8 million new displacements associated with conflict and violence in 2018, forcing millions of women, men, and children to live their lives in the different versions of "enclose outside." Among them: camps, settlements, detention centers, waiting shelters, and temporary reception areas.

It is estimated that 41.3 million people were internally displaced as a result of conflict and violence at the end of 2018, the highest number ever recorded. Three-quarters, or 30.9 million people, are in just ten countries, including Syria, Colombia, and the Democratic Republic of the Congo. Additionally, an unknown number of people were displaced due to the disasters that occurred in 2018. Turkey, Colombia, Syria, Nigeria, Eritrea, Sudan, Afghanistan, the border between Mexico and the United States, Bangladesh, the Mediterranean Sea, Malta, Lampedusa, Ceuta, Lesbos, Calais with its former and infamous "The Jungle"; are just some of the countless places where the scene of forced displacement is part of everyday life.

The discourse of identity is at the base of immigration policies that promote the rejection of the "foreigner," the "other." As a synonym of nationality, culture, religion, or community, identity denies the plurality that lives in its foundation. On the contrary, identity should be conjugated in the plural: identities, as social constructions, suppose multiplicity, an interweaving of diverse

and simultaneous identifications with different and changing references. Indeed, the diverse, the other, challenges human groups and subjects calling for a singular response that will account for the various modes of treatment of what is experienced as foreignness. Even the societies that expel the alterity by maneuvering its displacement over "the other foreigner," fail to eliminate the difference that inhabits and beats within it. The difference is undoubtedly inescapable as psychoanalysis teaches us: it lives in each subject. In this way, the identification with a homogeneous image that affirms "our culture" is nothing more than a mirage that seeks to give consistency to which is diverse at its core.

The psychoanalytic discourse, founded by Sigmund Freud and continued by Jacques Lacan, allows us to advance in the elucidation of the term that has become the badge of migration policies. Through the study and establishment of the identification mechanisms, psychoanalysis introduces a fundamental contribution that allows addressing the question of identity under a precise orientation. We anticipate that if the identification summons the subject, the identity will appeal to the individual. The homogeneity to which the identity summons finds on its other side the individual, literally undivided, identical to itself. Psychoanalysis, on the contrary, conceives the subject as essentially divided. A subject marked initially by division and, therefore, by difference.

Despite sharing their Latin roots, identity and identification belong to differentiated territories. In 1920, two years after the end of the First World War, Freud published *Psychology of the masses and analysis of the self*, central writing that allowed the understanding of the mechanisms of identification. The identity, exalted in its quality of invariable, shows its fissures if analyzed in the light of the identification processes. Freud warns about the presence of identification mechanisms in the mass phenomenon, where the subjects establish a bond with their peers, which is sustained in a first identification with the leader. It is not necessary to remark on the topicality and relevance of said process in analyzing the totalizing discourse of the identity.

In 1961, Jacques Lacan dedicated a complete seminar within the framework of his teaching to elucidate the concept of identification. There, he tells us that the very constitution of the subject supposes his exile. The bath of language the child receives at the moment of his birth presents a hole that will be constitutive of his subjectivity. In other words, the symbolic order that precedes him and embraces him is not complete; it is not finished. The symbolic field, on the contrary, is, by definition, incomplete, and its internal order is precisely organized around this fundamental hole. To the extent that the subject is constituted from an original void, it will no longer be possible to conceive a complete or stable identity. Said constitutive hole of the subjectivity will be the one that will lead him to the entanglements of identification, which consequently will always be multiple and, essentially, precarious. In this sense, the conception of the subject for psychoanalysis disrupts the idea of a man identical to himself, thus placing identity in the field of the illusory. Illusions that certainly will not lack effectiveness at the politics level.

Politics is an area that should be distinguished from political. Furthermore, by taking the statement to the extreme, we could situate politics and what is political as opposing territories. Politics, as Lacan indicates, is the art of wordiness, an empty word put at the service of the enchantments spells of the imagery speculation. The political, on the contrary, names the collective, community space

where an effective and transformative act can take place. In this line, the psychoanalytic discourse provides a perspective with profound implications, allowing to counteract the double drift that the identity thesis produces: a subject identical to itself; and, therefore, identical to others for which it would be possible to establish a homogeneous group. As is readily observable, identity discourse requires the erasure of difference.

On the contrary, psychoanalytic discourse reintroduces difference. In this movement, the subject is re-positioned in its proper place, a divided subject, that will inevitably confront him with his own foreignness. Precisely, because of this original division, the issue of identity will always be conflictive and enigmatic.

As we have indicated, the discourse of politics makes a call to give consistency to the illusion of identity, producing, as we sadly observe daily, the consequent violent response that said demand causes. To do so it makes use of what Jacques Lacan has coined under the name of master signifiers. Words that reduce and totalize phenomena and circumstances, inducing the subject's capture.

On this point, the writing by Emanuel Carrère, published in 2017, in which he reflects on the complex and heartbreaking situation of the migrants detained in Calais, and which bears the same name, sheds light on this particular issue. There, in Calais, the master signifiers (S1) stand as representatives of the various positions regarding the migratory "phenomenon," inviting to their complete adherence. In this way, government authorities, residents of Calais, passing visitors, security officials, NGOs that settle there, name what happens using various signifiers that intend to order —each of them intentionally and exhaustively— a truth that is undoubtedly more difficult, variable and complex. The names follow one another: anti-immigrant, pro-migrant, non-boarders, and the *Siberian* neologism (a term that names people from Syria and that in local slang, includes -in an extended and indistinct way-, Eritreans, Sudanese, Afghans, and all those who managed to reach Calais from the Near East and East Africa).

The attempt to grasp the complex situation that unfolds through a single signifier is tempting, but it fails. It fails, of course, for those who dare —as Carrère himself does throughout his text— to question, firstly, their own enunciation when thinking and writing about the circumstances that migrants go through. How is it possible, Carrère wonders, to name what happens in Calais? Under what artifice of the signifier is it possible to name the traumatic reality that unfolds there crudely avoiding personal (or illustrated) comment, which would only guarantee that *this real*[1]is not even touched? Once again, psychoanalysis and, fundamentally, the ethics that supports this discourse give us a clear orientation: by returning the word to those who have been deprived of it—the subjects who have been left voiceless by the experience of forced displacement.

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[1] In his seminar The Ethics of Psychoanalysis (1959-1960), Jacques Lacan introduces the notion of *the real*. In his teaching, *the real* will name a register in connection but in opposition to the symbolic order. The real will name what is impossible to symbolize and therefore disturbs and irrupts the subject's experience of life. A form of the real is, indeed, the trauma.

The Child as a Subject

2019 marked the 30th anniversary of the United Nations Convention on the Rights of the Child, while also marking the year with the highest reported number of children crossing borders alone. They were either not accompanied or separated from their family or caretaker.

According to article 22 of the Convention on the Rights of the Child:

> States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties. (OHCHR, 1990, art, 22)

The New York Declaration for Refugees and Migrants recognizes that the detention of children to determine immigration status "is rarely or never in the best interests of the child" and commits "to put an end to this practice" (United Nations, 2016).

In practice, the States detain children who voluntarily surrender to the authorities that patrol the border areas, arguing for reasons that have nothing to do with meeting the child's needs. They are detained with the excuse of carrying out a health examination, verifying the identity, verifying the child's age, and facilitating the commitment to the asylum or migration procedures to initiate and maintain the family unit. These are the reasons given, and as can be seen immediately, none of the reasons given requires the child's detention to be carried out. It is imperative to dwell on the policy implemented by Donald Trump in the US, designed with a precise objective: to promote the detention of children in order to produce family separation. Within the framework of this policy, children are sometimes expressly detained to serve as "bait." When a family member claims them, it will be the opportunity to apply the immigration law and deport now, jointly, the adult and the child. Regardless of the reasons and practices, they all support the same purpose: to confront the child with the unbreakable wall that separates citizens from those who must not be allowed to pass.

More than half of the total population of people in situations of forced displacement are children. In 2019 alone, more than 100,000 unaccompanied children applied for asylum in 78 countries, triple the number in 2014 (Unicef). The official figures provided by various international and governmental organizations only briefly allow a glimpse of the problem. Despite offering supposedly objective data about its extension and magnitude, undoubtedly, no mathematical operation manages to account for what the States themselves choose to treat anonymously. The media, warningly, or perhaps simply as a catchphrase typical of journalistic jargon, hit the center of this issue when they report using a precise formula that admits changing its beginning: "They traveled to the border," "They drowned in the Mediterranean," "They surrendered to the migratory patrol"; but persistently conclude in the same way: "an undetermined number of migrants." Even if the statistical numbers are intended to be exhaustive, they will say nothing about the migrant children themselves. We must add to this the scarcity of research on child migration carried out not from the States' perspective but from children themselves.

The forced migration of children is, indeed, a problem of global scope, and precisely for this reason, it is imperative to distance ourselves from a general approach and promote its understanding in a situational and singular manner. Let us go back to the circumstances of Central American children fleeing the extreme violence of the countries where they were born and seeking a legal way to enter the US. Although this situation has been developing for decades, the displacement rate of children seeking to cross the border alone has had a turning point, due to its growth, in 2014. Those children who were forced to escape and fled without their parents, without passports and belongings, crossing the border in Mexico is a dangerous itinerary that begins in their own cities and towns in Central America, mainly in Guatemala, Salvador, and Honduras.

The decision to risk life, to risk a life that was already profoundly threatened, becomes a possibility. This decision, which carries the weight of decisions made when there is no choice, marks the beginning of a dangerous journey that many will not be able to complete. The strenuous march through kilometers, the search for a hiding place to rest and sleep, hunger and thirst, and the risky act of getting on one of the many freight trains that cross the Mexican territory from south to north, better known as "The Beast," they are just some of the horrors that children face daily. The Beast, literally, condenses that monstrous and immeasurable characteristic of the real dangers that migrants face. The so-called migrant route is plagued by the most extreme forms of inhumanity: kidnappings, rapes, disappearances, and death.

Those children who manage to survive and manage to cross the border between Mexico and the US on their own, find upon arrival severe difficulties in accessing a lawyer or a guardian despite the efforts made by various social organizations dealing with the issue. Consequently, the number of children kept in detention centers grows year by year. According to the United States Customs and Border Protection (CBP) itself, between October 2018 and September 2019, about 100,000 children traveling alone were detained at the border. Some will manage, in a short time, although unacceptable in any case, to get out of the detention centers to live in a shelter; for others, the detention center will be the sinister scene where time stands still. Like a fixed scene, this scenario leaves the child in suspense, waiting for a tutor to be assigned or a family member to claim them.

In the brilliant and moving book *The lost children (An essay in forty questions),* Valeria Luiselli brings us closer to the questionnaire prepared by the immigration attorneys of the Federal Immigration Court, which undocumented children from Central America must answer when they cross the border to the United States. In the first point, the question is: "Why did you come to the United States?" The answers generally point to the reunion with a relative who emigrated before. Other times, the answers refer to the situations that have caused them to escape, like extreme violence, persecution, attempted recruitment by criminal gangs, psychological and physical abuse, and forced labor. Luiselli warns us: "The problem is that children's stories always appear as revolts, almost stuttered, full of interference. They are stories of lives so devastated and broken that sometimes it is impossible to impose narrative order on them" (Luiselli, pp 15-16). They are told in small pieces and tight scraps, the product of the radical cut that trauma has introduced into the necessary illusion of the continuum of life.

Children who manage to get around the legal tangle, which closes more and more as the legal processes advance, and manage to obtain a residence permit face the difficulties of a society that knows little about hospitality. These are the children who bear witness to come out of hell, to find themselves inside a new nightmare. Nevertheless, despite everything, even this could be an advantage, as the author points out. Perhaps there is nothing worse than staying in the same hell for a lifetime.

The question of making a decision is not a minor matter. On the contrary, it involves the most significant relevance, and perhaps with a greater emphasis, if the decisional plane is thought of regarding the child as a fully fledged[2] subject. Why do we stress the importance of prioritizing the question of a decision? Mainly because it is the one that will allow for the subjective dimension to be brought to light. A dimension that remains in a shadow when the child is quickly located in the place socially attributed to the victim and, therefore, the gaze is exclusively intended to verify what is already known. It is well known, and it is good to repeat it, that children in their radical defenselessness are victims of a series of conditions of existence that they have not chosen, which carry unique forms of suffering for each of them.

However, these circumstances, which are very real, should not precipitate into an anticipated and generalizable conclusion. In other words, it is convenient not to confuse the place that the State must provide for those who have experienced traumatic circumstances (a place indisputably essential for the necessary legal and social protection), with the place that defines the position of the subject. The answer that each child would give himself will only occur if the child's word is not taken for granted. That intimate and personal word will allow deciding, not about what has not presented an alternative, but about what has taken the form of a personal question. This apparent small, but crucial difference, will allow dignifying that thin gap through which a margin of freedom could be glimpsed, and in which each child, in the singular, will be able to open the path to begin to answer the question that has challenged him: How to make room for life?

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Forced Displacement, Ethics and Health. The Case of Colombia

Andrés Cubillos-Novella

Eduardo Díaz-Amado

Introduction

As Shultz *et al.* (2014) suggested, "in the annals of forced migration, Colombia is notable for the high overall numbers of internally displaced persons" (p. 475). Unfortunately, Colombia is easily associated with this phenomenon, which does not occur merely due to the action of certain violent groups, but rather is due to more complex dynamics that require an informed approach from different angles. In general, the analyses focus on the socio-political, economic, and military aspects. In this chapter, however, we want to highlight two elements: health care for displaced people and migrants, on the one hand, and the need to recognize the ethical-moral dimension that underlies the problem of displacement, on the other.

In the following lines, we will present a general picture of forced displacement in Colombia from a global perspective on this problem to point out the particularities of the Colombian case. Figures on the phenomenon and the elements that make this situation an ethical-political problem of great dimensions will be presented, proposing elements from bioethics that help consider the problem, especially concerning the health needs of this population and the differential care that, therefore, is required.

Global Displacement: Persistent Phenomenon

Forced displacement as a global phenomenon has been increasing steadily since 2009, from 43.3 million to a record number of 70.8 million as of December 2018 of people affected by this scourge (United Nations High Commissioner for Refugees [UNHCR], 2019). According to the United Nations High Commissioner for Refugees (UNHCR) report, the displaced population increased by 2.3 million only in 2018. A very high figure, which shows that displacement is not only still present despite the peace accords negotiated in various countries, including Colombia, but it has increased (2019).

When analyzing the data provided by the UNHCR, it is evident that asylum seekers were one of the populations that were most displaced, with Ethiopians being the ones that came to occupy an unfortunate first place with a total of 1,560,800 displaced persons, with 98% displaced within their own borders, which shows the impact that internal displacement has had in that country.

In second place are the Syrians, reaching a total of 889,400 displaced persons. More than half of these displacements in the 2018 period were new displacements, reaching a total of 632,700 newly displaced (or newly registered) in the total. In the case of Syria, most of the displacement was outside the country, which indicates an extraterritorial dynamic different from the case of Ethiopia. Nigeria had a high number of displaced populations with 661,800 and 581,800 moving internally, following the internal migratory flow model indicated above (UNHCR, 2018).

Among the motivations for the displacement of these populations is the persecution due to political or religious differences, armed conflicts, violence, or human rights violations. This brings various situations that lead people to abandon the places where they have lived and worked to seek other horizons. However, and as Celis & Aierdi (2015) affirm, "all migration is a forced migration because there is some force, cause or spring that precipitates it" (p. 18). In this sense, it is worth noting that in explaining the phenomenon of migration, a preponderant place has been given to economic determinism, as pointed out by Ruiz (2011). This has meant that other perspectives, such as those adopted from the anthropological, sociological, and political aspects, do not receive the same attention. However, it is evident that migration is a complex phenomenon that implies, above all, "a socio-demographic phenomenon that interacts permanently with economic, social and political processes" (Ruiz, 2011, p. 145).

When analyzing the figures at the global level, the increase in displaced populations in recent years was mainly due to two facts: first, the continuous increase in internal displacement, as is the case in Ethiopia, and the increase in new asylum applications from people fleeing their country, as has happened with Venezuela (UNHCR, 2018).

Most of the displacements occur internally in the countries, but some occur in cross-border or international frameworks. An example of this could be found in populations from Venezuela or Syria. However, the displacement of Ethiopians or Nigerians, who have high displacement volumes during 2018, are mainly internal displacements. This shows that internal mobilities are the current migratory flows present in these precarious conditions, where the main reason to leave their places of origin is the protection of life.

The case of Venezuelans represents a new phenomenon in the Latin American context. Traditionally, Venezuela was a host country for the population from different latitudes, from the 1970s to the 1990s. The migratory flows in that country were mostly international and mainly of entry of populations from Europe and Asia, and the so-called south-south migration, where people from neighboring countries found a better future in Venezuela.

The reception of many populations, including those from Colombia to that territory, showed a constant increase in immigration. In many cases, Venezuela was considered the country of the Latin American dream. However, after the fall in oil prices in early 2000 under the Hugo Chávez government, the country's economy was destabilized, and social and security conditions became precarious. This generated the first international migratory movements with the departure of populations to Europe, the United States, and Latin America. Colombia became the first country to receive Venezuelans. The year 2014 is considered the beginning of the massive migratory movements from Venezuela, reaching astronomical figures of displacement.

According to UNHCR, Venezuelans accounted for the second-highest number of international displacements globally at the end of 2018, with a total of 341,800 new asylum applications. These people have left Venezuela for various reasons, mainly related to violence, fear of being persecuted for their political opinions (real or perceived), and food shortages (UNHCR, 2018). Today, the shortage and the food search are some of the main reasons these populations travel long distances, crossing, in particular, the border with Colombia. This is the largest international border of the two countries, with a total of 2,219 kilometers. It is a porous border but not easy to navigate since there are difficult areas to pass through, given the jungle density present at many points and armed groups, common criminals, and groups of people who negotiate with the crossing borders. Failure to go through formal border points can become life-threatening.

By the end of 2019, more than 4.7 million Venezuelans were in refugee status or within the category of international migrants worldwide. Colombia is the primary recipient of this population since it has maintained a very close international and cultural relationship, in which migrations were present between both countries, as mentioned earlier, since the mid-sixties. By the end of 2019, according to *Migración Colombia* (2019), more than 1.6 million people from Venezuela had found their new home in Colombia.

It is important to note that many of the people from Venezuela have also been Colombians. According to the Health Sector Response Plan to the migratory phenomenon from Venezuela, they could be grouped as follows: Colombians returned with their families, Venezuelan nationals in regular condition, immigrants with PEP[1], pendular Venezuelans, irregular migrants, and transnational indigenous people[2] (Ministry of Health and Social Protection, 2017).

However, in recent years, there seems to be a trend of return of displaced populations, showing that of the total number of people who have been victims of displacement as of December 2018, 2.9 million returned to their place of origin. Importantly, returns have not kept pace with new displacements (UNHCR, 2018). Even though the return is a sign of improved security in the territories, people continue to move. As the figures presented above indicated, the displacement of populations has not only increased but also continues to affect the geographical areas where this fact has traditionally been presented. With few exceptions, the most worrying thing is that new countries that had traditionally maintained an apparent political calm and recipients of migrant population are now considered expelling countries, according to what is established by the "push and pull" theory (Arango, 2003), as is the case of Venezuela.

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[1] Special Permit of Permanence: authorizes someone to temporarily remain in conditions of immigration regularization and access the institutional offer in matters of health, education, work and care for children and adolescents at the national, departmental, and municipal levels, without prejudice to the requirements established in the Colombian legal system for the exercise of regulated activities (Migración Colombia, 2018).

[2] Indigenous groups mainly from the Wayúu ethnic group, who are located in La Guajira (Colombia), and Zulia in Venezuela.

Violence in Colombia and Forced Displacement

The fact that Colombia has been classified frequently and in recent years among the countries with the most displaced persons in the world (Gómez Builes *et al.*, 2007; Gámez Gutiérrez, 2013; Jaimes Villamizar, 2014; Shultz *et al.*, 2014) poses a problem that, we could say, is embedded in the very history of the country. As stated by Martínez Quintero (2009),

> [the] forced internal displacement is a phenomenon linked to the historical, social, and political conformation of Colombia [...] hence, forced displacement should be understood not as a simple phenomenon of conjuncture linked to the conflict between the various armed actors, but rather as a structural problem of the historical makeup of Colombia. (p. 21)

This reality indicates a particularity to consider when addressing this situation, in contrast to what happened in other countries that also have forced displacement: the solutions will not only have to do with shock measures in the face of the acute situation but above all with the transformation itself of the country's social and political structure.

The conditions of violence, caused mainly by the armed conflict experienced in Colombia in recent years, have generated a large percentage of the displaced population. 89% of the population victim of the armed conflict have been forcibly displaced (Unit for the Attention and Integral Reparation of the Victims, 2020b). This situation has displaced more than 8 million people in the country, affecting their coexistence in the territories of origin, separating families, generating conditions of vulnerability and inequity, and ignoring the human rights of these populations. It is not only about the people affected by this problem, but about the generations to come, that come from displaced populations, which has perpetuated, in many cases, the conditions of inequity and social injustice present over time.

Displacement in Colombia is a scourge that has affected Colombian society more deeply since the increase in the intensity of the armed conflict in recent years. However, the problem has its roots in the contemporary history of Colombia. There is a conflictive stage in the country from the 1930s, which was geographically located in Los Santanderes and Boyacá, with some impacts in Cundinamarca, Antioquia, and some places in western Caldas (Guzmán *et al.*, 2005). Due to the increase in violence in the country, related to land tenure, social claims, social inequality, weakness, and little presence of the State, there is a period of increase in violent acts. For Guzmán *et al.* (2005), these violent events generated two waves of violence. The first wave was related to the period in the power of the conservatives and the violent expulsion of the liberal contenders, the use of the police in a persecution campaign established by the government spheres, and the declaration of civil resistance by the persecuted Liberal Party, which soon resulted in the formation of armed groups. The second wave of violence began on 13 June 1953, when the military government deployed the first campaign against armed groups through commanders of official forces against guerrilla groups that were mainly located between Cundinamarca and Tolima (Guzmán *et al.*, 2005).

Later, between 1964 and 1967, the so-called first-generation guerrillas (FARC[3], ELN[4] y EPL[5] by their acronyms in Spanish) were born, which led to the beginning of an internal armed conflict, irregular, prolonged, and with historical roots of an ideological nature (Pizarro Leongómez, 2004). At that time, and until the end of the 1970s, Colombia was suffering a guerrilla war on a smaller scale. The political violence present in the country represented only 10% to 15% of the total intentional homicides. This aspect was increasing year by year until the beginning of the XXI century (Pizarro Leongómez, 2004).

Additionally, the paramilitary groups that began to make a presence in Colombia in the late 1980s and early 1990s were the ones that, in principle, generated massive displacement in many territories of the country, related to the need to count on land to grow cocaine. Undoubtedly, this phenomenon exponentially escalated the already present armed conflict, in which the guerrillas and paramilitaries, as forces hired by drug traffickers and, later, as interested in controlling the new business (Cuéllar Boada, 2005), increased their power of war and domination in many territories of Colombia. It is also important to emphasize, as stated by Ruiz (2011), that "forced displacement is not solely due to the presence of armed actors; it is linked to land tenure and the interests of large landowners" (p. 143).

This panorama has undoubtedly been decisive for the increase in displacement in Colombia and the relocation of many of the populations from primarily rural areas, whose main motivation to reach the cities was survival, continuing their lives far from violent spaces. The main cities recipients of this population were Bogotá, Barranquilla, Medellín, Cali, and Bucaramanga. However, it is important to note that this phenomenon affected many populations and places of arrival at the national level (not to mention international displacement that was also present). There were so many displaced people, and the phenomenon was present in so many territories that it became a migratory reality on a country scale for a long time.

Starting in the 1950s, migration due to war began to be seen indistinctly compared to economic migration. Since then, analyzes and solutions have gone from assuming that the problem was poverty and development the solution, to implementing in the 1990s a humanitarian response as public policy. More recently, primarily through decisions of the Constitutional Court, emphasis has been placed on the reconstruction of base communities and the possibility of the full enjoyment of all Human Rights of the population, including displaced persons, migrants, and refugees, and social, economic, and cultural rights (Lemaitre, 2016). The emphasis on the reconstruction of local cultural values and the guarantee of rights represents an ethical commitment that must be maintained and promoted. This implies considering, for the sake of reconstruction and the achievement of peace, that displacement also affects the host communities that receive the displaced, which means challenges for employment, access to public goods, congestion on roads, pollution, and even increased crime (Morales, 2017).

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3 Frente Armado Revolucionario de Colombia (Revolutionary Armed Front of Colombia)

4 Ejército de liberación Nacional (National Liberation Army)

5 Ejército Popular de Liberación (People's Liberation Army)

Only until the mid-1990s did the Colombian State recognize the existence of forced displacement in the country, paving the way for the creation and implementation of the first care programs for the displaced population, with strategies such as prevention, immediate attention, consolidation, socioeconomic stabilization, and communication and research (Gámez Gutiérrez, 2013). In these 25 years, since then, the problem of displacement has been fluctuating, as we will see later. Today the country is going through a stage commonly called "post-conflict," after Law 975 of 2005, which had "the purpose of facilitating peace processes and the individual or collective reincorporation into civil life of members of armed groups organized outside the law, guaranteeing the victims' rights to truth, justice, and reparation," and the signing of the peace accords with the FARC, during the government of Juan Manuel Santos, and whose formalization ceremony took place in Cartagena de Indias on 26 September 2016. This new stage for Colombia is a positive advance towards the end of an armed conflict going on for decades. However, it has been full of difficulties and challenges for the real consolidation of peace in Colombia and the solution to internal displacement. To this problem, we must add the waves of Venezuelan migration due to the crisis experienced in that country in recent years.

Displacement in Colombia: Figures and Realities

According to the Single Registry of Displaced Population (RUPD), the highest displacement peak reached 406,369 displaced persons in just 2002, demonstrating the intensity of this effect of the armed conflict over some time. When the corresponding data on forced displacement are analyzed compared to the total number of victims of other violent acts in the framework of the armed conflict in the country, the dimension of this scourge in the country can be understood. Of the total number of victims of the armed conflict in Colombia, 89% of such population has been a victim of forced displacement (Unit for the Attention and Integral Reparation of the Victims, 2020b).

Table 1 shows that forced displacement has been one of the main victimizing events in the country. When analyzing the data related to those displaced by violence, we must necessarily include it in the macro data of populations victims of the armed conflict. That is why the analysis that we will do regarding health will include this broad framework of victimization due to the armed conflict present in Colombia.

As part of the struggle and control of the territories by the armed groups present in many regions of the country, the direct attacks on populations located in the foothills, riverbanks, or strategic crossings for arms, people, and drug trafficking increased strategically. Part of this strategy was also related to the occupation of territories suitable for illicit crops and cattle rustling. Kidnapping was one of the modalities of these groups to maintain control of the area, but, above all, to gain access to money paid by relatives, corporations, and even international organizations. This made it possible to quickly gain control of many areas in addition to the coming of large amounts of money from drug and arms trafficking.

Table 1: Victims per victimizing act as of 31 March 2020

Total victims of the armed conflict:	8,898,570
Victimizing fact	**Total victims**
Terrorist act/attack	85,490
Threat	494,014
Crimes against freedom	31,919
Forced disappearance	180,308
Forced displacement	8,011,693
Homicide	1,036,433
Antipersonnel mines	11,689
Kidnapping	37,386
Torture	10,804
Bonding of boys girls	8,216
Forced abandonment of dispossession	22,820
Loss of personal property	119,467
Physical personal injury	9,327
Psychological personal injury	15,899
Lockdown	38,327
No information	14,610

Source: own elaboration based on data from the Unit for the Attention and Integral Reparation of the Victims.

Attacks on populations were in strategic areas. The border area between Colombia and Venezuela[6], for example, ranked first in attacks in the period between 1995-2004, reaching 78.63% of the attacks reported to populations, followed by Ecuador (12.21%), Brazil (7.63%), and Panama (1.53%) (Ramírez, 2006). This undoubtedly generated a displacement in the populations that inhabited the country's bordering territories, but it spread internally in other territories. The homicides present in the border area, parallel to the control of the territories through selective massacres, increased displacements in Colombia like never before.

However, the situation of violence and displacement in Colombia does not affect everyone equally. Some groups are more vulnerable than others. The poorer and rural strata have a worse share than

[6] The two border countries share 2,219 km. However, most of it is jungle, porous, and difficult to control. Historically, armed groups, smugglers, and people have passed through those places. Today, it presents an important part of the irregular migration from Venezuela.

the wealthier and urban strata. Likewise, and paradoxically, migration in Colombia, instead of improving poverty conditions, makes it worse for the displaced population (Ruiz, 2011). For example, between 1985 and 2005, 70% of the displaced population was peasants and people belonging to ethnic, Afro-Colombian, and indigenous communities (Gómez Builes *et al.*, 2007). According to the UNHCR (2012), indigenous communities are among the groups that were most affected by displacement. Colombia has around 90 recognized indigenous groups in the country, located from the Sierra Nevada de Santa Marta mountains to the Colombian Amazon, making it one of the countries with the greatest cultural and ethnic diversity in the Latin American region. However, the abandonment of these territories by the Colombian State and the lack of laws that protect these populations has put these groups in high conditions of vulnerability. Displacement has been very present in these communities due to the wealth of many of the territories they inhabit.

Also, according to the UNHCR, at least 34 indigenous communities in the country have had to suffer conditions of extreme poverty and vulnerability due to displacement. Armed groups have especially attacked some groups in a much more violent manner, among which are: the Awá (Nariño), who were selectively and systematically massacred and murdered; the Embera (located in the Chocó-Colombian Pacific), a region with a strong presence of armed groups; and the Nukak Makú and Guayabero (located in the Guaviare region) (UNHCR, 2000). They are trapped in a conflict, which is not their own, and has led them to abandon their territories, lose their traditions, cultural identity, on top of the deterioration of their quality of life. A problem that profoundly affects the displaced is the loss of identity and, consequently, their impossibility to re-signify their own experience concerning themselves and others close to them, as Martínez Quintero (2009) points this out with a group of Afro-descendant people in a situation of displacement in a Colombian city. This raises the need to address the challenges of uprooting, the loss or reconfiguration of the relationships between subject and territory, and how social identity dimensions such as space, time, and movement are altered (Martínez Quintero, 2009).

Regarding the Afro-Colombian population, many members are also displaced by the armed conflict in the country. It is essential to point out that it is distributed throughout the national territory, with a greater presence on the Pacific, the Caribbean Coast, Risaralda, Caldas, Quindío, and Antioquia. They comprise 10.62% of the Colombian population (DANE & Universidad del Valle, 2005). This community lives in territories of high strategic importance for the escalation and territorial domination in the framework of the armed conflict in Colombia. The effects of the internal conflict have unquestionably generated negative consequences on these populations, which affect not only them but also Palenqueras and Raizales populations in Colombia. According to UNHCR (2012), in these populations, displacement has had a severe impact on the identity, culture, and autonomy of Afro-Colombian people, causing the loss of the territory occupied by a large part of these populations (UNHCR, 2012), despite having state protection of their territories and their populations through Law 70 of 1993.

Special mention to the fact that women and children are among the population most affected by displacement (Shultz *et al.*, 2014). In places where displaced people and immigrants arrive, women with fewer skills to compete may see their ability to stay in the labor market compromised (Morales,

2017). Likewise, the agency of displaced people is seriously undermined, particularly of women, as a result of conditions of poverty, violence, and local power dynamics (Sandvik & Lemaitre Ripoll, 2013). For some authors, such as Sachseder (2020), the special impact that women have had in the Colombian conflict, especially forced displacement, implies a problematic intersection between the interests of transnational capital concerning gender and race. This has led not only to such displacement but also to an increase of sexual violence.

For Sachseder (2020),

> Colombia is a prime example of how TNCs [transnational corporations] have become central actors in armed conflict leading to an increase in displacement and sexual violence. Their involvement in capital accumulation and land acquisition has been essential for Colombia's political economy and its position in the global market. (p. 181)

Likewise, older adults, even worse if they also have disabilities, represent a population that can be severely hit by displacement. As Calvi-Parisetti (2013) points out, in countries where there is forced displacement, older adults are people "often already marginalised before a crisis, older people are often not factored into assessments of need and fall between the cracks of registration systems."

Social and demographic profile of the population victim of the armed conflict in Colombia

Next, some of the most important sociodemographic figures regarding forced displacement in Colombia will be presented. It is important to note that many of the data presented below correspond to the reports given by the Unit for the Attention and Integral Reparation of the Victims, which:

> Is an institution created in January 2012, based on Law 1448, on Victims and Land Restitution, by which measures of care, assistance, and comprehensive reparation are dictated to the victims of the internal armed conflict. The Victims Unit seeks to bring the State closer to the victims through efficient coordination and transformative actions that promote the effective participation of victims in their reparation process. It coordinates the assistance, attention, and reparation measures granted by the State, articulating the entities that are part of the National System for the Integral Attention and Reparation of Victims. (Unit for the Attention and Integral Reparation of the Victims, 2020c)

Figure 1 shows the Single Registry of Victims (RUV by its Spanish acronym). Of the total of 8,989,570 people, 4,584,680.7 correspond to women (50.1%) and 4,404,889.3 to men (49.8%). When observing the information referring to ethnic belonging, Afro-Colombians have mostly been victims of displacement and the armed conflict, followed by indigenous populations, gypsies (ROM), and palenqueros, among others (Unit for the Attention and Integral Reparation of the Victims, 2020a).

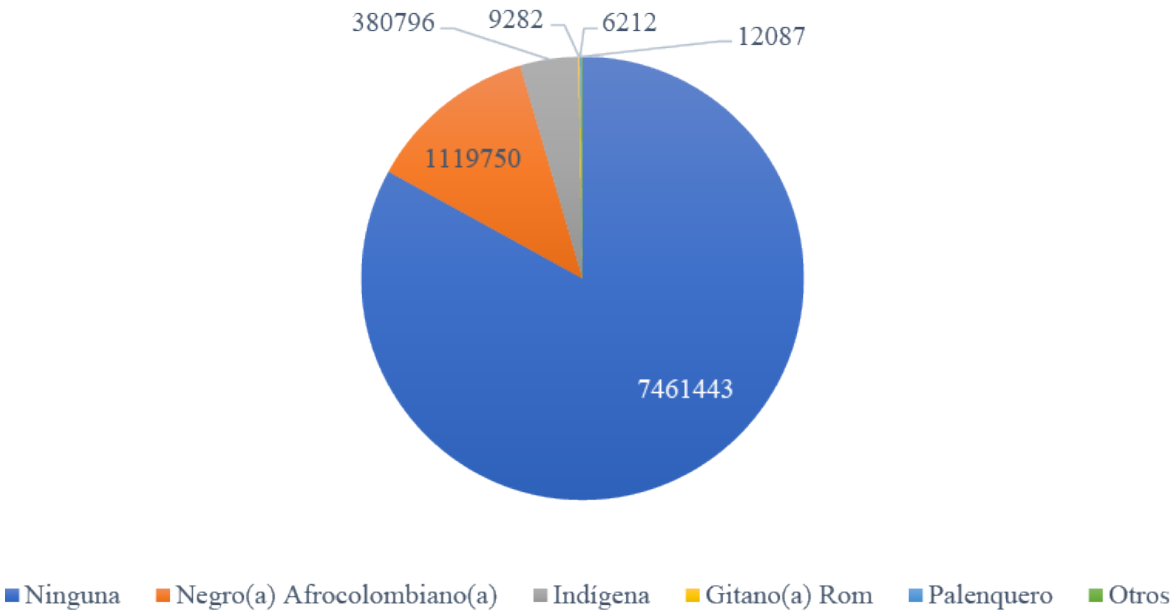


Figure 1: Victims of the armed conflict in Colombia according to ethnicity as of 31 March 2020
Source: own elaboration from data reported by the RUV.

On the other hand, it is important to point out that most of the population victims of this armed conflict are in an extensive range of the so-called life cycle: between 12 and 60. The life cycle allows us to understand vulnerabilities during the early stages of human development. It recognizes that experiences accumulate throughout life, that interventions in one generation will affect the next, and that the greatest benefit in one age group may be derived from previous interventions in a previous age group. Furthermore, it is possible to improve the use of scarce resources, facilitating identifying risks and gaps and prioritizing critical interventions.

From the perspective of the life cycle, the stages of the life cycle are approached in terms of vulnerability according to age, temporary situations of vulnerability, added to displacement, poverty and disease affect people by life cycle. These stages include: Early Childhood (0-5 years), Childhood (6-11 years), Adolescence (12-18 years), Youth (14-26 years), Adulthood (27-59 years), Elderly - aging and old age (60 years or more) (Ministry of Health and Social Protection, 2020).

According to Figure 2, it is possible to indicate that the highest concentration of violent acts occurs in the population between 29 and 60 years old, occupying 38.4% of the cases, followed by the group between 18 and 28 years old, with 22.3% of the cases. Boys and girls between 12 and 17 years old occupy third place with 11.9%, undoubtedly an aspect of total importance when establishing care plans, programs, or strategies in these population groups to generate positive generational effects. When observing the data by department of occurrence and number of people (Figure 3), Antioquia is the department with the highest number of victims registered in the RUV, with 1,787,029. Bogotá follows with 790,549 victims who have declared before the RUV, then Valle del

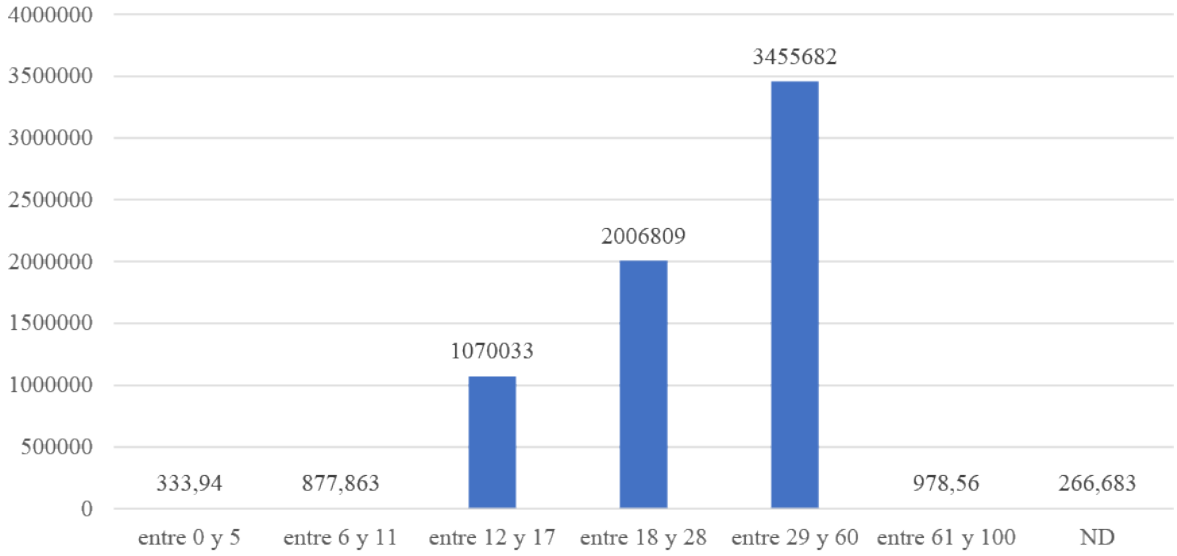


Figure 2: Total victims of the armed conflict in Colombia according to life cycle as of 31 March 2020
Source: Own elaboration from data reported by the RUV.

Cauca (619,759), Bolívar (515,241), Magdalena (466,409) Nariño (463,454), and Cesar (407,553) (Unit for the Attention and Integral Reparation of the Victims, 2020a).

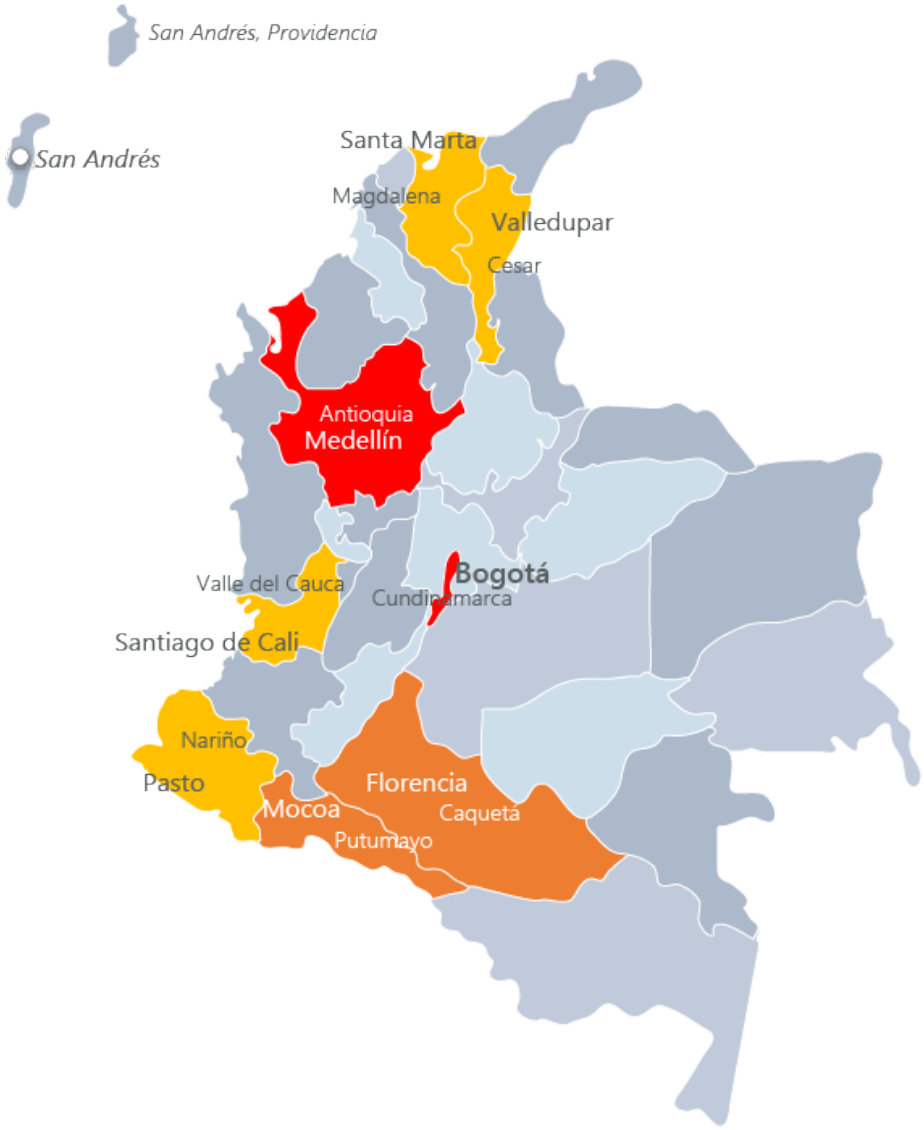
It is important to note that although Caquetá and Putumayo do not have the highest intensity of the armed conflict that occurs per 1,000 inhabitants, there are more than 300 victims of the armed conflict. This shows that the high intensity of the armed conflict in these departments has generated an increase in cross-border displacement of populations located in the southern part of the nation for years. When looking at the victim concentration by departments and municipalities, the Registry of Victims of Armed Conflict (VAC from now on) indicates that more than 75% of inhabitants in 12 municipalities are VAC; in 28 municipalities between 50% and 74%; and in 17 municipalities between 25% and 49%. In 963 municipalities, the percentage of victims is less than 25%, which still shows that the presence of victims is an aspect that occurs in almost the entire national territory (Unit for the Attention and Integral Reparation of the Victims, 2020a).

When analyzing the period in which the largest number of violent acts reported by people affected by events related to the armed conflict occurred, it was between 2000 and 2008, reaching its maximum peak in 2002, with a total of 749,745 people affected by these violent events.

Source: Own elaboration from data reported by the RUV.

Source: Own elaboration based on data reported by the Ministry of Health and Social Protection (MSPS by its acronym in Spanish), Integrated Information System on Social Protection (SISPRO by its acronym in Spanish) (as of 31 December 2018).

According to Figure 4, there began to be a decrease in the total number of victims of the armed conflict from 2002, showing lower numbers in 2004, even lower than in 1999. These numbers



Category	Number of victims
	Between 301,000 and 500,000
	Between 500,001 and 700,000
	Between 700,001 or more

Figure 3: Victims of the armed conflict in Colombia due to greater intensity of occurrence as of 31 March 2020
Source: Own elaboration from data reported by the RUV.

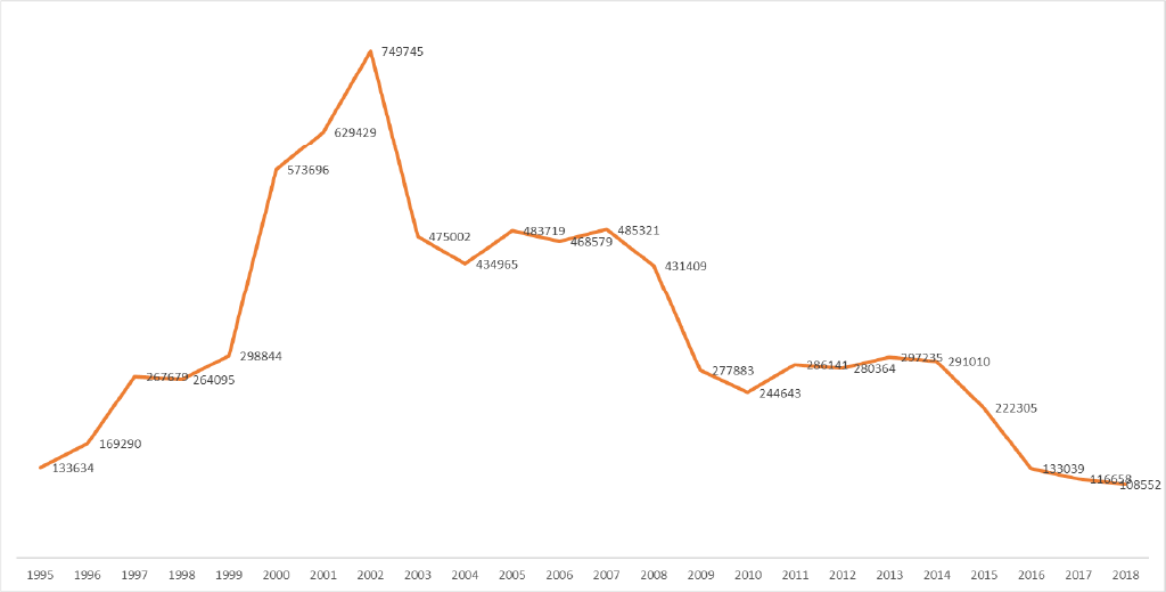


Figure 4: Total victims of the armed conflict in Colombia between 1995 and 2018

remain stable until 2008 until an unprecedented decline starts in 2016, reaching lower numbers similar to the victim numbers from two decades before the escalation of this bloody armed conflict in 1995. In 2018, numbers were even below those from 1995, when this violent armed struggle for the territories began, aiming to dominate the armed groups in the territories where they were present in the country. It is then possible to point out that the effects of the peace agreement with the FARC by the government of Juan Manuel Santos had positive effects on many of the national territories. The current government and the following must strengthen this aspect if Colombia really hopes for a better condition of a peaceful life for its future generations.

Health and Population Victims of the Armed Conflict and Displaced Persons in Colombia

The following information corresponds to the reports given by the MSPS, obtained from the Situational Chamber of the population victim of the armed conflict in Colombia. The latter was taken from the original database, crossing data from the RUV database with the registry of location and characterization of people with disabilities and the Service Provision Registry (RIPS[7]) and the Psychosocial Care Program for Victims of the Armed Conflict (PAPSIVI).

According to the records, the MSPS indicates that 185,350 people included in the RUV also appear in the Disability Registry (RLCPD), corresponding to 3 out of every 100 people who have a condition

7 Where health care in the Health Service Provider Institutions (IPS) is recorded.

or disability due to the armed conflict. Antioquia and Bogotá are the places where this type of disability is mostly registered, with 19% (35,715) and 8% (14,318) of the total cases, respectively (Ministry of Health and Social Protection, 2018).

In the disability registry, there are a total of 1,448,889 registered persons. When analyzing the data by department, Guaviare is the place with the highest concentration of people who are victims of the armed conflict who claim to have conditions of disability with 39% of the total reports of victims. This is possibly because, in that department, there was a high presence of armed groups who used antipersonnel mines for the scaling up and territorial control.

The data corresponding to the ethnicity of the VAC populations with disabling conditions shows that 71% are Afro-Colombian population with a total of 110,502 cases, followed by the indigenous population who reach 26% of the reports with 40,879 cases by 31 December 2018 (Ministry of Health and Social Protection, 2018). Once again, these data show that the intensity of the armed conflict has had a wide presence in territories where ethnic and rural communities have traditionally coexisted. It is possible to point out that violent events have an ethnic and cultural implication when discussing the intersectionality between armed conflict-ethnicity-culture. Although this analysis will not be part of this chapter, it is essential to point out that these populations should receive special attention from health policies, which require intercultural and differential approaches to make inclusive and inclusive approaches to their social situation in terms of health.

The majority of Afro-Colombians VAC by disability are in Valle del Cauca (22,296), as well as the Palenqueras (224) and ROM (536) populations. As for the indigenous population, the majority are in Nariño (5,927) and Cauca (5,523). The root populations that the RUV has registered as having a disability are in San Andrés (992) (Ministry of Health and Social Protection, 2018).

Regarding the type of body disability in the context of the armed conflict, the majority of the population presents alterations in the movement of the body, hands, arms, and legs, reaching 37% of the total number of people affected by this fact (69,658). Nervous system disorders follow it with 24% of cases (44,485) and vision disorders 15.5% (28,679) (Ministry of Health and Social Protection, 2018).

According to the MSPS regarding health care, in 2018, 3,232,334 people were treated in the Colombian health system, representing 42% of the total number of people registered in the RUV. The total number of services demanded by this population reached 41,958,817, making up an average of 13 services per person. The consultation service was the one that mainly attended this population with 85% of the total reported care, followed by emergency care 9% and hospitalizations 4% (Figure 5).

Regarding the population structure of the population served in the VAC health services, most were women with 61% of the care, while men occupied 39% of the care. Regarding the age groups, 37% of the care was concentrated in the population between 20 and 39 years in women. In the case of men, 37% was concentrated in ages under 19 years.

It is also possible to point out, as shown in Figure 6, that the concentration of attention in health services at the national level occurred in VAC populations, especially with diseases related to the

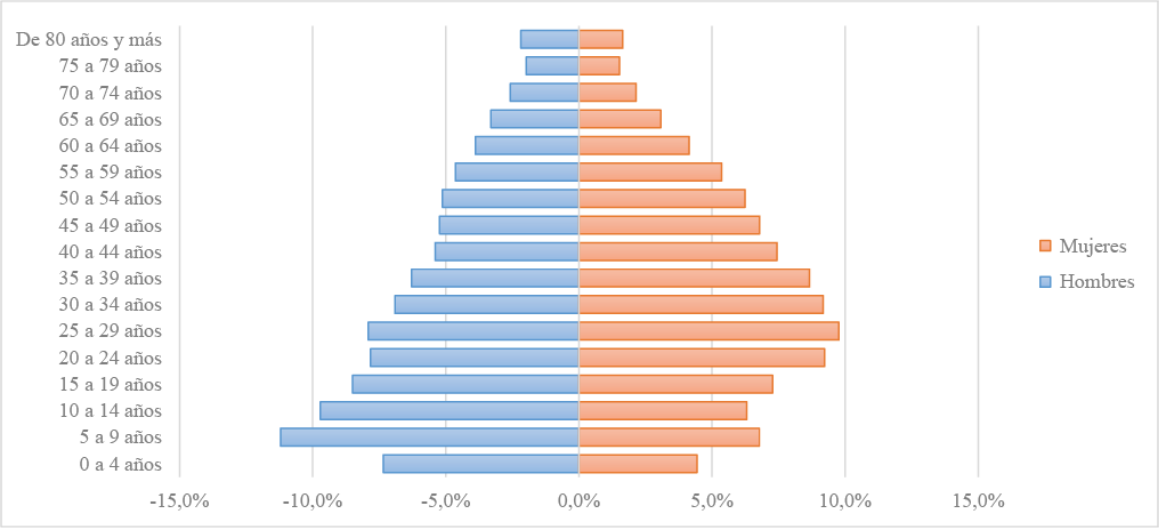


Figure 5: VAC population pyramid, attended by health services as of 31 December 2018
Source: Own elaboration based on data reported by the MSPS & SISPRO.

digestive system, respiratory system, musculoskeletal and circulatory system diseases. We can affirm that most diseases that report the attention in the Colombian Health System are then those that primarily affect the VAC population, being even between 2 or 3 percentage points above the general population.

Regarding the type of diagnosis, 27% of VAC populations were diagnosed with diseases of the digestive system (878,206), and 3% of them with mental and behavioral disorders (91,031). Although the mental disorders are minor compared to other cases reported by the VAC, it is essential to point out that many of these people have presented post-traumatic stress. The reports have shown that, in many cases, these events continue to occur after the violent events, which has generated special care programs for these populations, such as the PAPSIVI. It is also important to note that an overall increase in VACs is observed by the diagnosis group in all groups when comparing the data reported about the general population.

Some of the most important aspects developed by the Ministry of Health about the Comprehensive Care of VAC will be presented below, a framework where all population affected by the armed conflict has been classified. This classification includes the displaced population, which occupies almost 90% of the country's armed conflict victimizing events, as indicated above. All the information that will be presented is up to 31 May 2019. Data was collected by the Situation Chamber of the Victim Population of the armed conflict in Colombia, a division of the social promotion office of the Ministry of Health and Social Protection, and those provided by the RUV.

Regarding the results obtained by the PAPSIVI, between 2013 and 2018, the system reports that 692,999 people have been attended. 2017 was the year of more appointments, with a total of 139,552 (Ministry of Health and Social Protection, 2018).

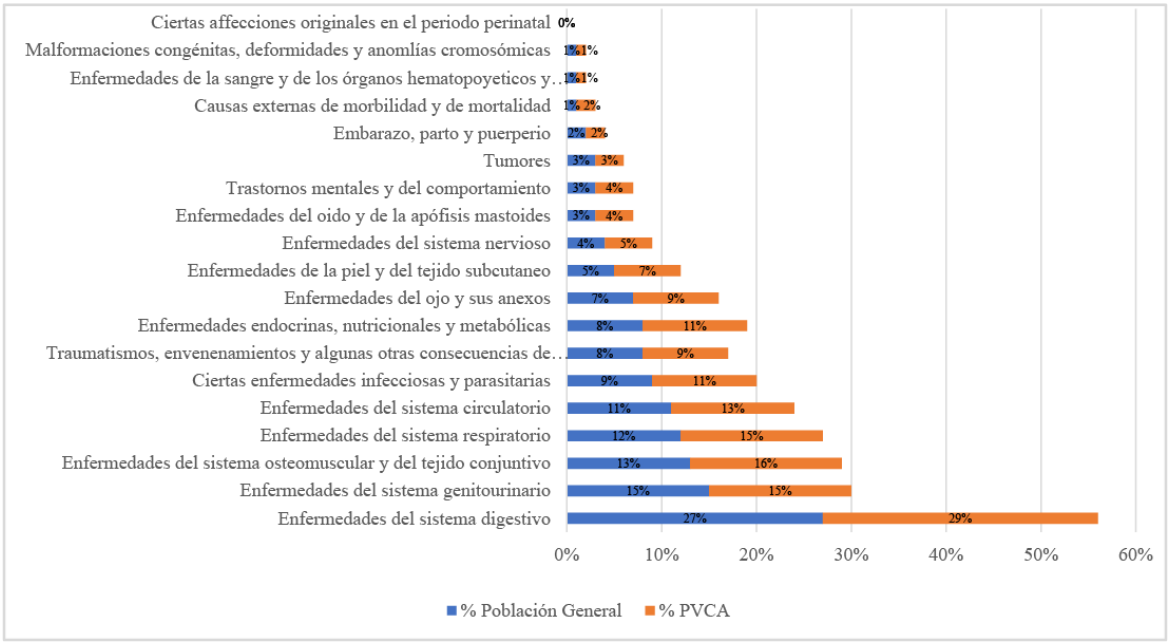


Figure 6: Percentage comparison of victims and the general population, according to the main diagnosis group (2018)
Source: Own elaboration based on data reported by the MSPS, SISPRO as of 31 December 2018

Regarding care by gender, most of it was concentrated in women (60%), and 40% of the care was given to men. Regarding age ranges, most of the attention was concentrated on people between 19 and 59 years (59%), followed by the population under 18 years (29%). At the department level, 50% of the care was focused on Valle, Antioquia, Nariño, Bolívar, Córdoba, and Magdalena (Ministry of Health and Social Protection, 2018), areas with a high presence of armed groups and from where comes a large percentage of those displaced people.

Reports show that most care has been provided at the family (52%) and community (33%) level. Only 14% of care has been given individually (Ministry of Health and Social Protection, 2018), which shows the importance of a psychosocial approach according to the needs of the population groups. Between 2015 and 2018, each year, 20% of people psychosocially treated in the PAPSIVI refer to belonging to an ethnic group. On average, during 2015 and 2018, 15,268 Afro-Colombians, 3,679 people belonging to indigenous communities, 217 ROM, 163 Raizales, and 103 Palenqueros were treated annually (Ministry of Health and Social Protection, 2018). This is consistent with the widespread attack that has occurred against these ethnic communities. It undoubtedly demonstrates the importance of this program in serving populations that have not only been displaced by armed violence but have been treated within the framework of their communities, allowing them to reincorporation into their living conditions. All within the framework of intercultural components, understanding the cultural and social realities necessary when implementing comprehensive care strategies and protecting their human rights. Precisely, within the framework of the care strategies for these populations, some of the laws, programs, and care frameworks carried out

by the government to respond to the needs of VAC people are briefly pointed out below, such as forced displaced populations.

Legislation, Health Care and Victims of the Colombian Armed Conflict

According to Colombian Law 387 of 1997, a displaced person is:

> Any person who has been forced to migrate within the national territory by abandoning their place of residence or their usual economic activities, because their life, physical integrity or freedom have been violated or are threatened, on the occasion of any of the following situations: Internal armed conflict, internal disturbances or tensions, generalized violence, massive violations of human rights, infractions of International Humanitarian Law or other circumstances arising from the previous situations that may alter or drastically alter public order. (Law 387 of 1997)

Additionally, the country also recognizes the international displaced population due to the armed conflict through the National Council for Economic and Social Policy 2804 (CONPES by its Spanish acronym) (Ministry of the Interior; National Planning Department; Presidential Council for Rights, 1995).

According to Colombian legislation, actions tend to rehabilitate displaced families socially; they are an essential aspect that positively affects individuals at both the individual and community levels. For this purpose, the access of the beneficiaries to the social programs of health, education, and urban housing and the programs of attention to children, women, the elderly, and youth is guaranteed. In coordination with the Directorate of the National Program for Comprehensive Attention to the population displaced by violence, the Ministry of Health is in charge of designing and executing, through organizations that certify their experience in treating vulnerable populations, a project of psychosocial rehabilitation for those displaced by violence.

More recently, the Ten-Year Public Health Plan incorporates different complementary approaches: 1) the rights-based approach; 2) the gender perspective and life cycle approach (older person, adulthood, youth, and childhood); 3) the differential approach (considering the specific needs of populations with disabilities, victims of violence and situations of displacement, sexual diversity, and ethnic groups); 4) the Social Determinants of Health (DSS by its Spanish acronym) model, given that health inequities are determined by processes that refer to the conditions in which people are born, grow, live, work and age, and have been recognized as the underlying problem, dominant in the health situation in the Americas, to which Colombia does not escape (Colombia Ministry of Health and Social Protection, 2012a). The plan sought the inclusion in the health care of the populations in a comprehensive manner, including VAC, in compliance with those established in Law 1448 of 2011 and its regulatory decrees that dictate care, assistance, and reparation measures to victims of the internal armed conflict and other provisions.

As part of this comprehensive care framework for victims, the PAPSIVI was created. It has been a critical strategy to promote the recovery or mitigation of psychosocial damage, emotional suffering,

and the impacts on psychological and moral integrity in the life project of the victims, their families, and communities, given the serious violations of Human Rights and the infractions of International Humanitarian Law (Ministry of Health and Social Protection, 2012b). It is clear that displacement produces terrible physical and psychological effects (Shultz *et al.*, 2014), and there is a high incidence of post-traumatic stress, anxiety, and depression in the displaced population (Richards *et al.*, 2011).

However, in the face of the recent global crisis caused by the Covid-19 pandemic, displaced persons and refugees' situation has also worsened in several ways. For Márquez Restrepo (2020), this crisis is also linked to a collapse in multilateralism, in which the leading powers have ignored various agreements on shared norms and values. In Latin America, the challenge of migration and forced displacement occurs in a context of diverse social and political problems. In the world, it has not been possible for states to fully commit to the human rights approach, which is why it has not been possible for migration to truly take place in a safe, orderly, and regular manner. Moreover, in this pandemic situation, for example, concerning the Venezuelan migrant population in Colombia, more than 90% were left without income due to confinement since said population works mainly in the informal sector, according to the International Organization for Migration. This is a difficult situation, especially considering that this population had already been stigmatized and seen as a "threat" in Colombia (Márquez Restrepo, 2020).

To Deal with the Numbers: The Ethical Perspective

Forced displacement cannot be seen as a minor problem and deserves an approach that accounts for the economic, political, and sociodemographic aspects involved and points out the profound ethical and bioethics at stake. As stated by the International Bioethics Committee (IBC) "The terrible suffering of forcibly displaced persons shocks the conscience of humanity and the international community" (2017, p. 3). The images that we often see of people having to flee from their countries of origin, or even within their own country, to seek refuge, protection, and a better future elsewhere, cannot be taken as just news. They are an indicator of the degree of our time's political, cultural, social, and ethical development. After all, we all inhabit this world, but not all are recognized as citizens, which profoundly affects these people. In the case of refugees, unlike the displaced, citizenship is lost. As Jaimes Villamizar (2014) mentions, in any case, the State has different obligations, which it must assume, vis-à-vis the refugee and the displaced person.

It is not possible to remain calm while millions of people do not have recognition of rights, citizenship and do not have the minimum means to subsist uprooted and, agreeing with Agamben (2005), condemned to live in a permanent state of exception, in a no man's land and being no one. A condition that is aggravated when it comes to *forgotten refugees* (IBC, 2017), a category that indicates those who are no longer talked about and who have been suspended from a refugee camp indefinitely. That is why we must emphasize the possibility of fully guaranteeing citizenship. This concept of citizenship would fully guarantee life as social, ethical, and political individuals. We share with Jaimes Villamizar (2014) the idea raised by Arendt of the possibility of universal

and cosmopolitan citizenship, paving the way to recognize human dignity and the right to life and freedom.

The first thing that should be raised, then, from ethics and bioethics, is the necessary sensitivity required from society, institutions, and the State to recognize the problem of displaced persons and refugees and commit to effective actions to confront, mitigate, and fix it. A sensitivity that prevents us from remaining in stillness and passivity. Ethics does not only have to do with theories or worldviews but requires emotions, whose power to mobilize is sometimes even more significant than that of arguments (Tugendhat, 1999).

From bioethics, several elements could be used to analyze the challenge posed by refugees. Perhaps the first of them is that of the relationship between vulnerability and autonomy, a relationship that may in certain circumstances be inversely proportional; that is, the greater the vulnerability, the less autonomy. One of the outstanding achievements in the biomedical field thanks to bioethics has been the recognition of people's autonomy as a central criterion for morally justifying decisions and actions in the biomedical field adequately. This idea of the central place of autonomy in bioethics and the biomedical field is heir to a tradition that dates to the Age of Enlightenment. It is a principle, a right, and a duty in contemporary societies. Perhaps that is why it is not surprising that respect for autonomy has a constitutional rank in Colombia. Article 16 of the Colombian Political Constitution reads that "all persons are entitled to their free personal development without limitations other than those imposed by the rigths of others and those which are prescribed by the legal system," as well as the fact that human dignity is invoked in Article 1 (Colombian Political Constitution, 1991).

In the case of displaced persons and refugees, it does not seem difficult to accept that their vulnerability is high by their situation, and the ability to exercise their autonomy is seriously affected. In bioethics, the first document to correlate vulnerability and autonomy was the *Belmont Report* (1978). Then in Article 8 of the Universal Declaration of Bioethics and Human Rights (UDBHR), it is established that people must be treated and protected according to their vulnerability (International Bioethics Committee of UNESCO-IBC) in the field of biomedical research and practice. Like Novoa (2009), some have pointed out that the special care required by vulnerable individuals and groups is an ethical duty that does not necessarily follow the application of a pre-existing ethical principle. In this sense, societies must develop mechanisms for protecting individuals against the risks that they produce, as in the drama of the displaced, migrants, and refugees.

The conditions that lead people to migrate are different and complex. In the Colombian case, we have seen how internal displacement has been linked to violence and armed conflict suffered for more than half a century, added to the serious structural societal failures, linked to the persistence of poverty, inequity, lack of opportunities, education, among others. This situation demands adequate medical attention, not merely limited to emergencies. In addition, a fundamental part of this care is appropriately addressing mental health problems, for example, from a Human Rights approach, also considering the worsening effect on accomplishing it due to the Covid 19 pandemic (Franco Suárez & Cubillos Novella, 2020).

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Forced Migration: Film as Testimony

Juan Jorge Michel Fariña

Eduardo Laso

Fleeing from one's own land to save your life configures a cruel paradox: what kind of life can one have without a home, without loved ones, a tradition, or a language? The 20th century has been called the "genocide century." We need not look further than the most emblematic episodes: the Armenian genocide, the Holodomor of Ukraine, the Shoah, the Indonesian genocide, the Cambodian genocide, the Rwandan genocide, and the Latin American state terrorisms. All were accompanied by the forced displacement of people in the form of expulsions, exile, or obligatory diaspora. Film has given testimony to these processes with an extensive inventory of movies that have continued to grow every day so far in the new century. Analyzing these films will offer a better comprehension of the issue's complexity and of the ways it is portrayed culturally and socially.

This chapter will journey through a half dozen groundbreaking films and television series that center around this issue. The itinerary will take us from the film *The Invader* (Nicolas Provost, 2011), whose initial travelling represents with stark clarity the bitter arrival of African immigrants on European shores. From there, we will go on to classic works such as *Ararat* (Atom Egoyan, 2002), that propose us a *mise en abîme* of the Armenian genocide. In each of these films, art illuminates our reflection: we are confronted with a very real situation that offers the opportunity to do something about the trauma of exile, expulsion, or ostracism.

Perhaps the cinematographic setting most distant from forced displacement can be found in the legendary glaciation scenes recreated in the film *Ice Age* (Chris Wedge & Carlos Saldanha, 2002). The animated images of a herd of prehistoric animals heading south in search of warmer lands are unsettling. It is curious that a movie created with children in mind has so powerfully spurred adults to reflect on loneliness, solidarity, and social bonds in extreme situations (Lewkowicz & Corea, 2004; Hellemeyer, 2014).

One of the most eloquent films that narrate contemporary tragedies is *La bestia* (Pedro Ultreras, 2010), portraying Central American migrants who wend their way to the Mexican-United States border. This work has been analyzed by muralist Claudia Bernardi (2019), who so movingly tells of her encounter with the monster:

> When I heard them talk about "the beast" I imagined it as a wild, elusive animal that stalks the thousands of Central American migrants who attempt to cross the merciless Sonora desert between Mexico and the United States, where extreme variations in temperatures can be deadly during both the relentless summer heat and the frigid winters, which even keep the snakes and scorpions at bay. Buzzards are the only ones left to feed off the death of others. (p. 9)

However, the term does not refer to a force of nature but rather to a monstrosity engendered by progress. *La bestia* (The Beast) is the common name for the freight train which migrants climb upon in Arriaga, Ixtepec, or Hidalgo in southern Mexico that takes them near Ciudad Juárez, Piedras Negras, or New Laredo. With migrants precariously holding onto the train's roof, this

fearful route that spans more than 3000 kilometers will cause many who undertake the journey to fall by the wayside and never reach the border.

To enter the Middle East landscape, *Incendies* (Denis Villeneuve, 2010) is a must. This film narrates the saga of a romance between an Arab Christian woman and a refugee. Narwal's resulting pregnancy will not be forgiven by her family, who murders her lover and condemns her as a crime of honor. However, her grandmother shelters her on the condition that she immigrates with her baby, whose heel she marks with a tattoo. This mark will set in motion a tragedy that, like a modern version of Sophocles' Oedipus Rex, will affect three generations.

Then there is *Va, vis et deviens* (Radu Mihaileanu, 2005), set in one of the most dramatic diasporas witnessed during the 20th century: when 8000 Ethiopians crossed the Sudan border to be evacuated by Israeli and US troops. In route, half of them starved to death, died from exhaustion, or were murdered in their attempt to reach the Sudanese border. The story is framed in the context of Operation Moses, a program that led the Falashas to Israel. In this case, the vantage point is that of a young boy, as the story follows his trajectory from a refugee camp to the "promised land." The vehicle for this narrative is a new mythic reconstitution: a pact between a Christian mother and a Jewish woman who has just buried her son, thus opening a story about generations that confronts us with identity and desire.

As may be surmised from these previews, the chapter develops through a methodology that proposes an encounter between psychology and art, which undertake, through different avenues, the arduous task of transforming what is real into symbolic, of inscribing what appears to be impossible. It endeavors to give images, words, and representations for what is absent, silenced, rejected, awaiting recognition, to enable a wound to close. The magic of film enables us to conceive of these no longer as fruitless repetition but rather as events in which rigorous analysis and esthetic creation intersect (Lykes & Michel Fariña, 2019).

Ararat: A "Mise en Abîme" of the Armenian Genocide

The French expression "mise en abîme" or "mis en abyme" whose literal translation is "placed into abyss" is a figure of speech derived from heraldry in which a drawing placed at the center of a coat of arms reproduces, on a smaller scale, the exact image of that coat of arms. The expression refers to an element placed inside another larger one that speaks of it, with the identity of the two signifier systems spurring self-dialogue. A painting is portrayed within a painting, a story within a story. Or, as we shall see with *Ararat*, a movie within another movie.

A genocide is much more than mass murder. It aims to destroy the symbolic chain that comprises a group's genealogy and, upon achieving this, disenfranchises the group from the human order, preventing any possible descendants and transmission of the events, both for the dead as well as the survivors. Consequently, beyond the objective of the extermination of a people, the genocidal

intent goes hand in hand with the negation of its aim, to sustain the disappearance of the victims' existence in the past, transforming them not into dead people but into something that never even existed.

To borrow from Jacques Lacan's concept of the two deaths: it is not solely about taking someone's life, but in addition, giving it a second death in the symbolic dimension itself. Such is Creon's gesture regarding the body of Polynices in *Antigone*, of Sophocles, yet extended to an entire human group.

During the First World War, from 1915 to 1923, the Turkish government carried out a concerted murder of all Armenians who inhabited the Ottoman territory, thus perpetrating the first genocide of the 20th century. During these eight years, more than a million and a half Armenians were murdered. Armenians were also robbed of their property; they were forbidden from speaking their language, their monuments and churches were destroyed, their cemeteries were razed, and all vestige or document that might attest to their existence in Turkey was eliminated.

The extermination operatives were characterized by a brutality that ranged from orchestrating massacres to employing deportations through forced marches under extreme conditions that led to death. Immediately after the genocide, large numbers of Armenians in the diaspora lived in refugee camps.

Even before Armenian blood had a chance to dry, in 1916, the Turkish government published the *White Book*. It accused Armenians belonging to revolutionary committees of being traitors and justified the repression as a legitimate defense of state interests. This launched the Turkish policy of declaring the crimes as justifiable and, better yet, nonexistent.

Faced with the Ottoman state policy of eliminating all historical imprints of the Armenians' sixteen centuries of life on Turkish soil, not to mention their extermination, survivors took to heart the duty of remaining alive to keep the dead from dying a second time by being declared nonexistent. They themselves became living tombs, invested with the duty of retaining the memory of what happened. There was no possible present for the survivor other than the context in which those deaths arose, suspended in time, while also reclaimed indefinitely by memory.

Ararat, the film by Atom Egoyan, is an attempt at inscription. In this film, Egoyan, born in Egypt of Armenian descent, addresses the issue of how to transmit personal memory of a negated past and thus provide testimony for new generations of genocide that its perpetrators have systematically unrecognized. The problem concerns ethics and esthetics: How can the victims' oblivion be reclaimed and resist the perpetrators' negation? How can it produce a fair perspective on the genocide, mass deportations, forced marches without falling into abjection or banality? How can this be told well, from an ethical sense, beyond the esthetic dimension of the term?

The solution that Atom Egoyan found is to focus on the vehicle itself, which aims to produce a movie about genocide, and in so doing, show that it is impossible to do so. *Ararat* is a film that tells of the filming of a film called *Ararat* that attempts to narrate the Armenian genocide. It becomes the (im)possible filming of a negated scene which can be accessed only through oral and written testimony left by generations of witnesses and victims. Through the paradox of portraying the

filmmaking process itself, Egoyan thus achieves the effect of transmission that would not have been possible to tell in an epic or realistic tone. This placement on the abyss will have an additional value in the reading that interests us here.

Egoyan does not conceal the fact that something is irretrievably lost: namely, the experience of the victims, their bodies doubly silenced by death and denied by their tormentors. That loss is represented by exhibiting the staging itself: a painted Mount Ararat that could never be seen from the town of Van where the film's action takes place, painted stage sets, cameras that constantly remind us that we are witnessing a film production, a script that never ceases to tension the tether between history and fiction.

The Travelling of *The Invader*: Africa and Europe

Let us look at a second example. When not at the service of promoting an image fetish, a film can lend itself to the business of endowing words and images to a catastrophic episode that operates as a genuine social trauma and, in that way, symbolize it. An eloquent example is the Belgium film *The Invader* about illegal immigration and segregation in Europe.

The film sets off with a long travelling that opens with the enigmatic close-up of female sex organs. It is a reference to the famous and scandalous painting *The Origin of the World* that Gustave Courbet painted in 1866: a canvas measuring 55×46 cm commissioned by the Turkish millionaire and diplomat Khalil Bey. The painting shows the pubic area, open legs, and part of the torso of a woman who is lying on a white sheet. Never before had the female genitals been portrayed in such a realistic manner. And never before at the center of a painting.

The Invader's travelling does not place us in Courbet's studio. We are on a nudist beach, one of many along the Mediterranean coasts of Europe. Provost's camera begins with the nude genitals of a woman, and from there, it gradually takes distance to offer us a bit more information about the scene. The body is that of a young woman sunbathing on a beach. We see her white, imposing body sit up and gaze towards a point in the distance. The woman gets up and begins to walk. As she moves, we notice other people who are also nude. We see the perceptive look of surprise on the woman's face, focused on a point beyond the scene's frame. Several sunbathers run desperately to the sea. Something disturbing has occurred. Then, several inert bodies on the sand and people trying to reanimate them enter the frame. While the young woman continues walking, the camera turns towards the scene that has captured her attention. We see two black men, exhausted, nearly naked, who struggle to get out of the ocean. Suddenly we grasp the meaning of the sequence: there has been a shipwreck of a group of Africans who escaped their country to enter the European coast clandestinely. Although seen many times before, the situation is no less horrific, their poverty and desperation inducing them to cross the sea in precarious boats and risk drowning in the attempt. With a change in the camera's focus, Provost achieves an abrupt shift in the registry: from the

beauty and eroticism of the beach to the death of a group of shipwrecked immigrants. Horror imposed over beauty.[1]

Provost plays with the contrast between the frivolous nudist beach and the sinister shipwreck of a group of African immigrants. However, above all, he plays with the ambiguous exchange of glances between her and the survivors. The woman looks at them with haughty astonishment. For her, they embody the Other, something strange and foreign that is invading her comfort zone. There is no trace of compassion in her gaze but rather a questioning of the presence of beings completely alien to her social setting. The look on the African's face, on the other hand, connotes a combination of sadness and desperation, coupled with awe and fascination at the woman's beauty and shame for how he is seen by her. For the immigrant, the splendid woman embodies Europe, the First World, the illusion of a better life, the object of desire that, if he can attain it, will guarantee him happiness. Except, in European eyes, they are merely invaders, foreigners, or at the most, an exploitable workforce—a discardable object of the economic system, whose appearance is not welcome.

Provost's travelling shows the film's potential for revealing in a single sequence shot the tragedy of illegal immigrants and the disconcerting idea of Europe as a promised land. The pictorial reference to Courbet's *The Origin of the World* comprises an ironic commentary of the European belief that culture originated there. Eurocentrism regards Europe as the origin of the cultural world before the rest of the planet. It is an illusion that animates the desire of marginalized peoples to live on that continent. However, it so just happens that European identity is sustained on the foundation of segregation and the exploitation of what is not "European," whatever that means.

Secondly, the reference to the painting situates Europe as a deadly Thing concealed beneath the veil of classic beauty, embodied by the body of model Hannelore Knuts. She presents herself in the semblance of a Greek goddess before these refugees. Only, we do not know whether this goddess will embrace them to her breast… or will pulverize them with a stroke of lightning.

The Border: Inside and Outside

Forced migrations introduce a logical problem that affects the very structure of society regarding its borders. This problem exploded with the events of September 11, 2001, when the United States, for the first time in its history, experienced an attack on its own territory. It installed what was termed a bio-politic of danger that extended the crime scene throughout the entire territorial perimeter (Michel Fariña, Lewkowicz & Gutiérrez, 2004).

The issue at stake was what, during the same years, Jean Claude Milner put forward in his seminal work *The Criminal Inclinations of Democratic Europe* (Milner, 2007), in which he concluded that we are at a juncture between two ways of thinking: all-limited versus limitless. When societies

[1] https://drive.google.com/file/d/1X_msFiR-KckEIUMtwXOfjsCkxyc7nR92/view?usp=sharing

function from the rationale of limits, the logic is quite simple: societies have an outer limit, demarcated by their enemies, against whom they must defend themselves. But, after the September 11 matrix, we have seen a substantial change in conditions. The concentration of power is evidently proportional to the marginalization created in its wake. The market expels but does not deposit externally: there is one single surface for those integrated and those left out.

This is what orients Gérard Wajcman's approach to a contemporary television series (Wajcman, 2019). A case in point is the *The Bridge*, a miniseries shown in the United States, set on the bridge that unites the cities of El Paso, in the U.S. with Ciudad Juárez, in Mexico. The miniseries has a French-English version and another that is Swedish-Danish. In both, the plot is the same. A crime is discovered, but the body has been segmented, and the parts belong to female citizens of both countries, which requires a joint, binational police investigation. That the body traverses the border limit (a bridge, a tunnel) underscores once again the paradox of that what unites also divides: inside-outside exacerbated by the series' dark irony.

Contemporary television series, that 21st-century substitution for film, might very well provide the best reflection of ludicrous traditional limits. Forced migration caused by natural and artificial disasters, with ensuing evacuations, displacements, or re-settlements exemplifies this. Hurricane Katrina, for instance, which occasioned the displacement of nearly the entire population of New Orleans, has been portrayed in the *Treme* television series. We can clearly see how the bodies evacuated during the environmental emergency return to resuscitate re-catechize the city.

There is also the film *Snowpiercer* (Bong Joon-ho, 2013) and its subsequent adaptation as a series (2020) that imagine an ecological catastrophe caused by human intervention on nature and evoke the consequences of Chernobyl, Three Gorges Dam of China, or the Mirpuri mass migration. In this television series, the last survivors on Earth find shelter in a train that runs perpetually without ever stopping, on a transcontinental journey to nowhere. Outside the train, the planet has become uninhabitable. The irony is that all humankind has become migrant, with no place of its own, trapped by consequences arising from human actions. Although it evokes Noah's Ark, the survivors' internal organization reproduces the same class divisions that produced the original disaster. In this claustrophobic setting, human beings do not cease replicating relations based on segregation.

Thus, we have a series that portrays migrations in which, once the disturbance has passed, the population returns to its lands, such as Katrina or Bhopal, but also others whose timelines for return and recovery are dramatically indefinite. In every one of these instances, the pressing issue is whether or not it is possible to restore social bonds. The most disturbing television series about the effects of encounters and mis-encounters may well be *Sense 8*, produced in 2015 by the Wachowski sisters, the same directors of the Matrix saga. The plot shifts among characters who live in remotely distant corners of the world, from Chicago to India, Iceland to El Salvador, from Nairobi to Mexico or Korea, but they experience a very connection despite the distance. The plot's challenge consists of precisely testing the capacity of language to cross borders and capture eroticism, dialect, and tradition. It is no coincidence that the series hinges on sudden migrations (almost transferences) and that the main character is transsexual, portrayed by a transgender actress. The accent is on the

"trans" part of the word, also latent in the term *transhumant*, a paradigm of the globalized world. Its plot interweaves human trafficking, terrorism, civil wars, political persecution, and ethnic or religious conflict in a synthesis of contemporary ruptures.

To conclude, we look at an exceptional film that speaks equally about Mexican migrants in California, nomadic herders in Morocco, or American and Japanese tourism in the third world. It is a movie located halfway between film and contemporary television series that foreshadows the explosion arising from modern confusion of languages. The film is *Babel* (González Iñárritu, 2006), and it confronts us with a disquieting story. The story begins in Germany with the manufacture of a Mauser rifle that a Japanese businessman acquires in Tokyo and is fired by child goat herders in Morocco. The bullet hits the body of a woman from the United States who enjoys exotic tourism in Africa. From there, it reaches her family in San Diego, ricocheting in a village in northern Mexico, then back to Tokyo, returning to the Japanese businessman his own message in an inverted form.

It is a journey without a midpoint that is a criticism of contemporary lunacy, the loss of reference points in a world adrift. It calls upon us to do something about this reality, not to remain indifferent to such horror.

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Affective Contestations: Engaging Emotion Through the Sepur Zarco Trial[1]

Alison Crosby
M. Brinton Lykes
Fabienne Doiron

Introduction

> We felt happy that the court allowed us in, listened to us, especially us women, because we never thought that they would grant us that right or give us that space. We thank the judges who listened to us… Then I felt calm and at the same time I cried from the effort. I remembered those of us who were sitting, watching and listening. When we rejoiced the most is when the judge issued the ruling, because we fulfilled our struggle and I felt calmer because I heard how many years the culprits were sentenced to serve in jail. Because before they were sentenced we were not calm, but when we heard it or when I heard it I felt calmer knowing that they will pay for what they did to us. (Interview with Demecia Yat, Impunity Watch and the Alliance to Break the Silence and Impunity, 2017, p. 46)

> The process of documenting human rights violations is paradoxical in that violence is often represented in order for it to be resisted. But are violent representations necessary for the construction of social and legal recognition? What forms of empathetic engagement are constituted as solutions to violence, and what are the limits of such forms? … I use the term *crisis of witnessing* to refer to the risks of representing trauma and violence, to ruptures of identification, and to the impossibility of empathetic merging between witness and testifier. (Hesford, 2011, p. 99)

On 26 February 2016, three judges from High-Risk Court 'A' in Guatemala City convicted Esteelmer Francisco Reyes Girón, former second lieutenant of the Sepur Zarco military outpost, and Heriberto Valdez Asig, a former area military commissioner, of crimes against humanity in the form of sexual violence and domestic and sexual slavery committed against 15 Maya Q'eqchi' women during the 1980s at the height of Guatemala's 36-year armed conflict. Reyes Girón was found guilty of the murder of Dominga Coc and her two daughters, and Valdéz Asig was convicted of the forced disappearances of seven of the plaintiffs' husbands. They were sentenced to 120 and 240 years in prison, respectively. At the reparations hearing the following week, the Guatemalan state was tasked with enacting 16 measures addressing health care, education, land, memory, and the (re)training of the military. Reyes Girón was ordered to pay 5.5 million Quetzales (USD $732,700) to the plaintiffs, and Valdéz Asig was ordered to pay Q1.7 million (USD $226,500) to the families of the seven men who had been disappeared.

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This chapter explores the possible contributions of what Lynn Stephen (2018), drawing on Myriam Jimeno's foundational work (2010), refers to as a "strategic emotional community" (p. 57) in thinking about and making meaning of the Sepur Zarco trial. Stephen (2018) argues that a strategic emotional community can be formed between direct survivors of violence and "empathetic listeners who are non-sufferers, but who are willing to act and take risks to bring tragic and horrific events to light and work to prevent their recurrence" (p. 57). We suggest that the Sepur Zarco trial was a performance of Q'eqchi' women's protagonism,[2] emergent at the intersection of multiple strategic emotional communities formed among Mayan women survivors of sexual violence and the diverse set of intermediaries (Merry, 2006) who have accompanied them in their long struggle for redress.

We ground this chapter within the heartfelt recognition and acknowledgment of what has been accomplished by the protagonists and those who have accompanied them, against tremendous odds, at high personal risk, and in the context of ongoing unfettered military and oligarchic power. As described by those involved in the case, "the verdict is undoubtedly a result of the resistance, resilience and courage of the Q'eqchi' women" (Impunity Watch and the Alliance to Break the Silence and Impunity, 2017, p. 5). However, we are mindful of how the judicial realm spectacularizes sexual harm. Circulations of power dispossess those historically oppressed in ways that affect survivors' subjectivity and agency, which can rupture the potential of a strategic emotional community. As cited above, Wendy Hesford (2011) flags the "impossibility of empathetic merging between witness and testifier" and the "crisis of witnessing" inherent to (re)presentations of violence (p. 99). From our own positionality as white Western feminists from the settler-colonial contexts of Canada and the United States, we are cognizant of how relationships between protagonists and ourselves as empathetic listeners, and our (re)presentations of the meanings we co-construct with them, are forged within the fissured landscape of ongoing colonial structures and practices.

We frame our analysis of affective moments during the trial within the context of our eight-year engagement with 54 Mayan women survivors of sexual violence during Guatemala's genocidal armed conflict, including the 15 Q'eqchi' plaintiffs in the Sepur Zarco trial and the intermediaries, that is, the Mayan and feminist activists, interpreters, lawyers, and psychologists who have accompanied them in their search for redress. In 2009, we formed a partnership with the National Union of Guatemalan Women (UNAMG, for its Spanish name) to document and conduct research alongside these processes and, in particular, to explore what reparation meant from the standpoint of the 54 Mayan women protagonists (Crosby *et al.*, 2016).[3]

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[2] We use the concept of protagonism "to deconstruct dominant psychological discourses of women as 'victims,' 'survivors,' 'selves,' 'individuals,' and/or 'subjects.' Mayan women are actively engaged in constructivist and discursive performances through which they are narrating new, mobile meanings of 'Mayan woman,' repositioning themselves at the interstices of multiple communities. The term represents person-in-context, invoking the Greek chorus within the theatre or the 'call-response' within African American church contexts, that is, situating Mayan women dialectically vis-à-vis accompaniers and/or women's community whose empathy is dialogically constitutive of them, that is, of the protagonist" (Lykes & Crosby, 2015, p. 147).

[3] This research project was initially approved by York University's Ethics Review Board (6 May 2009) and the Boston College Institutional Review Board (15 May 2009) and renewed it every year thereafter through 2017. The research was funded by the Social Sciences and Humanities Research Council of Canada (SSHRC), the International Devel-

We worked alongside UNAMG in the design of a feminist participatory action research (PAR) process. We facilitated workshops with protagonists and intermediaries, together and separately, using creative resources such as drawing, dramatization, and "image theater" (Boal, 1985), as well as beliefs and practices from the Mayan cosmovision (Grupo de Mujeres Mayas Kaqla, 2014). We sought to elicit multifaceted and nonlinear narratives about how Mayan women have navigated their everyday lives in their families, communities, and with each other in post-genocide contexts of ongoing violence, impoverishment, resistance, and contestation. From the onset, protagonists made clear they were not interested in continuously retelling singular stories of sexualized harm. This was because they were too painful, and they also had other stories they wanted to tell; protagonists have continuously resisted being reduced to "the raped woman" (Buss, 2009). As Mayan women, they locate themselves as part of the Indigenous collectivity that emphasizes autonomy and self-determination, as opposed to Westernized subjects of individuated rights (Grupo de Mujeres Mayas Kaqla, 2014; Eng, 2011).

We begin by situating ourselves as researchers to "probe how we are in relation with the contexts we study and with our informants" (Fine, 1994, p. 72). We then turn to the protagonists, situating the 15 Sepur Zarco plaintiffs vis-à-vis the larger group of 54, and include some of the relevant antecedents to the trial. We identify multiple hypothesized strategic emotional communities performed through protagonists' relationships to intermediaries and interrogate some of the potential risks attendant to them. We center our analysis of the trial on the (dis)ruptures in "ocular epistemology" (Hesford, 2011, p. 29), i.e., "seeing is believing," that occurred in the courtroom space, through the plaintiffs' decision to conceal their identities and not testify live, and as such resist the spectacle. We explore the multiple mediations of relationality that occur in judicial space through the continued translation, interpretation, and (re)presentation by judges, lawyers, expert witnesses, and audiences of Indigenous women's experiences of violence into the language of the hegemon. We conclude with a brief reflection on Gloria Andalzúa's concept of *nos-otras* as a way to think through relations of empathetic engagement within not outside of colonized time and space.

Situating Ourselves: Intermediary Researcher Reflexivity

> Self and Other are knottily entangled. … Despite denials, qualitative researchers are always implicated at the hyphen. When we opt… simply to write *about* those who have been Othered, we deny the hyphen. … By *working the hyphen*, I mean to suggest that researchers probe how we are in relation with the contexts we study and with our informants…. Working the hyphen means creating occasions for researchers and informants to discuss what is, and is not, "happening between. (Fine, 1994, p. 72; emphasis in original)

We recognize and identify our positionality as researchers as integral to the co-construction of knowledge(s) performed through iterative action-reflection processes through which we understood

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Mayan, *mestiza*, and *ladina* protagonism in the search for redress in post-genocidal Guatemala. Feminist action research is constructivist and participatory, generating, interpreting, and reporting multiple creative processes that facilitate the constitution of "data" and are the basis for new knowledge(s). Although regularly noted by action researchers who have embraced the interpretivist turn in social scientific research, relatively few research reports discuss researchers' reflexivity, including their positionalities and performances as co-constructors of knowledge. Leeat Granek (2013), extending the work of Michelle Fine cited above, urges researchers to engage an "epistemology of the hyphen," that is, a recognition of the ways the researcher-participant is not a hyphenated dichotomous positionality but rather reflects intersubjectivity, wherein "Self and Other are not on opposite ends of the pulsing line, but … in a constant process of co-creating each other in the research dynamic, and therefore, are fundamentally dependent on one another" (p. 180). Such positioning acknowledges that all knowing is dialogical (Crosby & Lykes 2019), while making explicit the all too often unspoken power of the intermediary in naming the experiences of those whose stories she seeks to narrate or (re)present. Granek (2013) identifies a second set of relationships between the researcher and the audience, one to which we return below vis-à-vis the multiple audiences engaged in and through the Sepur Zarco trial. She characterizes this intersubjective relationship as "a different type of line or hyphen [that is] co-created, one that moves from the researcher/researched dynamic into the researcher/audience realm, but that carries with it all the assumptions of interconnection, intersubjectivity, and mutual vulnerability, empathy, and care that characterize the self/other relationship in qualitative research" (Granek, 2013, p. 151).

Shaw (2010) argues that reflexivity is a methodological resource through which she as a researcher "proactively manage[s] my self in my interactions with my participants and the world and to actively explore how these encounters impact my pre-existing beliefs and knowledge—my fore-understandings—in order to understand afresh the phenomenon I am studying" (p. 241). It is critical that researcher reflexivity not become the center, sustaining and reproducing researcher fore-knowledge rather than the knowledge(s) of participants co-constructed at and through the relational hyphen described above. Thus, Shaw (2010) cautions that these reflexive efforts do not inadvertently displace the participants', or in our case, the protagonists' narrative, which is perhaps more likely to happen in unconscious performances of the researcher's power. The hypothesis here—that is, that dialogic knowledge(s) constructed within these accompaniment processes are embodied and performed through affective and emotional processes—further complexifies possible circulations of power that displace or reframe rather than center protagonists' experiences. Thus, we note where we are situated at the intersection of gender, "race," social class, nationality, language, and education, which are some of the identities and positionalities through which power circulates in our partnerships and which risk, despite or perhaps because of these strategic emotional communities, reproducing the colonial and hegemonic power relationships that we seek to critique and redress.

Each of us has worked as an intermediary with Indigenous communities in Guatemala and beyond. However, we are each "outsiders" not only to their lived realities as Indigenous women but also to the particularities of the experiences of the 54 Mayan women protagonists who survived racialized gendered violence during Guatemala's armed conflict. Alison Crosby is white, upper-middle-class

Scottish and Canadian, trained as a sociologist in the UK and Canada. She has been engaged as a researcher and activist in Guatemala since the early 1990s. Before taking up an academic position in 2007, she worked for six years for the Canadian social justice organization Inter Pares, accompanying social movements in Latin America, including the initial work with the 54 Mayan women protagonists in Guatemala that began in 2003. Brinton Lykes is a white, upper-middle-class Unitedstatesian born and raised in New Orleans, Louisiana. During the 1968 student movement, she studied in Paris and completed an MDiv degree in liberation theology prior to completing a Ph.D. in community-cultural psychology. She is an activist scholar who has drawn on the creative arts and local beliefs and practices in accompaniment of Mayan women and children in the rural town and villages of Chajul, Quiché, Guatemala and in refuge in Mexico and the United States since the early 1980s. Fabienne Doiron is a white, upper-middle-class Canadian whose interdisciplinary graduate work focused on gender and post-conflict issues in Guatemala. Her continued involvement in and understanding of social justice struggles have been shaped since 2005 by her participation in the Maritimes-Guatemala Breaking the Silence Network, which has worked with grassroots groups in Guatemala based on relationships of mutuality and solidarity since 1988. We are all Spanish speakers although Spanish is a second or third language for each of us and none of us dominate any of the Mayan languages. As privileged people who are white and from the north, we benefit from the legacies of colonialism that permeate the social fabric of Guatemala and the dynamics of racism that oppress and marginalize Indigenous populations from many social and political spaces. Moreover, we are citizens of countries deeply implicated in Guatemala's genocidal violence and that have controlling economic interests in the extractive industries that continue to push Mayan communities off their ancestral lands and perpetuate gendered racialized violence (Solano, 2013). These shared and not so shared intersectional identities and circulations of power informed, facilitated, constrained, and contributed to disruptions within the hypothesized strategic emotional communities discussed in this chapter.

Building a Strategic Emotional Community around Sexual Harm

In the wake of the finalization of the peace accords in 1996, after 36 years of devastating armed conflict, the report by the UN-sponsored Historical Clarification Commission (CEH) in 1999 found that, during the war, over 200,000 people were killed, over 45,000 people were disappeared, and 1.5 million people were internally displaced, with another 150,000 having to flee the country (CEH, 1999). The violence was directed, in particular, against the Indigenous population, with 626 massacres occurring in rural Mayan communities. The CEH found that at the height of the counterinsurgency scorched earth policies of the early 1980s, during the Ríos Montt regime, genocide was committed against specific Mayan groups. Violence was gendered and sexualized as well as racialized and classed, with poor rural Mayan women the targets of sexual harm; the CEH concluded that sexual violence was used as a weapon of genocide.

The CEH report identified 1465 cases of sexual violence, and 88.7% of the victims were Mayan women (CEH,1999, p. 23). The report acknowledged that these cases were just a fraction of what was known to have been widespread and systematic. In 2003, 54 Mayan women who had experienced sexual violence during the war came together in mutual support groups, accompanied by the Actors for Change Consortium (heretofore, "the Consortium"), which was comprised of two organizations, UNAMG and the Community Studies and Psychosocial Action Team (ECAP), and several independent feminist activists. The 54 Mayan protagonists came from three different regions of the country: 21 Q'eqchi' women from Alta Verapaz (who included the 15 protagonists in what would become the Sepur Zarco case), 14 Kaqchikel women from Chimaltenango, and 7 Mam, 6 Chuj, and 6 returnee women (who were in refuge in Mexico during the war, and do not identify by ethnic group) from Huehuetenango. Most had not yet formally "told" their families, friends, and neighbors what had happened to them. They were sometimes referred to by community members as "the soldiers' wives," and the perpetrators often still lived in their communities or the surrounding areas (Fulchiron *et al.*, 2009). Protagonists' experiences of sexual and other forms of violence during the war, as well as their strategies of everyday resistance and struggle, were multifaceted and context-specific, according to the particularities of the war in their region. As such, the meaning and significance of harm, its effects, and impact are not fixed or homogeneous.

Violence is, of course, deeply embodied (Taylor, 2003), and as such, workshops facilitated by the Consortium with protagonists between 2003 and 2008 engaged the body and the emotions held within, which complemented the more orally-based psychosocial support groups that were also organized (Fulchiron *et al.*, 2009). Techniques such as massage and dance were used to develop trust amongst protagonists and help them become more comfortable with each other's bodies and their own. Fulchiron *et al.* (2009) suggest that the women were slow to embrace these embodied approaches, and interpreters and Mayan healers who accompanied them sought to respect their hesitancies while adopting multiple strategies that would introduce them to the embodied pain carried within them.

In one workshop we facilitated in June 2013, participants reflected on their experiences of coming together in the participatory processes facilitated by intermediaries over several years. One protagonist noted that: "Now we feel happy. Before, we were ashamed to give opinions and talk, but not now." Others described the relationships of trust that they had built amongst themselves as women in their communities: "It is necessary to give support to other women. I am not going to stay with my arms crossed if I see another woman's suffering." They experienced this affective relationship as dialogical, "when other women help, it makes us happy." Thus, despite many differences, including linguistic (often having to communicate with one another through several interpreters), experiences of internal or external exile during and after the armed conflict, returning to their communities of origin, or being forced to resettle on often non-productive land, and/or receiving a single or multiple reparation payments, they offered and received accompaniment of mutuality. They spoke about and heard from each other that they were not alone in having experienced sexual violence or the loss of a husband, children, animals, and home. As one Kaqchikel protagonist stated, looking back on her participation in the workshops facilitated by multiple intermediaries, including ourselves,

> When I went there my problems were still guarded in my heart. I didn't trust enough to tell my stories from the war; we each had different problems. But when I started talking in the group, I saw I was not alone, not the only one. … It was in these workshops that I have come to understand that I am a woman. I have rights, that after everything, my life can recover.

What became clear to us as the feminist PAR progressed was the importance of protagonists' relationships with one another as direct survivors, discovering that what had happened to them had happened to many other Indigenous women in other parts of the country, that it was not their fault, and that the state was responsible. We suggest that this represents the first of what we argue are multiple intersecting strategic emotional communities or what we have referred to elsewhere as a "community of women" among Mayan protagonists (Lykes & Crosby, 2015).

These workshops and broader organizational processes also created spaces wherein protagonists and intermediaries came together, establishing what Patricia Maguire (1987) refers to as "just enough trust," and facilitating affective relationships that reflect "outsiders" accompaniment of protagonists in their struggles for justice and redress for the harm suffered. The iterative action-reflection processes of feminist PAR facilitated opportunities through which intermediaries participated within and across their professional identities. They (re)presented their individual and shared imaginaries of hegemonic masculinities, sexual violence, truth-seeking and reparations, the meaning of justice, among other issues (Crosby & Lykes, 2019). Within and across these experiences, protagonists critically interrogated and engaged in dialogic reflections about intermediaries' creative representations and vice versa, forming what we hypothesize here to be a second strategic emotional community, one built through varying experiences of trust among intermediaries and between intermediaries and protagonists.

Indigenous scholars have critiqued the tendency of outsider researchers such as us to pathologize harm as the singular experience of indigeneity and instead urge the centering of resilience, survivance (Vizenor, 2008), desire, "the hope, the visions, the wisdom of lived lives and communities" (Tuck, 2009, p. 417). These critical insights are particularly significant when working in the aftermath of genocidal violence, wherein the mechanisms of transitional justice rely heavily on testimonies of harm. Feminist PAR facilitated multiple relational processes towards constructing dialogic understanding through which protagonists talked not only about their pain and "carrying the heavy load" of impoverishment, which they identified as a key aspect of "violence against women" (Crosby *et al.*, 2016), but also a wider range of emotions, including loss and grief, anger at perpetrators, and indignation at the duplicity and complicity of the Guatemalan state in harm suffered and responses therein. We also heard continuous assertions of agency, resilience, hope, and liberation as a Chuj protagonist told us as she described her emotional journey, "[I am] old, without suffering, without fear, and without shame. Today I am capable of doing all that I can. I am like a bird. I can fly with large wings."

However, as Hesford (2011) argues, relationships of identification between direct survivors and empathetic listeners are continuously ruptured within processes that seek to document human rights violations. As such, these relationships are necessarily and inherently troubled and, as suggested above in our own reflexive self-positionings, are shaped by the very structures and conditions of violence that caused the harm in the first place. The struggles for gender justice and redress in which

we were individually and collectively engaged are also structured by and through broader international rights regimes, which are themselves informed by "Western subjectivity and conceptions of the human" (Eng, 2011, p. 580). While the participatory accompaniment processes described herein sought to disrupt the authorial privilege of asking protagonists to (re)tell narratives of pain and trauma, judicial prosecutions and reparations programs in which these same intermediaries accompanied the protagonists rely upon these narratives. This is the dilemma Hesford (2011) refers to when she talks about the "crisis of witnessing" brought about by the imperative within the human rights paradigm to (re)present violence in order to stop it. Such (re)representations, including those facilitated through feminist PAR, come up against the impossibility of ever being able to know the pain of others (Das, 2007); and, when violations are rooted in colonial oppression, the assumption that one can is a colonial act in and of itself; the self once again asserted at the expense of the other; the pain is really *mine* (Hartman, 1997).

"Gender" itself as a universalized point of identification among women, and the assumption that all women are equally vulnerable to rape (Brownmiller, 1986), has also been critiqued for its tendency to occlude—and at the same time center—colonial privilege and the implication of white Western women therein, at the expense, erasure, and objectification of Indigenous, Black, and other ways of knowing and being (Jaleel, 2013). The legal domain has a particular capacity to spectacularize sexual harm and produce racialized gendered abjection or the figure of "the raped woman" for the consumption of predominantly white Western audiences (Kapur, 2002). Moreover, as Nicola Henry (2009) argues in her analysis of international war crimes trials, "rape is an identity-producing practice. Subjectivity is often contingent on narratives of injury and victimization" (p. 131). However, Henry (2009) also cautions us against assuming that women are acted upon within judicial processes; instead, they act intentionally as agents and are resilient. In our analysis of the emotional and affective components of the Sepur Zarco trial, we are challenged to refuse binary readings of judicial processes as "good" or "bad". Instead, we explore the multiple hyphens of relationality; that is, the complexities emergent within and among direct survivors, empathetic listeners and intermediaries, and broader audiences. Our analyses of the hyphenated relationships emergent in the multiple strategic emotional communities performed in and through the Sepur Zarco trial draw on our own field notes from the trial, as well as a report analyzing the trial and its impact produced by the Alliance in coordination with the international organization Impunity Watch (Impunity Watch and the Alliance to Break the Silence and Impunity, 2017).

Judicializing Sexual Harm: The Sepur Zarco Trial

In 2008, when the Consortium came to an end, UNAMG and ECAP began working with the group of feminist lawyers Women Transforming the World (MTM) on a multifaceted strategy to support protagonists' struggles for reparations and justice, and hence the Alliance to Break the Silence and Impunity (heretofore "the Alliance") was born. To lay the groundwork for a potential legal case, in 2010, the Alliance organized a Tribunal of Conscience for Women Survivors of Sexual Violence, during which seven protagonists testified about their experiences to an international

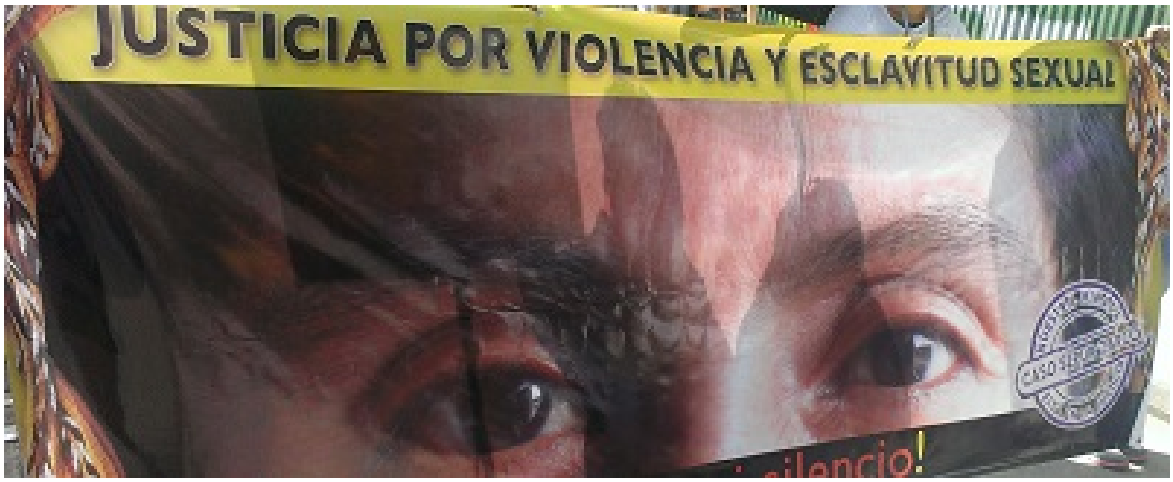


Figure 7: Alliance to Break the Silence and Impunity banner: "Justice for sexual violence and sexual slavery. Source: March commemorating the International Day for the Elimination of Violence against Women, Guatemala City, 25 November 2014."

panel of honorary judges and over 800 Guatemalan and international audience members (Crosby & Lykes, 2011). In the follow-up to the Tribunal, 15 Q'eqchi' women from Sepur Zarco decided to participate in a legal case. These women had been subjected to systematic sexual violence and forced labor at the Sepur Zarco outpost following the kidnapping, torture, and disappearances of their husbands, who had been involved in a struggle for the legalization of their lands. The Alliance accompanied the Q'eqchi' women in preparation of the case, providing psychosocial and legal support, and acted as joint prosecutor during the trial, in Guatemala City in February 2016.

The four weeks of trial proceedings included the video testimonies by the 15 women plaintiffs from a 2012 preliminary hearing (so they would not have to re-testify), 28 witness testimonies, 18 expert witness reports (historical, medical, psychiatric, psychosocial, forensic, cultural, linguistic, among others), and 8 witnesses for the defense (out of an original 48 who were supposed to be called to testify). In reading the ruling that found the perpetrators guilty, presiding judge Barrios outlined the violence the women had suffered, drawing extensively on the testimonies from witnesses and experts, explaining the evidence that showed that the accused had command responsibility for the violence perpetrated, and emphasizing the women's innocence. She stated that "the judges of this tribunal firmly believe the testimonies of the women who were sexually violated in Sepur Zarco."

As the quote at the beginning of the chapter from one of the plaintiffs, Demecia Yat, emphasized, protagonists were happy that the court system had heard them. Being heard, and most importantly, being believed and having their truths affirmed, was reflected in their multiple affective statements about their engagement in the judicial process. As another plaintiff put it, "I feel happy because we are telling the truth, we are not lying. We suffered" (Impunity Watch and the Alliance to Break the Silence and Impunity, 2017, p. 20). The presence and successful prosecution of the perpetrators instilled a sense of calm and relief. These affective responses to the trial remind us

again of the relationality of these processes; the importance of protagonists' engagement with their interlocutors; the relationship between survivors and witnesses, and between survivors and other intermediaries and audiences. We unpack these processes in more detail in the following section.

Seeing is Believing? Affective Disruptions

As they had done in the 2010 Tribunal of Conscience and the 2012 preliminary hearing, the plaintiffs concealed their identities during the trial, using colorful shawls. Their disruption of "ocular epistemology" (Hesford, 2011, p. 29) provoked an interesting array of emotional responses—most commonly, disbelief and discomfort—from the diverse sets of audiences for this trial. Within some feminist circles who constituted one of the strategic emotional communities described above and were audience members in the 2010 Tribunal and the trial, the concealing of identity signified an inability to overcome victimhood, and indeed, a succumbing to "a judicial system that needs victims instead of people. The more beaten, weak, and vulnerable you appear to the judges, the better" (Hernandez, 2016, as cited in Impunity Watch and the Alliance to Break the Silence and Impunity, 2017, p. 48; see also Crosby & Lykes, 2011). Audience responses—both positive and negative—are examples of the "crisis in witnessing" and ruptures in identification within human rights documentation processes that Hesford points to. The plaintiffs themselves highlighted this rupture and the impossibility of "empathetic merging" between survivor and audience. Their experience, and their agency, can never be ours and can never be fully understood. As Demecia Yat stated:

> One of the reasons for using the shawl, for covering our faces, is for our safety. When we arrive back in our community, we do not know who will be there around us. When we are here in the city, we know that the organizations are here, supporting us. But when we get back home, the organizations are not there. We will be alone in our houses. We come from the communities, and I have the right to decide whether to cover my face. (Impunity Watch and the Alliance to Break the Silence and Impunity, 2017, p. 33)

As mentioned above, the plaintiffs did not testify live; their video testimonies from 2012 were used as evidence instead, as a way to avoid them having to retell these narratives of harm and violence. Such a strategy subverts the spectacle of the racialized gendered other, providing stories of pain for the pleasure of an audience whose selfhood becomes affirmed in these (re)presentations of the "ghastly and the terrible" (Hartman, 1997, p. 7). However, video testimonies can also have a distancing and flattening effect on the audience; appearing on a screen can seem less "real" than the embodied victims sitting in the courtroom. And it meant that those who did testify live—the eyewitnesses, the expert witnesses, and the lawyers themselves—took center stage, as interlocutors between the plaintiffs and audience.

The courtroom dynamic and hierarchy only served to exacerbate this flattening and decentering of the 15 women plaintiffs' voices. Since procedural rules require "live" testimony to be prioritized and heard ahead of other forms of evidence, the women's video testimonies were heard separately and at seemingly random times; that is, when witnesses who had been scheduled to appear did not show or when the court otherwise had time to fill. The trial, therefore, opened with testimony

from several Q'eqchi' men who had been forced to work at the Sepur Zarco outpost, where they had witnessed some of the violations at issue in the trial at the same time as they suffered abuses. Listening to the testimonies of Q'eqchi' men about their experiences of gendered racialized violence at Sepur Zarco and other military outposts in the region challenged the association of victimhood with femininity and the feminization of emotion. However, it is also important to emphasize that Indigenous and racialized bodies are often feminized and read as "emotional" regardless of gender (Ahmed, 2015). Like many eyewitnesses—most of whom were men—they were testifying for the first time in public space about their experiences of violence and harm, and these testimonies were emotionally embodied. As Fabienne described in her field notes from the first day of the trial (February 1, 2016), with one witness,

> it almost seemed like he was about to burst. His body mimicked his rising and falling voice, his hands moving up and coming into a half standing, crouching position over his chair before sitting back down. At one point, while he was talking about being taken to the military camp, he stood up and lifted his shirt almost over his head, energetically pointing to different places on his chest, showing the scars of where he had been beaten and had his bones broken, not pausing to let the interpreter translate. When asked if he could identify "Don Canche" (Valdez Asig), he stared him down, he seemed to be telling him off.

Sitting in the courtroom, Fabienne noted that the emotion and agitation with which this witness recounted the violence he experienced several decades before stood in stark contrast to the "flattened" (re)presentation of the 15 women plaintiffs' testimony, projected on the courtroom wall above the heads of the judges. While the plaintiffs were, in fact, present in the courtroom, sitting behind the prosecution lawyers, their presence was silent and veiled.

Even before all the plaintiffs' video declarations had been heard, the court started listening to the mediation and verification of these testimonies by the 18 expert witnesses. While many of the expert witnesses had interviewed the plaintiffs in preparing their reports, a few had had longstanding relationships with them as intermediaries in the context of the Alliance's work. Namely, the psychologist Mónica Pinzón who had worked for ECAP for many years, and the Maya K'iche' anthropologist Irma Alicia Velásquez Nimatuj, who had accompanied the work of the Alliance for several years, including participating in the 2010 Tribunal of Conscience. As such, these expert witnesses' reports were framed within relationships built over time with protagonists in some ways, the strategic emotional community that they had formed with these women was reflected in their reports simultaneously as the courtroom hierarchy ruptured it.

In her expert witness report, Velásquez Nimatuj (2016) discussed the plaintiffs' relationships with their disappeared husbands, as mediated through her reporting of the interviews she had with them in Sepur Zarco. She discussed the vivid dreams that most of the Q'eqchi' plaintiffs reported having in which their lost husbands appeared to them "as if he were alive" (p. 31) and engaged in conversation with them. In their interviews, Velásquez and the protagonists co-constructed socio-emotional meanings through which protagonists were able to verbalize these losses and their multiple emotional and physical responses to the absent-presence of their life partners. This strategic emotional community was developed through Velásquez' visits to their communities but had to be reframed due to the demands of the judicialization process, which required a public performance

before the court and the multiple audiences who observed, thus rupturing the intimacy through which the knowledge(s) presented had been co-constructed.

In the context of the courtroom hierarchy, expert witnesses play a role of translation and validation: they are expected to apply their professional training and knowledge in their particular area of expertise to interpret the witnesses' testimonies and other evidence for the court. They are given, in a sense, the power to pronounce whether plaintiffs' experiences are, in fact, "true." While many expert witnesses, including those participating in the Sepur Zarco trial, understand their role as advocates and intermediaries and are sometimes able to "disrupt," as Stephen (2017) argues, dominant and prejudicial constructions of 'race'/ethnicity or gender, for instance, it remains that "in this frame, the 'story,' 'declaration,' or 'affidavit' of the defendant is not necessarily validated on its own terms—either for the specific life experience or information it contains, or for the system of knowledge it represents" (p. 100). Indeed, in field notes written during the trial, Fabienne reflected on the fact that the evidence being presented was very much "for the court"—a story shaped by and for that space—leading us to wonder what effect this performance of expertise has on the plaintiffs themselves, to have so many other people present themselves as "experts" on their pain and suffering and discussing this in often inaccessible language. As Fabienne commented at the time, this felt especially intense when the forensic psychiatrist expert witness, Karen Peña Juárez, testified that the women would never recover from some of the harms caused by the violence they experienced and that this harm was "permanent." She was giving this testimony in the presence of the plaintiffs, but in Spanish, so it was not at all clear that they heard or understood what she had said. Relief that they might not have heard this prognosis was accompanied by outrage that the audience or public might have more information about the protagonists' health than they had. This particular moment and the lack of interpretation both for the plaintiffs as well as for other Indigenous audience members throughout the trial highlighted the divides within the audience itself in terms of who had access to what knowledge or understanding of the judicial process.

Rights-based frameworks of trials have immediate effects and affects for Indigenous victims and are but one component of the broader systemic process of (Westernized) judicialization of Indigenous life. Indigenous communities that have been violated and ruptured must then be rescued and "healed" (Million, 2013) from the effects of these violations by the very colonial regime responsible. This process erases (or assimilates) indigeneity itself, and "gender" becomes integral to the narrative of colonial rescue (Ahmed, 2000). We were struck by the predominant representation of the Sepur Zarco trial as a struggle for gender justice but not Indigenous justice, even though the plaintiffs themselves locate their experience within collective histories of dispossession as Indigenous people. Indeed, although the joint prosecutors made concerted efforts throughout the trial to highlight how land theft was central to the harm experienced, indigeneity, racism, and continuing colonization were continuously erased from analyses of the trial and audience responses. For example, the media analysis below that claims protagonists as "the strong ones" does not name the colonial landscape that produces dispossession and privilege:

> Their colourful shawls, like beautiful flowers, accompanied them in demanding an acknowledgement that this should never happen to anyone, ever, to ensure that these crimes will not remain in impunity. They are the strong ones, and we, the broken and fragile Guatemala that still has not figured out how to look at itself

> and recognize itself, to accept itself and begin to heal… They have bequeathed to us dignity instead of silence. (Cosenza, 1 March 2016; as cited in Impunity Watch and the Alliance to Break the Silence and Impunity, 2017, p. 49)

This is further emphasized in the statement from Nobel Laureate Jody Williams, an attendee at the trial, on behalf of the Nobel Women's Initiative:

> These 15 women bravely told their stories to ensure that future generations of Guatemalans will have access to justice… Around the world, women are watching because wars are still being fought on women's bodies. This case is an important step in ending the nearly complete impunity for such horrible crimes. (Impunity Watch and the Alliance to Break the Silence and Impunity, 2017, p. 50)

As the transnational audience for these public performances of harm, we are not required to engage with Indigenous ways of knowing and being—or emotion and embodiment. The Western language of affect and emotion and the hypothesized strategic emotional communities between protagonists and multiple audiences privilege and are constructed through eliciting individuated stories of pain and trauma—as well as resistance or resilience—over collective ones that emphasize integration between the land and its peoples and point to structural dispossession and impoverishment as "violence against women." As discussed earlier in this chapter, the initial work with protagonists that began in 2003 took place outside of their local Indigenous communities—a "community of women" was forged instead. However, the trial has also opened the space for strengthening local relationships within the Sepur Zarco community and its surrounding areas.

The plaintiffs formed their own organization, Jalok U (which means "transformation" or "change" in Q'eqchi'), to act as a joint prosecutor in the case (represented by their own lawyer in court) alongside UNAMG and MTM, and which now has a membership of over 70 women and men, who together are working to ensure community-based reparations in the aftermath of the trial. During the trial, a network of 41 relatives of the plaintiffs (mostly sons and daughters) "created through emotional and family bonds" was formed as a primary security network (Impunity Watch and the Alliance to Break the Silence and Impunity, 2017, p. 26). The plaintiffs and the Alliance also worked with community authorities, other women survivors in the region, in other parts of the country, and young people to build a broader community of support for the trial and its aftermath. The community of Sepur Zarco welcomed the plaintiffs back after the trial with a community festival and held another one a year later. Demecia Yat described the response of other women who had also survived violence, "how great that you are all organized, how great that you had the strength to go and ask for justice, how great that those men are in jail now" (Impunity Watch and the Alliance to Break the Silence and Impunity, 2017, p. 29). Young people are using theater to raise awareness and support within the community for the issue of sexual violence. The greatest desire on the part of protagonists and motivation in their community work is "that their daughters, granddaughters, and other women in their families and communities never have to experience what they suffered" (p. 29). Thus, the Q'eqchi' plaintiffs who had developed a strategic emotional community of women with the other Mayan protagonists have now created a geographically local strategic emotional community with the men, women, youth, and children of Sepur Zarco and the surrounding villages.

Decolonizing Emotion: Towards Nos-otras

> Human rights testimonies [...] risk voyeurism and commodification, and I do not want to minimize those risks. However, the "you" to whom the human rights testimonies are addressed also opens up the possibility of alternative forms of listening, witnessing, and "unforeseen memory" [...] Human rights testimonies ask us to consider, as Roger Simon puts it in another context, "how and why it would matter if accounts of systematic violence and its legacies were part of [our] memorial landscapes?" We might view this embodiment as an instantiation of the intersubjectivity of memory and witnessing. (Hesford, 2011, p. 122)

As Hesford suggests, processes of listening to and witnessing, protagonists' narratives of social suffering and their performances of joy, relief, and connection with one another have generated opportunities for co-constructing knowledge(s) "from the bottom up" as well as multiple opportunities for intersubjective "being-in-the-world." Gloria Anzaldúa wrote extensively about life at/on/in the multiple borders that she inhabited, from her birth along the US-Mexican border through her death as a distinguished author who embraced multiple subjectivities and positioned herself at their interstices, rejecting the many ways in which she was racialized and linguistically, socially, and heterosexistly marginalized in the multiple homophobic and hegemonic male colonial spaces she occupied as a poet, author, Chicana, lesbian. We draw on her idea of *nos-otras* through which she explored the possibilities of reconfiguring the bridge that she initially characterized as the back across which many liberal white feminists walked (Moraga & Anzaldúa, 1981) towards reshaping the relationships within and across multiple differences and marginalizing borders as possible spaces wherein "home" can be constructed (Anzaldúa & Keating, 2002). Widely read for her contributions to decolonizing knowledge generated by Western feminist scholars, she developed an understanding of *mestizaje* that sought to structure the multiple hybridities of those who position ourselves or are positioned at the interstices of circulations of power that privilege and marginalize. Her hyphenization of the Spanish-language term *nosotras* wrote into being the possibilities of those separated by chasms of privilege and power coming together towards taking actions for change. As white northern activist scholars, we who have all too frequently positioned "others" invert her construction to recognize that Indigenous scholars and knowledge producers have repositioned us as *otras*. Through the activities and actions alongside *ladina*, *mestiza*, and Mayan protagonists described herein, we affirm the possibilities of a strategic emotional community—always in flux and "in formation" and always contested—through which we seek a more just and equitable world.

On Thursday, 10 March 2016, in the immediate aftermath of the Sepur Zarco trial, Brinton was reminded of how the community of women established among the 54 women stretched to include other Mayan protagonists and intermediaries, including ourselves. The Alliance and the Center for Legal Action in Human Rights (CALDH) hosted an event in Guatemala City to celebrate the protagonism of the 15 Q'eqchi' women from Sepur Zarco. As Brinton approached the lawn where people had gathered, she saw many of the 54 Mayan protagonists whose struggles we had been accompanying and many of the intermediaries from the Alliance. Her eyes were drawn immediately to several Mayan protagonists who knelt on the grass with paintbrushes in hands, developing a mural to celebrate their victory, representing themselves through the familiar floral images and as birds in flight. As she stood observing, one of the Chuj women from Huehuetenango, who had

accompanied the Q'eqchi' plaintiffs throughout the trial, came over to her and began to hug her. She was brimming with smiles and just kept patting Brinton on her chest, caressing her heart with a gesture filled with joy, acknowledging that they had walked together. It reminded Brinton of the multiple gatherings we had shared, of how the participants' ways of greeting us as intermediaries had changed over time. The embrace replaced the more traditional Mayan woman's outstretched arm that grazes that of the newcomer to her community. Brinton had previously experienced the rupture of this formalism with the Maya Ixil and K'iche' women she worked with in Chajul, a familiarity and familialism that extended beyond those in the organization to the wider circles of women and children who recognized her after so many years of comings and goings in the town. That said, it did not extend to many of the rural villages that she knew less well and had only visited intermittently. Thus, she recalled being surprised by the relative speed she, Alison, and Fabienne were "accepted into" the circle of those whose bodies could be touched through an embrace, converting the distance of barely touching arms-length greeting to something much more familiar; an embrace that intimated friendship. However, the woman's tapping of Brinton's heart was something Brinton had never experienced before; a gentle embrace, a recognition, a sense of gratitude that traveled through them. Brinton was grateful to have shared a very small part of the long journey these brave women had initiated together. She experienced this one among the 54 to be enveloping her, bringing her into a celebration of the collectivity of women and men that included, among the many other Maya present, the rural Maya Q'eqchi' of the Sepur Zarco trial and a white Unitedstatesian researcher. They stood together for what felt like 15 minutes until someone who had been trying to pull the disparate sub-groups of people apart to initiate the proceedings for the evening succeeded in separating them. This moment of celebration and affirmation filled with emotion and affect does not, of course, negate the multiple contestations and (dis)ruptures in identification described in this chapter. However, it is a glimmer of living into the possibilities of intersubjectively positioning in/as *otras* towards an activist construction of hyphenated community and an embodied performance of *nos-otras.*

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Mental Distress and Gender-Based Violence in Forced Displacement Settings from Conflict: Cultural and Ethical Considerations for Health Care Professionals

Ayesha Ahmad

Introduction: Presentation and Re-Presentation of Stories of Conflict

Mental distress relates to disharmony of the bearing of oneself and the relation of the self to the surrounding world. A focus on conflict through health paradigms has allowed a wider and greater health-inclusive perception of conflict-related traumatic experiences in recent decades. However, the medicalization of mental distress has led to difficulties in understanding the nature of suffering born from conflict and subsequent forced displacement. Gender-based violence towards displaced people as an aspect of mental distress is a further nuance that requires narrative introspection involving reflections on identity and land connections. The Pashtu word 'zmaka' simultaneously refers to the land and a person's connection to it. Similarly, the concept of the Persian word 'malang' reveals a sentiment of remaining connected to the land even when not upon its soil, which is particularly pertinent for tribal identities and communities. However, these small linguistic examples only merely illustrate the wealth of words overlooked in dominant English-speaking and biomedical discourses of mental health. Considering narratives as a marker and gateway into lived experiences was the basis of work achieved by anthropologist Arthur Kleinman and has threaded into the debate on mental health needs of refugees by highlighting the social suffering (Kleinman *et al.*, 1997) of conflict-related trauma. Mental health distress stemming from a combination of lived experiences of conflict and gender-based violence, which becomes a focal point for health care professionals in humanitarian contexts such as a refugee camp for Internally Displaced Persons (IDPs) and in the receiving country is a result of "deep-seated structural causes" and "the medicalization of collective suffering and trauma reflects a poor understanding of the relationships among critically important social determinants and the range of possible health outcomes of political violence" (Pedersen, 2002, p. 175). The purpose of this chapter offers hope for renewed and revised discourses on mental distress and gender-based violence in forced displacement settings from conflict for the cultural and ethical considerations of health care professionals. Without a critical understanding rooted in lived experiences of social suffering of the "manner in which communities try to regain their worlds," these very communities, "which have been marginalized through the structured violence

of historical processes or which have faced the trauma of collective violence" will struggle at the hands of healthcare professionals who try to help "rebuild lives" (Das *et al.*, 2001, p. vii).

Whilst preparing for this chapter, I spent time talking through the experiences of gender-based violence and forced displacement with surrounding communities to gather their insights about the forms of mental distress carried through conflict into new travelled lands. Overwhelmingly, I was showered with an abundance of deep, entrenched references to their identity and voice with the lands of their birth. Despite the violence that had appeared in the horizons and became part of individual stories, literary, poetic, visual descriptions of the homeland communicated an alternative discourse to the vulnerability and traumatized diagnosis of asylum seekers, refugees, and undocumented migrants, recognised and identified by a stage in an internationally constructed legal system. Representing experiences of gender-based violence and reflections on mental distress from those forcibly displaced from conflict requires in-depth space for inquiry of lived experiences. Furthermore, understanding such stories enables insights (Eastmond, 2007) into how displaced people conceptualize and perceive violence witnessed and/or endured.

A story, or narrative, is a 'social act' and can make "visible and explicit the connections between particular lives and social organization" (Ewick, 1995, p. 197). However, the prioritization of biomedical frameworks of interpreting narratives has created chasms of unspoken stories. Ethically, the formation of identity of those forcibly displaced from conflict is affected by the loss of story-telling spaces. Given that being forcibly displaced from conflict symbolises violent experiences of some sort, any existing strands of stories have been woven into trauma discourses and a trauma-focused psychiatric epidemiology of Post-Traumatic Stress Disorder (PTSD) that overlooks the lived experiences of conflict and assigns traumatic events as causation of mental distress. Trauma and culture influence the way that conflict, violence, and forced displacement are experienced, but the subjectivity that is found in stories is vital for clinicians to understand the history of their patients, too (Rechtman, 2000). Ethical and cultural considerations for health care professionals responding to mental distress due to gender-based violence and conflict also involve other sectoral approaches such as the call for political and legal action. Bjertrup *et al.* (2018) explored living conditions in Greek refugee camps conducting in-depth interviews and focus groups and found that refugees were "experiencing uncertainty and lack of control over their current life and future, which caused psychosocial distress and suffering" and in order to ethically and effectively mediate this mental distress by "faster and transparent asylum procedures, the development of meaningful and empowering activities, and fostered social interactions with the surrounding society" are needed for "alleviating their psychosocial suffering" (p. 53). Thus, healthcare professionals are gatekeepers carefully and strategically placed to receiving narratives of human rights abuses and on the front line of endeavours to meeting social justice.

Forced Displacement

In this chapter, I will situate the discussion on mental distress and gender-based violence in forced displacement settings from conflict with a view to cultural and ethical issues for health care profes-

sionals in the prevalent disciplinary scopes of the literature. However, I shall also thread a trajectory of voices through the discussion: marginalised voices of those who endure life-narratives of multiple violence and loss of land identified as home. In Mourid Barghouti's novel exploring the terrains of his origin —and exile— through literary, metaphorical footsteps, he refers to his story as "I Was Born There, I Was Born Here". Barghouti's experiences speak from the lens of the "unclassifiable", and he must travel through his literary exercise to discover the words of the exiled writer. The mental distress of not being able to return to Palestine captures the tense connection between home and land. Similar sentiments flow from displaced Pashtun tribal members in London, England, when reminiscing of their "Kabul jaan": the "jaan" symbolising a term of endearment usually reserved for older persons, thus personifying and respecting the city of their birth —and their forced displacement—simultaneously. Yet, the discourse of presenting mental distress from forced displacement is framed by dominant narratives of empirical and biomedical language.

Becoming a refugee entail leaving one's home, and as an international refugee, individuals seeking asylum also leave behind their country of origin (Kirkwood *et al.*, 2016). Effects of migration on diaspora, both positive and negative aspects, are well-documented from a global perspective. Only in recent decades has there been a link between migration and mental health. Fleeing from harsh, conflict-ridden, and dangerous conditions where no viable futures are foreseen is a further layer to the complexities of changing homelands and identities. Attachment to cultural origins, especially regarding tribal communities who derive their identity from areas of land that they roam and claim as territory, is long-standing in traditional storytelling and humanities-based narratives. However, there is yet to be significant research undertaken in immigration and asylum contexts about the way meanings for homelands are formed and their bearing on mental health. Migration is recognised as a stress-inducing phenomenon. For vulnerable individuals with histories of previous trauma and without an appropriate support system, the accompanying stressors to the migration process are linked to mental illness (Bhugra, 2004; Bhugra & Jones, 2001). The 2017 Global Trends study by the United Nations Refugee Agency estimated that 68.5 million people had been displaced due to war, violence, and persecution (UNHCR, 2017).

Migratory patterns stemming from conflict have given rise to the categorisation of refugee and asylum seeker mental health care. Whilst this symbolises greater recognition of the psychological distress that conflict creates within an affected society or societies, health care professionals must proceed with caution in defining suffering. Furthermore, there is a greater understanding of conflict as a gendered process and targeted violence towards both men and women during conflict. The travelling cultures (Ahmad, 2013) of communities are thus story-bearers of different ways of conceptualising health and illness and carrying socio-political-historical discourses, which frame the view of the self and the surrounding world views that have been disintegrated through war trauma. In this chapter, using a narrative lens, I shall bring together the experiences of conflict-related mental distress and gender-based violence and critically discuss the role of the health care professional in understanding cultural and ethical considerations in responding to the stories of forced displacement.

Gender-Based Violence in Conflict

GBV during conflict exists as a continuum (ICRC) with GBV during peace times. GBV is a significant aspect of the conflict that requires both prevention and response by humanitarian health efforts during forced displacement crises. The relationship between GBV and conflict has transitioned through various stages since seminal conflicts such as Rwanda and Bosnia led to international legal recognition of sexual violence as a weapon of war to be a crime against humanity and constitute a war crime.

The attempts to understand GBV in conflict have predominantly focused on women who are focus on multiple gender-targeted forms of violence. GBV towards men and boys, however, must also be central to the GBV in conflict discourse. Gender-based violence refers to acts of violence where victims are targeted based on their gender and reinforce unequal gender norms and unequal power relationships between men and women (WHO; UN). The UN has expanded definitions of GBV to include acts of violations of women in contexts of armed conflict

Gender-based violence in Afghanistan is a significant human right and global health issue. Afghanistan presents with some of the highest rates of GBV in the world. The United Nations Population Fund, a UN agency, documents that GBV in Afghanistan "stems from complex inequalities and cultural practices which, when aligned with poverty and lack of awareness, subordinate women to men and prevent them from acting on or receiving support" (UNFPA Afghanistan, 2016). Due to high rates of violence towards women and the passing on of traditional practices from generation to generation that perpetuates the violence—87% of women are reported to have experienced at least one form of GBV (UNFPA Afghanistan, 2016)—dominant research and policy focus is from a woman's perspective. Increasingly the role of men in the discourse for gender equality is critically examined, particularly on the grass-roots level. A 2016 report has also been published by the Afghanistan Research and Evaluation Unit on the "The Other Side of Gender Inequality: Men and Masculinities in Afghanistan" highlights the issue of under-explored narratives from Afghan men and the need to further the discussion.

Alongside the backdrop of GBV towards women, and the under-reporting by women of GBV experiences due to stigma, risk of further violence and lack of domestic violence and mental health resources, there are also forms of GBV towards men. Bacha Bazai practice (boy play), for example, is a form of child sexual abuse whereby vulnerable male children are recruited as dancers and sexually abused by men in power. A recent report by Discourse Afghanistan explored some of the reasons for the practice of Bacha Bazai, and it has been equated as a status symbol or an exercise of power; that in the context of war where individual agency is minimal, having control over another human being is viewed as a form of ultimate power even more so than acquiring material possessions of value.

There is a strong link between conflict and the increasing presence of cultural mechanisms used for coping and maintaining social structures whilst they are under threat. Consequently, even harmful traditional practices become magnified during times of conflict and crisis. Afghanistan is a conflict setting with a double burden of psychological trauma both from the surrounding context

and home. There is a constant threat of attack and a culture of violence. Violence develops as a culture when portrayed through symbols, ideas, and images (Juergensmeyer, 2000) and understood through narrative (Wood, 2004). Violence, then, is distinctly a cultural process and is embedded into the foundation of societal structures during a conflict.

Afghan society is highly gendered, which means there is restricted space and agency for freedom for both genders, for example, cultural notions of masculinity prohibit the expression of distress and trauma and suppress emotions (UNHCR, 2016a). Humanitarian responses to conflict are increasingly recognising and utilising gender frameworks for designing and implementing interventions. It is argued that a contextualised analysis of gender contributes to greater relevance in gender-focused aid interventions. However, there are limitations in an Afghan setting because men perceive changes in gender roles and relations to be the result of highly politicised and often international projects (Abirafeh, 2007).

However, conflict-related sexual and gender-based violence against men and boys are at risk of not being acknowledged despite mounting evidence of the significance of the problem worldwide. The need for further investigation has thus been highlighted. For example, a set of guidelines developed to increase accountability-focused investigation frameworks and practices on conflict-related sexual and gender-based violence against men and boys states that

> current investigation frameworks and practices generally do not sufficiently alert investigators to the seeming probability of the existence of GBV against men and boys in most (if not all) conflict-related contexts, or to the need to look for, investigate and document such violations. They also fail to highlight relevant, likely and often unique investigation pitfalls and challenges, or they do not provide sufficiently detailed guidance on how to address them. (Institute for International Criminal Investigations, 2016, p. 3)

A direct consequence of this means that there are potential acts of violence that are not internationally recognised and thus are not part of global or humanitarian health mandates for education or protocols for clinical practice. The further point is that when an individual has experienced a violent act that is normalised in social contexts of the individual's cultural narrative, the point of disclosure from a healthcare professional who defines such experience as violence presents ethical concerns, especially when there is likely to be a lack of resources to respond to mental distress. An article published in TOLO, an Afghan media outlet, on religious gender-based violence towards Afghan men and boys received responses that justified the physical enforcement of a male body to emulate an ideological, religious figure as permissible if in accordance with Shari'a Law (Ahmad, 2017). Other comments alluded to societal notions of masculinity that denied violence could happen to a man. Defining gender-related violence and trauma is ultimately normative judgements; we must be reflective over whom is the scribe. The storyteller and the story-suffer should be a union akin to the doctor-patient relationship.

Gender and Culture in Migratory Frameworks

Mapping migration through a gender lens is a conceptual exercise. Gender identity and definition is subject to cultural differences and shaped by socio-political discourses (McDowell, 2018). The

meanings of gender identities and health outcomes across migratory patterns and behaviour are by necessity nuanced and complex since migration can pose different health opportunities and risks depending on an individual's sex and gender. The health of individual migrants is often affected differently at different stages of migration–positively and negatively—depending on whether they are male, female and Lesbian, Gay, Bisexual, Transgender, and Intersex (LGBTI). Similarly, not only can the process of migrating influence individuals' health, but conversely, sex and gender often determine people's options and means of migration, which contribute to potential risks and benefits.

Increasingly, migration is shaped by gender. Legal, social, political, and cultural backdrops have contributed to LGBTI individuals seeking safety. The passing of Uganda's Anti-Homosexuality Act in December 2013 has played a significant role in the unprecedented volume of LGBTI Ugandans and with such high visibility migrating to Kenya, for example (Zomorodi, 2016). Such migrants consist of both legal and illegal routes. Humanitarian responses have struggled to respond due to a lack of resources and a need for further knowledge and training on gender as a factor that can define a humanitarian crisis.

Gender has had some recognition as being an aspect of identity that may be subject to targeted persecution. For example, the UNHCR (2016b) state that LGBTI asylum seekers are to be recognised as refugees under Article 1 (A) (2) if they suffer persecution on the ground of "membership of a particular social group". Current contexts of conflict and related humanitarian crises present significant gender-based vulnerabilities for affected populations, especially individuals fleeing systematic sexual violence as a tactic of war.

Furthermore, migration is increasingly recognised as impacting mental health following re-settlement. Migration needs to be understood by clinicians to be a process, and although the migratory process can be stress-inducing, the coping strategies used by migrants need further understanding (Bhugra, 2004). Similarly, there remain under-recognised aspects of psychological trauma relating to migration that is initiated due to conflict and other humanitarian crises. In part, this lack of accessibility to forms of trauma results from a lack of engagement with affected populations. Black and Minority Ethnic (BME) groups demonstrate higher rates of mental health inequality than the rest of the population. Notably, migrants are likely to become an ethnic minority in their new or host country (Bhugra *et al.*, 2011).

It is difficult to view the migratory journey as a fixed event because it is a mode of transit, and the person is in flux. Understanding trauma in this complex, multi-stranded vein is in tension with a biomedical framework for mental health premised on identifying the source or origin of the traumatised state. Since migratory journeys begin due to negative push factors, the traumatic event such as in the case of Mariam has already occurred. With a view to the clinical encounter, the response needs to navigate the nuances and non-linearity of Mariam's journey of traumatic events.

Mental Health in Conflict

Refugees demonstrate high rates of PTSD and other psychological disorders—however, refugee mental health care is still under-researched and inadequately understood. For example, Mental health problems have been found to disproportionately affect Afghan refugees and asylum seekers who have had prolonged exposure to war (Alemi *et al.*, 2014). An urgent need for validated trauma and mental health screening tools for refugee children and youth in different European immigration countries has been recognised amongst mental health care professionals (Gadeberg & Norredam, 2016). In a large population study reviewing stressful experiences and stress reactions among child and adolescent refugees, it was concluded that child and adolescent refugees suffer from significant conflict-related exposures, including stress reactions, which as the basis for trauma (Lustig *et al.*, 2004). Exposure to violence such as a conflict setting is a significant factor influencing a child's mental health.

In terms of the mental health of children affected by armed conflict, the effects are catastrophic (Betancourt *et al.*, 2012). Children and young people are exposed to witnessing violence and forced to participate in violence (Machel, 1996). In African contexts of armed conflict, high rates of depression, anxiety and post-traumatic stress reactions have been reported in war-affected children (Bayer *et al.*, 2007; Betancourt *et al.*, 2012) However, it is essential to note that untreated mental disorders are significantly high in low and middle-income countries—upward of 70%, especially in children (Gore *et al.*, 2011; Patel *et al.*, 2007; Jacob *et al.*, 2007). In part, the figure is explained in terms of lack of mental health resources but also lack of trained health care professionals who can recognise and diagnose mental health disorders as well as barriers to seeking help such as stigma.

Children and their families who are forcibly displaced and resettle in high-income countries such as the United Kingdom can mediate risk factors towards mental health vulnerability if stable settlement and social support are provided (Fazel *et al.*, 2012). Thus, conceptualising the context of displaced people demand reflection on the socio-political situation that forced migrants are received by, albeit positively or negatively. In turn, the current increase of global forcible displacement has necessitated a greater understanding of factors associated with refugee mental health as part of a continuum and nexus of factors, not solely the narratives that speak of violence. There has subsequently been a shift in how key predictors of mental health outcomes are conceptualised with a move from pre-migration trauma to focusing on the psychological effects of post-migration stressors in the settlement environment (Li & Sullivan, 2016). To understand mental distress associated with different phases of migration, references of temporality and spatiality are essential. This helps to counteract categorisations of vulnerability, which only serve to place normative judgements on the individual without recognising the violence that has been [geo]politically structured and applied at their point of origin. Therefore, the vulnerability of refugees who experience multiple GBV and conflict-related traumas is magnified by "poverty, grief, and lack of education, literacy, and skills in the language of the receiving country". Besides, there is a need for the health agenda to go "beyond the biomedical model to promote healing and reconnection with families and communities" (Robertson *et al.*, 2006, p, 577). Mental distress, phenomenologically, goes beyond conflict and displacement; namely, mental distress corresponds to individuals' identity before

displacement and in their current state. Conflict remains the source of the displacement and mental distress but being out of the geographical conflict area does not cease mental health needs.

Conflict exposes individuals to sequelae of traumatic events, which mirror the state of norms and extremities in a society—conflict is not immune or a separate object to society. Some post-conflict and disaster-prone areas have populations whereby 96% have been exposed to traumatic events during their lifetime (Marthoenis *et al.*, 2018). Ethical questions arise to consider ways to define traumatic experiences and their impact on individuals, families, and societies both in the short and long term. Early recognition of mental health impacts in conflict tended to view the effects of trauma as "transitory and non-disabling" and that "interventions in the emergency phase are sufficient" (Baingana, 2003). However, current approaches have improved the integration of mental health during humanitarian responses. Yet, there remain ethical challenges in delivering and designing mental health interventions, particularly when forced migrants are viewed as experiencing "unique mental health challenges" (Ellis *et al.*, 2013, p. 165), which instantly confirms a comparison with typical frameworks of mental health. In other words, frames of reference for mental distress were not inclusive rather than the distress or suffering that displaced people need to translate and interpret into new worldviews being anomalous.

Iraq, as a context of multiple and chronic conflicts, has a high mental health demand. Conflict settings, as well as periods of instability, include a variety of daily stressors such as poverty, lack of basic needs and services, grief, and loss, and ongoing risks and fears of different forms of violence. In a report by Doctors Without Borders on "Healing Iraqis: The Challenge of Providing Mental Health Care in Iraq," mental health disorders and emotional distress are described as "debilitating and agonizing as physical health problems. There is little doubt that years of political and social repression, punctuated by wars and followed by a post-war period characterized by interrupted and insufficient basic services, have taken their toll on the Iraqi people" (Medecins Sans Frontieres [MSF], 2009, p. 1). However, there is a significant treatment gap in terms of the resources available to address and provide adequate responses to mental health care needs. According to data from Iraq's Psychiatric Society, there are 100 psychiatrists for a population of 30 million people. There are only three psychiatric hospitals in Iraq: Al- Rashad and Ibn Rushd in Baghdad and Suz Hospital in Sulaymaniyah. There are no psychiatric hospitals in Erbil.

Typically, mental health is primarily viewed through a religious or supernatural lens throughout Iraqi society. Mental illness in Iraq is viewed through a spiritual and not a medical lens. Furthermore, seizures caused by psychiatric disorders such as trauma are the most heightened predictor of the risk of violence towards the sufferer due to seizures being associated with a form of spirit possession. Qassem Abdel Hadi Dayekh from Baghdad's Rusafa Health Department describes how relatives of "hospitalized patients recovering from seizures would rather leave them in the hospital than face society's perception towards these patients" (Al-Jaffal, 2014).

Humanitarian health workers face Socio-cultural views of mental illness in times of conflict and crisis. People suffering from psychiatric illness are not perceived to be unwell. Instead, people living with mental illness are classified as "crazy". Dayekh describes Iraqi society as one that "perceives those who seek psychiatric help as crazy, which renders the field of psychiatry as a luxury" (Al-Jaffal,

2014). Without an orthodox mental health infrastructure, cultural perceptions about the causation and meaning of mental illness are prevalent throughout Iraq. Beliefs in curses, spirits, spells, and demons are believed to cause mental illness or from "God's will".

Stigma towards the mentally ill involves significant risk because "stigma hurts individuals with mental illness and their communities, creating injustices and sometimes devastating consequences" (Ciftci *et al.*, 2013, p. 1). Although stigma towards mental illness is a universal phenomenon, the differentiating factor is the degree of risk a stigmatised individual with mental illness. Stigma is a strong barrier to treatment access within low-resource areas and among vulnerable members of the population including the poor, women, and ethnic minorities (Thornicroft *et al.*, 2010 in Mascayano *et al.*, 2015).

In response to the mental health demand, Doctors Without Borders have set up two centres to address anxiety and depression, which are the most common mental health disorders experienced by Iraqi's. However, these services are based in hospitals in Baghdad and Fallujah. The services are also geared to be non-pharmacological due to the difficulty in obtaining sufficient and reliable medication.

At the same time, Doctors Without Borders have identified an urgent need to reduce the stigma associated with mental health, including members of the public as well as within the medical profession and on a political level. Stigma against mental health is a severe barrier to help-seeking behaviour and the development of mental health services within Iraq. A systematic review and meta-analysis investigating the association of torture and other potentially traumatic events with mental health outcomes among populations exposed to mass conflict and displacement, higher rates of post-traumatic stress disorder (PTSD) are reported when individuals have been exposed to torture (Steel *et al.*, 2009).

Support structures that may have existed within the community have weakened and collapsed due to the number of deaths. In the mental health context, family are often the main source of dependent help because of the lack of a broader, national mental health infrastructure and strong prevailing stigmatising attitudes towards individuals suffering from mental illness. Without a family support network, mentally ill individuals face poverty and abandonment and homelessness.

Assessing the cultural understanding and perceptions towards mental illness reflects practical aspects of culture. It requires that several considerations are accounted for, including "gender relations, an individual's place in their families and communities, and patterns of mental health services use" (Al-Krenawi & Graham, 2000). Further explanation of cultural perceptions of mental illness is required to critically explore the meaning of culture rather than arrange culture into categories.

Psychological Trauma and Culture

Culture is a predominant viewpoint of the impact of migration on mental health. Migration from one culture to another entails changes in cultural identity (Bhugra, 2004), meaning that belief systems are carried forth. This includes knowledge and understanding from previous cultural

contexts about mental illness. Perceptions of suffering will be rooted in pre-existing structures and, exposure which will shape how violence and trauma are defined and interpreted.

Defining an individual's culture is difficult—and such a definition should be difficult to capture because of the consistent movement and flux of self-reflection and perceptions and "travelling cultures" (Ahmad, 2013). A person may have origins in a particular culture/s yet not identify with the set of rules or behaviours, or beliefs that define this culture. In other words, culture and identity are not necessarily combined. Cultural identity becomes further contested in examples of displacement and migration or through processes of globalisation that subject individuals to pluralistic cultural narratives. Assigning a cultural identity, then, is a challenging task. The terms "culture" and "identity" are problematic because of their subjective content and because they do not fit easily into 'analytical categories' (Bayart, 2005). An individual's cultural origin, then, is not clearly aligned with the individual's cultural identity. Cultural identities also are malleable and form according to the surrounding environment.

Whilst heritage is vital for an individual lived experience of their identity, the behaviour and norms that an individual learns and becomes accustomed to will be subject to the dominant views of the new society, especially if the new society has strong policies towards integration and the individual is still forming their identity.

Trauma is primarily understood as an event occurring outside the realm of everyday human experience. Trauma experiences have the potential to harness an individual's everyday life and can remain dormant for a very long time, whilst at other times the individual may fixate on the trauma (Herman, 2015). Traumatic experiences can "alter people's psychological, biological, and social equilibrium" (van Der Kolk, cited in McFarlane, 2012). Trauma strongly relates, therefore, to life narratives. Even though an event signals trauma, the embodiment of trauma impacts how a ruptured worldview is navigated.

Experiencing trauma also impacts the way trauma is communicated. A traumatic experience challenges the psychological aspects of suffering because of the immediate sense of the trauma but also that the trauma is experienced belatedly after the event has occurred (Caruth, 1996). In other words, as a baseline, traumatic experiences impact the way that an individual can narrate their trauma. Extenuating factors can also affect how an individual conceptualizes, understands, reflects, and communicates their traumatic experiences. Inconsistencies between accounts of the trauma and re-counting personal narratives are also likely to be high due to the nature of trauma and how trauma presents and manifests as a memory. It has been found that there is a relationship between the rate of discrepancies and the type of questions asked—factual questions are more difficult for a traumatized individual to answer because, by the nature of trauma, autobiographical trauma narratives are incomplete and experienced in terms of the emotional context of the traumatic event (Herlihy *et al.*, 2002; Herlihy & Turner, 2007). Individuals with higher levels of traumatic stress are more likely to be inconsistent during interviews when there is a long-time lapse between interviews (Herlihy *et al.*, 2002).

A further aspect to consider is the cross-cultural elements that affect the experience of trauma. A well-established criticism of the psychiatric framework for psychological trauma argues that

diagnostic criteria and therapeutic approaches lack cross-cultural validity (Summerfield, 2008; Bracken *et al.*, 1997). Further understanding is still required for integrating cross-cultural trauma in international health frameworks. A consequence of overlooking cultural nuances means that there are increased vulnerabilities due to undiagnosed psychiatric disorders such as depression and PTSD (Mghir *et al.*, 1995). In addition, assessing the cultural understanding and perceptions towards mental illness reflects practical aspects of culture. It requires that several considerations be accounted for, including "gender relations, an individual's place in their families and communities, and patterns of mental health services use" (Al-Krenawi & Graham, 2000).

Although traumatic memories and experiences are embodied—they do not disappear or fail to have effects when the traumatic stimuli are removed. Psychological assessments conducted as part of an asylum claim require the individual to recall and recount the details of their trauma to demonstrate that the individual has been subjected to violence. Memories of traumatic experiences are understood to be qualitatively different from other non-pathological autobiographical memories. Traumatic memories include visual, olfactory, affective, auditory, and kinaesthetic elements (van Der Kolk & Fisler, 1995), leading to the individual re-experiencing their trauma as if it is an experience the present not the past. Thus, there are potential harms incurred by psychological assessments, and adequate support must be in place. However, impending deportation presents a severe ethical challenge to the efficacy of requesting a psychological assessment for an individual who is at risk of being forcibly returned to a country where there are no resources for providing support.

GBV and Mental Health

Conceptualizing GBV and mental health, given previous discussions, to life-histories and narratives and in contexts of forced displacement from conflict is challenging in medicalized reduction of a woman's experience of violence. On the other hand, 'health systems play a crucial role in responding to violence against women' (García-Moreno *et al.*, 2015, p. 1567). There is a close link between violence against women and mental illness. Women who suffer from gender-based violence are at risk of poor mental health outcomes and trauma-related psychiatric disorders. Women who have experienced GBV have high rates of mental disorders, which increase when exposed to multiple types of GBV (Rees *et al.*, 2011). Conversely, a woman who is mentally ill are at heightened risk of gender-based violence due to stigma surrounding mental illness, the role of unequal gender norms resulting in increased vulnerability of a woman, and abuse by religious leaders who diagnose women as suffering from a form of mental illness of spirit possession to explain seizures or mental distress.

Then, mental health services for women are often provided in the same context as women's rights organizations and shelters for women who have experienced gender-based violence. However, due to the stigma of women victims of gender-based violence, such as rape, which is instead viewed as engaging in sex outside of marriage or "dishonourable", such services are constantly under threat. Asuda Centre for Women's Mental Illness provides counselling to women in distress and women with mental health problems in Iraqi Kurdistan. However, gunmen attacked this shelter in 2008

injuring some of the women who were resident. In addition, "media attacks, allegations and gossip" harm the women who need to access this service (Begikhani & Gill, 2016).

There are significant effects of conflict on mental health and psychosocial well-being, including suicide in countries where female suicides outweigh male suicides due to Intimate Partner Violence (IPV), especially in poor relationships with the mother-in-law and sister-in-law (Latypov, 2009). Conflict settings, as well as periods of instability, include various daily stressors such as poverty, lack of basic needs and services, grief, and loss, and ongoing risks and fears of different forms of violence. In a report by Doctors Without Borders on 'Healing Iraqis: The Challenge of Providing Mental Health Care in Iraq', mental health disorders and emotional distress are described as "debilitating and agonizing as physical health problems. There is little doubt that years of political and social repression, punctuated by wars and followed by a post-war period characterized by interrupted and insufficient basic services, have taken their toll on the Iraqi people" (MSF, 2013, p. 1). Doctors Without Borders have set up two centres to address anxiety and depression, which are the most common mental health disorders experienced by Iraqi's. However, these services are based in hospitals in Baghdad and Fallujah. The services are also geared to be non-pharmacological due to the difficulty in obtaining sufficient and reliable medication. Then, humanitarian health care faces challenges of cross-cultural translation, and temporary models of treating trauma are situated in non-health orientated meanings and reflections on mental distress.

Conclusion

Overall, the collective narratives of conflict, gender-based violence, forced displacement and mental distress are cornerstones for health and suffering. Inquests to alleviate suffering and prevent harm, healthcare professionals embody ethical and cultural considerations that fully demand the critical reflection of biomedical frameworks as cultural constructions. Mental distress can only be understood by developing shared spaces of storytelling. Healthcare settings in forced displacement settings from conflict have a unique potential to unequivocally mediate suffering and challenge the structural roots that defined the discourses of marginalization and targeted violence due to gender and other aspects of identity. As it stands, there are violence and travels of unchartered and unseen journeys that reach personalized narratives of mental distress that remain only ever experienced and not communicated due to blind spots of academic research and clinical practice. Greater ethical and cultural considerations from a vantage point of exploring narratives will aid the humanitarian and healthcare response to mental distress from conflict and gender-based violence in forced displacement settings.

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Health Priority Interventions for Internally Displaced Children in Nigeria

Nmadu Awawu Grace
Joshua Istifanus Anekoson
Usman Nafisat Ohunene
Nwankwo Bilkisu

Introduction

Internally Displaced Persons (IDPs) are persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular due to or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights, natural or human-made disasters, and who have not crossed an internationally recognized State border (UNHCR, 1998). Where the persons are less than 18 years, they are internally displaced children. It is difficult to provide accurate data on the extent of displacement in Nigeria because many internally displaced persons seek shelter within social networks and relocate to other towns and communities to join other family and clan members. Women and children are estimated to constitute over 70% of the internally displaced populations in Nigeria (Getanda *et al.*, 2015; IDMC, 2015; 2016), and they experience a wide range of health risks). Worldwide, nearly 28 million children have been forced to migrate (UNICEF, 2016) and are some of the most neglected vulnerable populations in the world (UNHCR, 1998). The United Nations Guiding Principles on Internal Displacement were developed to meet this challenge (UNHCR, 1998). The fourth principle states that

> certain IPDs, such as children, especially unaccompanied minors, expectant mothers, mothers with young children, female heads of households, persons with disabilities and elderly persons, shall be entitled to protection and assistance required by their condition and to treatment which takes into account their special needs. (p. 3)

IDPs remain subject to the sovereignty of their own government and consequently may not have access to international aid and services that can be made available for refugees. IDPs constitute the largest number of those displaced worldwide (UNHCR, 1998); they are often more disadvantaged than refugees because they do not benefit from assistance provided by international agencies unless the national government requests such assistance (Kett, 2005; Mooney, 2005).

The Magnitude of the Problem

As of December 2015, the global estimate of IDPs due to conflict was 40.8 million (IDMC, 2016). Three-quarters of these IDPs reside in ten countries of the world, and five of these are in Sub-Saharan

Africa. The total number of people displaced by conflict in the region is almost 12 million (IDMC, 2015; 2016). Syria has 6.5 million and Columbia 5.7 million IDPs, with an estimated figure of about 3.3 million IDPs. IDMC reports make it clear that Nigeria has the highest number of IDPs in Africa and the 3rd highest in the world, accounting for 10% of all IDPs in the world (Olajide, 2015). As of October 2016, the International Organization for Migration (IOM), in collaboration with National Emergency Management Agency (NEMA), estimated the total number of IDPs as 2,155,618 across 13 states in Nigeria; the estimated number of IDPs in the northeast alone was 1,770,444. A UNICEF report estimated that about 800000 children had been forced to flee their homes due to the conflict in northeast Nigeria (UNICEF, 2016).

As of November 2017, it was reported that an estimated 943,000 children under five years across the three northeastern states in Nigeria most affected by conflict —Borno, Yobe, and Adamawa— were still acutely malnourished (UNOCHA, 2018). Children compose at least 62% of the conflict-affected population in the states of Borno, Yobe, Adamawa, Bauchi, Gombe, and Taraba. It is estimated that over 2.5 million children across the six states have been impacted by the conflict and need urgent assistance (UNOCHA, 2018). Displaced, separated, and unaccompanied children are usually at a heightened risk of abuse, exploitation, and neglect. About 34,000 children (of whom 47% are girls) are believed to need case management services. The estimated cases include 6,000 unaccompanied minors, 5,500 separated children, and 15,000 orphans, among other groups of children at risk or affected by protection concerns (UNOCHA, 2018). More than half (55%) of children in need of protection assistance are girls, and almost 1 in 3 (32%) are younger than five years old. The protection needs of boys and girls in Nigeria's northeast is critical. More than 1.75 million affected children require psycho-social care due to the severe distress caused by the protracted conflict, hardship, and displacement (UNOCHA, 2018). It has been estimated that at least 8,000 children have been recruited, abducted, or held by non-state armed groups, and 5,000 children are believed to be associated and used by state-armed groups (UNOCHA, 2018). These children are exposed to severe abuse and violations, especially emotional, physical, and sexual violence. In addition, boys and girls have been increasingly affected by grave child rights violations. In 2017 alone, the number of children involved in "suicide" attacks was three times higher than in 2014, 2015, and 2016 combined (UNOCHA, 2018).

Causes of Internal Displacement

The global natural causes of internal displacement include floods, earthquakes, hurricanes, landslides, volcanic eruptions, fires, tornados, blizzards, tsunamis, cyclones, and droughts among others. The man-made causes include wars, genocide, terrorism, insurgency, industrial mishap, among others (Odusanya, 2016). In Nigeria, other causes of internal displacement include the insurgent activities of Boko Haram, inter-communal clashes, ethnoreligious disputes, electoral violence, environmental degradation, and clashes between Fulani herders and farmers, which have resulted in over 700,000 people being displaced from the Middle Belt region of Nigeria (IDMC, 2016).

Health Challenges of Internally Displaced Children in Nigeria

Some of the factors that pose challenges to IDPs including children are problems of accommodation; water and sanitation; weather and overcrowding in camps; the widening gap between health needs and health care availability (Khan, 2014). Others include bites from vectors of diseases, poor nutrition, among others. IDPs and their children can hardly afford health care during displacement (Khan, 2014). The levels of morbidity and mortality among IDPs are higher among children under five years of age and women of reproductive age (Owaoje *et al.*, 2016; Odusanya, 2016).

Diseases that children are susceptible to include measles, usually as outbreaks, malaria, acute respiratory infections, cerebrospinal meningitis, nutritional deficiencies (such as protein-energy malnutrition and micronutrient deficiencies-Vitamin A, Vitamin C, iron). Children have also been found to have mental health issues such as anxiety, depression, and post-traumatic stress disorders. Sexual and reproductive health problems experienced by children include sexual harassment, rape, unwanted pregnancies, and unsafe abortions (Odusanya, 2016). Diarrhoeal diseases are major causes of morbidity and mortality and mainly result from substandard or inadequate sanitation facilities, poor hygiene, and scarcity of soap (Connolly *et al.*, 2004).

Studies have shown women and girls to have been victims of physical and sexual violence in IDPs camps (Owoaje *et al.*, 2016). In October 2016, Human Rights Watch (HRW) reported that 66 percent of 400 displaced people in Adamawa, Borno, and the Yobe States said that camp officials sexually abused the displaced women and girls. The negative impact of sexual violence is significant and long-term. These may include physical injuries, sexually transmitted infections including HIV, unwanted pregnancies, and mental health effects (Draughon, 2012).

There have been reports of the re-emergence of poliomyelitis infection among IDPs in Nigeria, documented by United Nations agencies (The Sphere Project, 2011). Depending on the geographical location, outbreaks of Vaccine-Preventable Diseases which have been reported among IDPs include measles (20%-30%) and meningococcal meningitis (0.3%) (Santaniello-Newton, 2000). Similarly, epidemics of cholera (WHO, 2008b; Shultz *et al.*, 2009), yellow fever (Huhn, 2006), and recently hepatitis E have been reported in IDP and refugee camps across Africa (Nicole, 2015). The reasons for the increased susceptibility to vaccine-preventable diseases by internally displaced children include lowered immunity, poor nutritional status, lack of access to routine health services, and inability to receive the complete series of recommended vaccinations by virtue of displacement, among others.

Four of the most common psychological reactions found in refugees and displaced children include Post Traumatic Syndrome Disorder (as a reaction to violence or torture), depression (for example, as a reaction to loss), somatization, and existential dilemmas (where belief patterns have been challenged) (Turner *et al.*, 1990; Turner *et al.* 2003).

Health Interventions for Internally Displaced Children: The Nigerian Situation

Several stakeholders play a role in the healthcare of internally displaced children in Nigeria. They are categorized into government agencies, humanitarian agencies, religious organizations, private organizations, and Non-Governmental Organizations (NGOs). The government agencies involved include the National Emergency Management Agency (NEMA), State Emergency Management Agencies (SEMA), Local Emergency Management Agencies (LEMA), and the Federal Ministry of Health (FMOH). The NGOs involved include the United Nations Children's Fund (UNICEF), World Health Organization (WHO), International Organization for Migration (IOM), International Committee of the Red Cross (ICRC), and Medecin Sans Frontiers (MSF), among others. The main actors are the ICRC, MSF, WHO, UNHCR, and UNICEF (Eweka & Olusegun, 2016). Private organizations such as the Dangote foundation also contribute to the healthcare of internally displaced children (Leadership Nigeria, 2018).

Organizations involved in the healthcare of Internally Displaced Children

National Emergency Management Agency (NEMA) and State Emergency Management Agencies (SEMA), Local Emergency Management Agencies (LEMA)

NEMA was established to manage disasters in Nigeria. Its mandate is to address disaster-related issues, coordinate responses to all emergencies, and provide relief by establishing concrete structures and measures (Mohammed, 2017). SEMA formulates policies on all activities relating to disaster management in the States and coordinates plans and programs for efficient and effective response to disasters. LEMA is the local government arm of SEMA (Efobi & Anierobi, 2013). NEMA and SEMA lead management and humanitarian support activities for internally displaced persons as well as search and rescue missions in disaster situations in Nigeria (Mohammed, 2017). NEMA is charged with overseeing the activities of IDPs Camps (Oluwole *et al.*, 2017). NEMA also focuses on the establishment of state emergency management committees for each state of the Federation, headed by the governor of the state, and include several cross-cutting agencies, including the State Ministry of Women and Social Welfare, the State Ministry of Health, the State Environmental Protection Agency, the Police Force, the Security and Civil Defence Corps and the Nigerian Red Cross Society (Mohammed, 2017). It is the state's responsibility to notify NEMA of disasters occurring in the state, respond to them, and carry out disaster management activities. Borno, Adamawa, and Yobe have established and functioning state agencies, particularly working with

IDPs. The SEMAs in these states, where displacement is highest, have been active in taking a key role in managing the humanitarian crisis in their respective states (Mohammed, 2017). NEMA coordinates voluntary organizations engaged in emergency relief operations in any part of the Federation, receives financial and technical aid from international organizations and NGOs for disaster management in the country, collects emergency relief supplies from local and foreign sources and NGOs (Adefisoye, 2015). NEMA also mobilizes financial and technical resources from the private sector. They work closely with SEMA and LEMA to assess and monitor, where necessary, distributing relief materials to disaster survivors and Internally Displaced Persons (IDPs) (UNISDR, 2010). NEMA coordinates with the other agencies and is hierarchically over and above them (Eweka & Olusegun 2016).

United Nations Children's Fund (UNICEF)

UNICEF was one of the earliest aid agencies to arrive in the Northeast region, caring for displaced children in official and non-official camps and many settlements in the northeastern region (UNICEF, 2018). They treated children suffering from severe acute malnutrition, diarrhoea, malaria, measles, and other childhood killer diseases before Médecins Sans Frontières (MSF) and the International Committee of the Red Cross (ICRC) came to the scene (UNICEF, 2018). With nutrition activities funded at 97% as of the end of October 2017, UNICEF was able to reach 161,317 children with severe acute malnutrition (SAM) with treatment (73% of the target) (UNICEF, 2018). More than 500,000 people gained access to safe water with UNICEF support over the year. This result was lower than planned because UNICEF focused on ensuring the sustainability of the Water, Sanitation, and Hygiene (WASH) services provided, including providing safe water and sanitation services in institutions and water facility maintenance in host communities (UNICEF, 2018). Although health activities were only 37% funded, more than 3.6 million people accessed emergency primary health care services (93% of the target) and 4.1 million children received measles immunization. UNICEF supported 49 health centres with medicine and WASH supplies. At least 600,000 children have accessed UNICEF-supported school facilities. Some 140,000 children benefitted from psychosocial services, and more than 4,200 unaccompanied and separated children received UNICEF support (UNICEF, 2018).

World Health Organization (WHO)

Through collaboration with the Federal and State Ministry of Health, the WHO has delivered emergency medical supplies to IDPs in Nigeria (WHO, 2017). The medical supplies include the Interagency Emergency Health Kit, with a single kit having enough drugs and medical supplies to treat 15,000 people for three months (WHO, 2017). Malaria and Post-exposure prophylaxis (PEP) kits were also provided (WHO, 2016). In collaboration with the Federal and State Ministry of Health, WHO also conducted a second phase of training for 28 Community Resource Persons

Table 2: UNICEF's health-related programme targets and results for humanitarian action for children

Health-Related Programme Targets and Results	Sector 2017 targets	Sector total results	UNICEF 2017 target	UNICEF total results
Nutrition				
Children aged 6 to 59 months with SAM admitted to therapeutic care for a specified period	314,557	226,068	220,190	161,317 (i)
Children aged 6 to 59 months with SAM recovered (%)	>75%	85.2%	>75%	84.7%
Caregivers of children aged 0 to 23 months with access to infant and young child feeding counselling	731,332	1,048,108	511,932	484,558
Children aged 6 to 23 months in affected areas receiving multiple micronutrient powder	561,078	435,134	280,539	435,134
Health				
Children aged 6 months to 15 years immunized against measles	1,763,711	4,199,984		
People reached with emergency primary health care services	3,919,357	3,663,710		
Families reached with long-lasting insecticide-treated nets	653,226	118,164 (ii)		
Water, sanitation and higiene				
People provided with access to safe water per agreed standards	1,977,987	2,044,681	1,028,000	525,719 (iii)
People with access to improved sanitation facilities	418,000	773,006	217,000	199,739
People reached through hygiene promotion campaigns/received WASH hygiene kits	1,114,238	1,120,009	1,028,000	753,630
Child protection				
Children and adolescents benefitting from psychosocial support services	650,000	250,391	375,000	139,715 (iv)
Children and women associated with armed groups/victims of sexual and gender-based violence (v) supported with reintegration services (vi)	5,500	5,082	5,500	4,538
Unaccompanied and separated children supported (case managed, including those supported in alternative care arrangements)	12,000	8,131	9,200	4,212

Source: UNICEF (2018).

(CORPs) from newly liberated areas in Borno State. This phase focused on Integrated Community Case Management of childhood illnesses (ICCM), accompanied by practical training in Maiduguri State Specialist Hospital (WHO & Borno State, 2016). The training equipped participants with skills to identify cases and symptoms of pneumonia, malaria, and diarrhoea and manage cases in the various communities. WHO also provided medical commodities to the CORPs, including antibiotics, Artemisinin-based Combination Therapy (ACTs), analgesics, zinc/oral rehydration salts, cholera, and malaria rapid diagnostic tests. The CORPs served an estimated 265,860 IDPs and host communities, including 47,751 children under five years (WHO & Borno State, 2016).

International Organization for Migration (IOM)

Since the beginning of the crisis in Nigeria, IOM has strived to provide mental health and psychosocial support services to persons affected by the insurgency (WHO & Borno State, 2016). IOM established psychosocial mobile teams providing services aimed at alleviating emotional distress and rebuild support mechanisms. Through the psychosocial mobile teams, individuals with severe mental health disorders are identified and referred to health facilities (WHO & Borno State, 2016). The IOM teams provide ongoing follow-up to patients, provide psychoeducation to their families, and support many patients with mental illnesses. A new child and adolescent therapy room supported by IOM was inaugurated in 2016 at the Federal Neuropsychiatric Hospital in Maiduguri.

IOM support included the facility's refurbishment to encourage the use of play psychotherapies (WHO & Borno State, 2016). IOM also provided toys, creative tools, and psychological assessment tools to help the child psychologists in their service delivery.

International Committee of the Red Cross (ICRC)

The ICRC works with the state governments of Adamawa, Borno, and Yobe to find out areas where urgent assistance is required. It also facilitates quick rehabilitation of primary health care centres close to the displaced, providing regular medical supplies and equipment and training their staff to respond to emergencies (ICiR, 2017). The ICRCset up nine mobile clinics to provide emergency treatments for the displaced that were growing in number, moving from camp to camp and communities government had no resources to reach (ICiR, 2017). According to the ICRC record, 15,438 children that could have died for lack of care were delivered in Red Cross supported clinics in the Adamawa, Borno, and Yobe states. Not less than 12,821 children under the age of five suffering from severe acute malnutrition were also treated in these clinics (ICiR, 2017).

Medecin Sans Frontiers (MSF)

Since April 2014, when MSF opened an office in Maiduguri, the Borno State capital, it provided medical and nutritional support to the displaced in Maiduguri, Monguno, Dikwa, Bama, and Damboa. It has been most efficient in treating severe acute malnutrition in children and infants, thereby saving hundreds of children that were on the brink of death due to hunger (ICiR, 2017). MSF established a 100-bed Inpatient Therapeutic Feeding Centre in Gwange, a district in Maiduguri, and has treated hundreds of children suffering from severe acute malnutrition, measles, malaria, and related diseases (ICiR, 2017). MSF runs a 100-bed inpatient therapeutic feeding centre (ITFC) in Fori, a southern district of Maiduguri. The centre, which opened in January 2017, treats between 70 and 80 severely malnourished children, often with complications, each week and has a high bed occupancy rate. It also runs an outpatient feeding centre in Fori for less severe cases. More than 2,000 children were enrolled in 2017. This programme saw 1,292 admissions from January to September 2017 (MSF, 2017). A second outpatient feeding centre was set up in Dala village in Borno State in anticipation of more children needing treatment throughout the summer (the traditional hunger gap period) and was handed over to Terre des Hommes (Tdh) September 2017. Around 900 children were enrolled in the programme until the end of August 2017, and more complicated cases were referred to the Fori ITFC. The outpatient feeding centres in Dala and Fori had seen 5,021 admissions since the beginning of 2017 (MSF, 2017). Tdh is an international children's rights charitable humanitarian umbrella organization under the aegis of the International Federation of Terre des Homme (Tdh, 2018). The Tdh WASH project provides safe water to displaced families in the camps of Mafa in Borno state to reduce water-borne diseases like cholera. Tdh also builds and rehabilitates latrines and hand washing stations. They sensitize populations about the management

of acute malnutrition and infant and young child feeding. Tdh also treats severe malnutrition in children in the ambulant nutrition centre in Maiduguri, Borno state (Tdh, 2018).

MSF also operates a cholera treatment centre (CTC) in Dala. This 80-bed CTC saw 531 admissions before its closure in September 2017 (MSF, 2017). Mothers and children are daily brought into the facility from different camps and communities in Borno State for urgent medical attention. According to Pindar Wakawa, the Medical Activity Manager of MSF, the facility registered as many as 300 patients each month during the peak of the crisis in 2017 (ICiR, 2017). In view of the overwhelming number of those requiring medical care, MSF also operates an Ambulatory Therapeutic Feeding Centre in the general hospital in Dikwa, Monguno and some other high-density camps and settlements for the displaced (ICiR, 2017).

The United Nations High Commissioner for Refugees (UNHCR)

Although UNHCR's original mandate does not cover IDPs, they have used their expertise to protect and assist them for years (UNHCR, 2018a). UNHCR provides critical emergency assistance in the form of portable water, providing boreholes in camps and communities, building shelter, providing blankets and household items to displaced persons to keep them safe and healthy (ICiR, 2017). The UNHCR erects tents for IDPs in Adamawa, Yobe, or Borno camps while UNICEF builds makeshift clinics to provide much-needed emergency medical care for children and women fleeing from the insurgency. UNICEF and UNHCR are part of the Borno State Humanitarian Coordination Working Group that meets regularly with the SEMA, NEMA, and relevant stakeholders to decide how to address emergencies, especially on food security and healthcare issues (ICiR, 2017). UNICEF, through its community management of acute malnutrition (CMAM) program, which is operational across 57 local government areas and 399 sites in Adamawa, Borno, and Yobe states, a total of 153,936 children with severe acute malnutrition were treated for malnutrition and saved from probable death between January and November 2016 alone (ICiR, 2017). A total of 234,997 pregnant women and children less than two years old were also fed within the SAMe period. Within the SAMe period, a total of 137,962 children aged 6 to 23 months were given life-saving micronutrient powder in the three states (ICiR, 2017).

International Medical Corps

International Medical Corps is responds to the nutrition, food security, water, hygiene and sanitation, and protection needs of conflict-affected communities in northeast Nigeria, including the internally displaced and host community members (IMC, 2018). This includes distributing food to an estimated 176,000 people in Borno State, as well as making treatment for malnutrition available in conflict-affected communities (IMC, 2018). The IMC also trains local people to serve as community health volunteers and community health extension workers to screen children for malnutrition, administer treatment (ready-to-use therapeutic food), and follow up on their progress (IMC, 2018).

Legal and Normative Frameworks for Protection of Internally Displaced Children

Regional and national laws play an important role in protecting children in times of humanitarian crises; international protection laws need to be translated into national laws to guarantee the effective protection of the lives of children. Children's rights have been enshrined in various international legal instruments, such as The Universal Declaration of Human Rights (UDHR), 1948, and the Convention on the Rights of the Child (CRC) (UNICEF, 2015). The UDHR lays out the basic provisions for the protection of children and adults, safeguarding their right to life, nationality, education, health, and the full development of their personality. The CRC is the primary guiding legal instrument in child protection. It outlines the civil, political, economic, social, health, and cultural rights of children.

Other instruments, designed to guarantee children's rights and welfare in humanitarian crisis, which also complement the CRC, include the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW); the Convention on the Rights of Persons with Disabilities and Optional Protocol (CRPD); the Convention Relating to the Status of Refugees; the Geneva Conventions and their supplementary protocols, and the United Nations Convention against Transnational Organized Crime (UNICEF, 2015).

The Convention on the Rights of the Child

The United Nations Convention on the Rights of the Child (UNCRC) core principles include non-discrimination; the child's best interest, survival and development; and participation (UNICEF, 1989). These principles also apply to children in humanitarian crises.

The Convention defines a 'child' as a person below 18, unless the particular country set. The Convention applies to all children and states that no child should be treated unfairly on any basis. Whatever their sex, race, religion, culture, economic background, family type, or sex, whether they have a disability. The convention upholds that the best interests concern in making decisions that may affect them. It maintains that children have the right to live, and governments should ensure that children survive and develop healthily. The Convention encourages adults to respect the opinions of children and involve them in decision-making.

Health Service Interventions for Internally Displaced Children (IDC)

According to the United Nations High Commissioner for Refugees (UNHCR) emergency handbook, health services are one component of an all-inclusive public health response to emergencies.

The overarching goal of any public health intervention is to prevent and achieve a reduction in excess morbidity and mortality. In the first phases of an emergency, the public health response ought to focus on identifying and addressing life-saving needs (UNHCR, 2018a). The best approach is to provide IDPs/refugees with full access to essential health services and ensure national service. To accomplish this, it is important to collaborate with the authorities responsible for public health. Health services linked to nutrition and WASH services are important to prevent disease outbreaks and reduce public health risks (UNHCR, 2018b).

Protection Objectives

According to the UNHCR, Health is a human right and a protection priority.

- To ensure that IDPs/refugees enjoy access to health services that are equivalent to the services enjoyed by their host population, these services must meet minimum humanitarian standards in all circumstances.
- To ensure public health interventions save lives and address the most urgent survival needs. Implementation should start at the earliest possible stage.
- To respect the right to health.

The qualities of acceptable public health interventions according to UNHCR are itemized below.

- Evidence-based: Activities should be planned and implemented based on the findings of the initial assessment.
- Needs-based: Interventions should be scaled, and resources should be allocated to meet the population's needs.
- Technically sound: Services should be based on current scientific evidence and operational guidance and implemented by skilled staff.
- Impact-oriented: UNHCR promotes the primary health care approach, which ensures that essential health services address the health needs of the entire population.
- Priority-based: Services should be prioritized to achieve maximum impact across the population. Interventions to address immediate health risks, such as disease outbreaks and malnutrition, must be priorities.
- Integrated: Avoid setting up costly parallel services and assist the national health system in extending its services to IDPs.

Related development and use of key guidelines and minimum standards to improve the quality of health of IDC in humanitarian settings are discussed below.

Sphere Project Humanitarian Charter and Minimum Standards in Disaster Response

The Sphere Project (2011) reflects a commitment by humanitarian agencies to ensure that people affected by disasters including children have access to at least the minimum requirements (water, sanitation, food, nutrition, shelter, and health care) to satisfy their basic right to life with dignity. Minimum standards related to health include the following:

- Establishing health systems and infrastructure: prioritizing health services; supporting national and local health systems; coordination; primary health care; clinical services; and health information systems.
- Controlling infectious diseases through prevention; measles prevention; diagnosis and case management; outbreak preparedness; outbreak detection, investigation, and response; and HIV/AIDS.
- Controlling non-communicable diseases through addressing injury; reproductive health; mental and social aspects of health; and chronic diseases.

WHO guidelines for health care of children in humanitarian emergencies

These guidelines are designed to reduce child morbidity and mortality by addressing the major causes of child morbidity and mortality in emergencies (WHO, 2008b). These causes include diarrhoeal diseases, acute respiratory tract infections, measles, malaria, severe bacterial infections, malnutrition and micronutrient deficiencies, injuries, burns, and poisoning. The evaluation and management of these conditions are based upon Integrated Management of Childhood Illness (IMCI) guidelines. The following requirements are important in the provision of care to children in emergencies:

- Involve the local community as much as possible. They can be involved in surveillance for sick children and the delivery of preventive health messages.
- Ensure coordination of care across the different groups providing care to children.
- Establish a disease surveillance system so that outbreaks can be detected early.
- Ensure quality of care through monitoring and quality assurance using standard diagnostic and treatment protocols, essential drugs, quality control, and staff training and monitoring.
- Plan for the transition to a sustainable health care system. The use of IMCI guidelines for the care of children, routine childhood immunizations, and provision of mental health and psychosocial support.

In chronic emergency, the WHO guidelines recommend beginning planning to transition to a sustainable health care system. The use of IMCI guidelines for the care of children is recommended to make the transition easier. According to the WHO guidelines planning should include routine childhood immunizations, care of persons with tuberculosis; care of HIV-infected persons; and the provision of mental health and psychosocial support.

The Core Commitments for Children (CCCs) in Humanitarian Action

This is a global framework for humanitarian action for children undertaken by UNICEF and its partners. It applies to all children affected by humanitarian crises, regardless of the state of economic and social development they find themselves in (UNICEF, 2010). The framework is guided by international human rights law, particularly the Convention on the Rights of the Child and international humanitarian law. It covers programme and operational commitments and includes interventions for nutrition, health, water and sanitation, HIV and AIDS, education, and child protection. Some of which include:

1. Inter-agency coordination mechanisms in the health sector (e.g., cluster/sector coordination mechanisms on critical intersectoral issues).

2. Children and women access life-saving interventions through population- and community-based activities (e.g., campaigns and child health days).

3. Children, adolescents, and women equitably access essential health services with sustained high-impact preventive and curative interventions.

4. Women and children access behaviour-change communication interventions to improve health-care and feeding practices (UNICEF, 2010).

Review of health care interventions

A systematic review of evidence on the effectiveness of health interventions in humanitarian crises was conducted, which identified 345 studies that highlighted the limited quantity and quality of health intervention research in humanitarian contexts (Blanchet *et al.*, 2017). It was recommended that it was necessary to develop innovative integrated funding mechanisms to combine research projects with humanitarian assistance and create a global humanitarian evidence platform where data and evidence can be accessible to all communities (national authorities, donors, academics, and humanitarian agencies). This will provide information about how effectively public health interventions are working.

Legal and Institutional Responses so far in Nigeria

So far, the successions of governments in Nigeria have not been able to adopt a credible policy for the management of IDPs. According to the Internal Displacement Monitoring Centre (IDMC), national responses to the plight of IDPs in Nigeria tend to be fragmented, uncoordinated, and grossly inadequate (IDMC, 2012). Though Nigeria adopted the African Union (AU) Convention on the Assistance to Internally Displaced Persons (Kampala Convention) in 2012, which is the Convention for the Protection and Assistance of Internally Displaced Persons in Africa (IDMC, 2014). Nevertheless, the federal government has yet to implement the Convention (IDMC, 2014).

Nigeria also adopted the National Policy on Internally Displaced Persons (IDPs) in 2012, which is geared toward responding to the human rights needs of IDPs. The policy outlines roles and responsibilities for the federal, state, and local governments, non-governmental organizations, community-based organizations, IDP host communities, civil society groups, humanitarian actors nationally and internationally as well as the public. It is also geared toward educating persons about their rights and obligations before, during, and after displacement. Nonetheless, the policy has only remained a policy and not a statute (Ezeanokwasa, 2018).

The legal response so far on IDPs has been channeled through NEMA even though the agency is not an IDP-specific institution. Its mandate is to provide emergency relief within the first two to four weeks of the emergency leading to the displacement. NEMA has been instrumental in providing camps and camping facilities for IDPs. However, it is handicapped in providing durable solutions to the plight of IDPs in areas of funding and its limited time mandate. Most of the SEMAs are nonfunctional or have become moribund due to a lack of or poor funding by the state governments (Kolawole, 2013).

Ethical Challenges

1. The absence of appropriate legal frameworks on IDPs and a lack of an IDP-specific institutional agency to cater to IDPs' welfare in Nigeria: The absence of this legal framework indicates the failure of a clear definition of the roles and responsibilities and results in overlapping responsibilities. This restricts humanitarian and development efforts in managing the consequences of internal displacement as a holistic approach. Improperly defined, unclear and overlapping policies and institutions have been identified as a challenge confronting IDPs management agency.

2. The lack and the dearth of reliable statistics on IDPs, including poor health information systems (HIS) for IDPs: the information necessary to understand and respond to humanitarian crises must be timely and detailed, whereas the circumstances of these crises make it challenging to collect it. Poorly integrated HIS generates fragmented, incomplete, and often contradictory statistics, a situation that leads to a misuse of numbers with negative consequences for humanitarian interventions.

3. The absence of designated camps for IDPs: There is a dearth of IDPs' camps of permanent nature in Nigeria. Makeshift camps are porous and not specially constructed to ensure adequate security. A large proportion of IDPs in Nigeria reside with their family and friends who at times, are members of their host communities. Many camps are in open-air settlements called camps, others in pre-existing structures, a few are transitional centres which only provide transient accommodation to IDPs (Shedrack & Nuarrual, 2016). Medical facilities are also lacking in the so-called IDPs camps as outbreaks of diseases are on the increase because of competition for space and other related factors.

4. Food insecurity in the IDP camps and the general population and host communities in some northeast regions: People, including many children, are reportedly dying of starvation daily in some IDP camps that are difficult to reach by humanitarian actors. Many IDPs, and particularly women and children require urgent treatment for malnutrition.

5. Resources, particularly financial and human resources, are limited: In a recent survey research carried out, respondents disclosed that although IDPs management agencies in Nigeria get funds mainly through revenue, international aids and donations, the funds they get are more often than not insufficient to meet the increasing needs of IDPs in the country (Osagioduwa & Olusegun, 2016). Consequently, insufficiency of funds results in a deficiency in the workforce, commodities, infrastructure, equipment, and mobility. The government in Nigeria does not have adequate machinery to address IDPs issues, and the organizations created by the government possess a minimal capacity to handle IDPs-related problems.

6. Corruption: Corrupt officeholders in government and IDP management agencies alike have been accused on several occasions of diverting funds and relief materials meant for IDPs for their personal use and their relatives or friends; a situation that reduces the efficiency of the agencies concerned in managing IDPs.

7. Security threats and bad terrain: Security threats and bad terrain are also challenges inhibiting the rehabilitation of IDPs in Nigeria. There is the inadequate protection of IDPs, health care workers, and health facilities from the recurrent attacks by the terrorist group Boko Haram. The security situation remains perilous in some regions, and humanitarian access is severely constrained. This is coupled with the difficult terrain and restricted access to roads in many communities in the Northeast, limiting supplies and workforce to camps. Access to health care in the Northeast is also severely constrained for both the IDPs and host communities because of the destruction of health care facilities. There is also a lack of access to vaccinations in these regions. The outbreak of diseases increases in areas affected by restricted access.

The lack of evidence-based research has weakened humanitarian interventions for displaced persons, including children in Nigeria. There is a need to develop a research agenda to address the experiential challenges of the displaced persons, especially children in Nigeria to achieve sustainable solutions.

Conclusion

Forced migration is a humanitarian crisis on a global scale with particularly devastating effects on children, especially those in developing countries like Nigeria. Internal displacement and its attendant health challenges pose a daunting task for the government, emergency agencies, and international organisations to tackle. However, following the fourth guiding principle on internal displacement, vulnerable populations (children, expectant mothers, elderly persons, persons with disabilities) are entitled to protection, assistance, and treatment for any health challenges. International laws which provide the blueprint for effective child protection must be adopted at the national level for the impact to be widespread.

Nigeria has the highest number of internally displaced persons (with over 70% being women and children) in Africa and the third highest worldwide. The causes of displacement range from natural (e.g., floods) to manmade causes (e.g., ethnoreligious disputes, communal clashes, Boko-Haram). Displaced children are at an increased risk for various challenges due to lowered immunity, poor nutrition, and lack of parental care, among other reasons. The resultant problems include diseases like malaria, measles, respiratory tract infections; nutritional deficiencies; mental health issues; and reproductive health issues.

Organisations like NEMA/SEMA, UNICEF, WHO, or the UNHCR provide health care, basic amenities, and psychosocial services. Despite the best efforts of these organisations, a lot of IDPs and children still lack the basic care needed to survive. This is because policies guiding some of the agencies are poorly defined and unclear, corruption is a major impeding factor, insufficient funding for the organisation to properly carry out their duties, insecurity, inadequate human resources, and hostility from the host community.

Recommendations

The solutions to the health problems of IDPs and children is hinged on addressing the root causes of forced migration through a combination of diplomacy, good governance, infrastructural development, employment, and other political commitment at federal, state, and local government levels. Given the complexities of challenges posed by the crises, the collaboration between national and international organisations is essential to ensuring an effective response. This can be achieved in the following ways:

1. The federal government should establish an IDP-specific institutional agency to cater to the welfare of IDPs in Nigeria. This focal coordinating IDP specific institution should provide the overall leadership and coordination on IDP issues in Nigeria.

2. The government should adopt and implement an appropriate policy framework on internal displacement to address the fragmented and uncoordinated response to the IDP crisis and support strategic and operational decision-making. It should contain the designation of an

IDP-specific focal coordinating institution and clearly defined cohesive policies to guide the collaborations and coordination with all IPD stakeholder agencies. The role of IDP specific focal Coordinating institution, other national and international agencies in response to internal displacement should be clearly stated to ensure effective coordination at national and state levels. The policy should be predicated on principles guiding humanitarian assistance i.e., human rights and humanitarian laws. The government should also develop a policy implementation strategic framework and a plan of action with clearly defined benchmarks for assessing the implementation of this policy.

3. The federal government should develop a national legislative framework for preserving the rights of IDPs (regardless of cause or affected area) with specific consideration for IDC; laws should be enacted to guide the national response to IDPs. Accountability mechanisms that hold individuals, institutions, and multinational organisations accountable for actions or inactions resulting directly or indirectly in the infringement of the rights of IDPs (especially those who are vulnerable) should be established and enforced.

4. The government should set up a sustainable integrated funding mechanism to cater to the health needs of IDPs and children. The funding mechanism will comprise funds from budgetary allocation, creation of special IDP funds from earmarked taxes, and donors like Crisis Support Foundation (CSF), World Bank, United Nations Development Programme (UNDP), among others. The government should also set up a suitable framework to ensure accountability.

5. The government should establish a structurally sound emergency health care system where the workforce and materials are equitably distributed.

6. Government initiatives should develop rehabilitation, reintegration, and resettlement strategy for IDPs and children into the society in safety and dignity.

7. Health care personnel responsible for the care of IDPs and children should ensure that all health services provided are per the UNHCR guiding principles.

8. NEMA should monitor IDP conditions, conduct inquiries into reports of violations of IDPs human rights, follow up on early warning signs of displacement, and ensure effective measures to protect and assist IDPs under the guiding principles.

9. The government should create an IDP Focal Coordinating Institution, which will develop a special monitoring and evaluating unit that will serve as the IDP databank. Data obtained will be analysed and disseminated to relevant stakeholders to highlight the plight, need, trend, and impact of internal displacement on IDPs. Accurate data should be kept on the number, locations, and conditions of IDPs to design effective policies and programs. Data should be disaggregated by age, sex, and other socio-demographic characteristics, so the specific needs of the individual groups are addressed. The IDP Focal Coordinating Institution will work with the government at all levels.

10. Health care personnel should ensure proper quality of care in the process of discharging their duties. This can be achieved by carrying out safe, effective, efficient, timely, patient-centred, equitable medical care.

11. Appropriate agencies (NEMA, UNHCR, National Humanitarian Coordination Forum, Child Protection Sub-Working Group) should organise training programs for government officials (at the federal, state, and local level), camp officials, health care personnel, and security personnel in the Guiding Principle on internal displacement so that they are aware of the rights and needs of displaced persons and their own duties to protect and assist them.

12. NEMA should create an environment where IDPs have the right to give input in decisions taken on their behalf and air any concerns they may have. They should also be informed on initiatives taken on their behalf. Special attention should be given to IDP women in any formal decision-making structure. Displaced persons (including women) should be involved in decision-making activities geared towards improving conditions of IDPs. The input should be at all stages of displacement, from planning and distributing of supplies to planning and managing their resettlement and re-integration.

13. There is an urgent need to rapidly scale up child protection, security, and safety interventions that support children, adolescents, and caregivers' the well-being recognising the specific ways each group has been affected by the crisis. NEMA, National Security Agency (NSA), and National Environmental Standards and Regulation Enforcement Agency (NESREA), among others, should facilitate the establishment of child-friendly spaces in camps as a means of providing integrated care for children, especially those who require psychosocial support.

14. The government at all levels should spearhead public awareness and sensitisation campaigns on basic human rights and the plight of IDPs and children using the media, social media platforms, IEC materials distributed at the community levels (especially within the host community).

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European eHealth Responses to Crisis Migration: A Critical Appraisal

Oliver Feeney
Gabriele Werner-Felmayer
Helena Siipi
Markus Frischhut
Silvia Zullo
Ursela Barteczko
Lars Øystein Ursin
Shai Linn
Heike Felzmann
Dušanka Krajnović
John Saunders, Vojin Rakić

Introduction

In this chapter[1], we evaluate an emerging European approach in eHealth, developed in response to the post-2011 crisis of forced migration from conflict areas in North Africa and the Middle East. While a crucial part of healthcare is the existence of accurate and accessible health records, this is largely, if not entirely, lost in forced migration. Re-establishing the migrant's medical records is an urgent task, both for addressing pre-existing health issues and addressing the multiple health

[1] This chapter is based on a recent International Chair in Bioethics (formerly UNESCO Chair in Bioethics, Haifa) European Division publication. Feeney, O., Werner-Felmayer, G., Siipi, H., Frischhut, M., Zullo, S., Barteczko, U., Øystein Ursin, L., Linn, S., Felzmann, H., Krajnović, D., Saunders, J., & Rakić, V. (2020). European Electronic Personal Health Records initiatives and vulnerable migrants: a need for greater ethical, legal and social safeguards. *Developing World Bioethics, 20*(1), 27-37. https://doi.org/10.1111/dewb.12240. Previous versions of this work have benefitted from many comments. We wish to express our sincere thanks to Lisa A. Eckenwiler (George Mason University) for her extensive comments on our previous publication. We wish to thank the organisers and participants of the Virtual Conference on Refugee & Migrant Health, Mobility, Human Rights & Responsibilities, hosted online on October 9-11, 2017, with particular thanks to Lisa A. Eckenwiler, Sean Philpott & Samia Hurst for their generous input. We also wish to thank the organisers and participants at the 2017 UNESCO Bioethics Ireland Workshop on emerging research in Ireland, hosted by NUI Galway, Ireland on May 25, 2017; and at the 2017 UNESCO Chair in Bioethics 12th World Conference on March 21-23, 2017). Many thanks also to the co-editors of this volume - to Eduardo Diaz Amado and, with particular thanks to Andrea Hellemeyer (Chair of International Chair in Bioethics International Research Group 'Bioethics and human rights').

issues likely arising from the migration experience itself. Importantly, the system must be flexible, compatible and easily updated to be suitable for a mobile population within and across borders and moving throughout different languages, legal jurisdictions, health systems and sometimes differing cultural expectations. While highlighting the importance and benefits of this migrant-centred electronic Personal Health Record (m-ePHR) development, we recently identified several potential ethical, legal and social issues (ELSI) that need to be addressed in any application of such a system (Feeney *et al.*, 2020). We highlighted two European projects that have been established to respond to the diverse health challenges facing migrants, and where both include variants of m-ePHRs. However, in both cases, we noted that the aforementioned initiatives had not addressed important ethical, legal, and social issues, and we highlighted the subsequent risks for the migrants currently involved. In this chapter, we summarise our recent discussions on this topic. As highlighted by a recent publication by Chiesa *et al.* (2019), the potential of migrant-centred ePHRs, as well as scholarly assessments of such initiatives, are an emerging trend that is yet to be fully investigated. The lack of an adequate ELSI assessment and corresponding duty to develop one is vital in ensuring this potential is properly guided from its early stages.

eHealth in Europe, Migrant Crisis and Case for Extending eHealth Records

With developments in data sharing capabilities in ICT (eHealth), electronic personal health records (ePHRs) are increasingly poised to replace less transportable paper records. Despite the fragmented legal, regulatory, and socio-political contexts between different European jurisdictions, developing a common infrastructure for the sharing of sensitive data, such as health information in the context of cross-border eHealth services, is a key focus for the improvement of harmonised health services for Europe's citizens. The epSOS project was a €36.5 Million European Initiative (2008 to 2014) aimed to design, build and evaluate a service infrastructure that successfully demonstrated the potential of cross-border interoperability between electronic health record systems in Europe. The pilot project developed a limited number of locations across a number of European countries with different jurisdictions in order to highlight how the quality and safety of healthcare for European citizens when travelling to other European countries could be improved through the development of an ICT infrastructure enabling the sharing and transmission of health data between different European healthcare systems. Within different European countries, similar initiatives are in progress. The Directive 2011/24/EU (European Parliament & The Council of the European Union, 2011a) on patients' rights in cross-border healthcare and its establishment of the eHealth Network further develop the infrastructure to this end (Kierkegaard, 2011).[2] Recently, the commitment to creating a sustainable European environment for effective data sharing has been strengthened with the advent of the new EU General Data Protection Regulation on data harmonisation and data portability (Council of the European Union, 2017; European Parliament & The Council of the European

[2] Although general in its approach, this document could also play a role in this context.

Union, 2016). The benefits are manifold, including, but not only, improving up-to-date information, accuracy, efficiency, sharing of important research, less duplication of work and ultimately better diagnoses and treatments for individuals and society. However, there are still several crucial barriers inhibiting its full implementation. These include issues of privacy and consent, data security, lack of public and healthcare professional confidence in the system, inadequate and fragmented legal frameworks, interoperability issues and regional differences in access to ICT (both within and between countries). Nevertheless, significant work is ongoing on tackling such outstanding challenges in the European context, and much progress has been noted over the last number of years (European Commission, 2012).[3]

Crucially, and the central focus of this chapter, such challenges are not the only ones facing Europe's healthcare structures in recent years. While migration —and forced migration— is not a new phenomenon, it became a particular focus in Europe since the 2011 political instability in the Middle East and North Africa. In 2015 alone, 1,015,078 sea arrivals of migrants and refugees were documented in Greece, Italy, Malta, and Spain (UNHCR, 2015). The needs of newly arrived migrants from ongoing conflict situations require a comprehensive response that dovetails with the goals mentioned above of cross-border eHealth and. Given the trauma of the migration experience itself, it could be considered more urgently needed than equivalent eHealth developments for European citizens.[4] Due to ongoing conflicts around the world as well as forthcoming issues related to climate change, the reality of vast increases in the numbers of displaced peoples is likely to be a constant or regularly revisited theme into the future (Sifaki-Pistolla *et al.*, 2015; Jakab, 2015).[5] The importance of the focus on data sharing for European citizens, including the focus of the above eHealth plans, relevant Directives and Regulations, is clear. However, there is also a clear need for an increased focus on the needs of migrating populations in terms of electronic data sharing or eHealth in both the EU and the wider European context. Accurately monitoring the health data of a rapidly migrating population both in times of crisis and in cases of continued migration trends is vital for ensuring adequate healthcare and monitoring a displaced and vulnerable peoples' health status. In addition to the usual advantages of improving the accuracy and completeness of information, the flexibility of ePHRs provides evident advantages for rapidly displaced populations. While we refer to health records and health-related information in this chapter, we note that these are complex definitions with equally complex and varied manifestations in reality. Chiesa *et al.* (2019) observe that the lack of clear definitions is a common issue that constitutes a barrier to

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[3] For more information, see www.epsos.eu. In addition, data sharing in the European context of health and genomics is a central focus of the COST Action IS1303 (www.chipme.eu).

[4] It also dovetails with responses to intra-European interoperability taking account of the wider international perspective (Overview of the national laws on electronic health records in the EU Member States and their interaction with the provision of cross-border eHealth services. Final report and recommendations. (2014). Available at: https://ec.europa.eu/health/sites/health/files/ehealth/docs/laws_report_recommendations_en.pdf

[5] As highlighted by Zsuzsanna Jakab (WHO Regional Director for Europe) when she noted that an "ageing population and migration are the two demographic factors that will shape the health challenges of the European Region in the 21st century" (Jakab, 2015, para. 3). Jakab also noted the current preparations for "a framework for long-term action on refugee and migrant health that could be discussed and agreed by the Regional Committee in September 2016" (para. 6).

the development of electronic patient records. For instance, with greater precision than we use here, they distinguish between electronic medical records (defined as "digital version of the paper records in health care institutions"), electronic health records ("information from all health workers involved in a patient's care, with entries from multiple sites where care is provided") and personal health records ("all personal information […] entered and accessed electronically by healthcare workers over the person's lifetime") (Chiesa *et al.*, 2019, p. 889). For the purposes of this chapter, we do not distinguish to this same degree as we are looking at issues (benefits and concerns) in common to all variants of electronic health records for migrants.[6] In general, the aim of m-ePHRs, broadly defined, is to give migrant patients access to their personal health information shared across different settings and systems. There are still numerous obstacles to this ideal (Ose, 2017).

Potential Advantages of Migrant-Centric ePHRs

Successful implementation of pan-European migrant-centric ePHR (m-ePHRS) initiatives would better enable a number of key issues that face vulnerable migrants to be addressed. The migration between countries (from origin to transit to destination countries) creates difficulties in accurately maintaining and updating traditional methods of personal health records, especially given the cumulative health effects of the migratory experience itself (Chiesa *et al.*, 2019, p. 888). Forced migration is often associated with particularly acute health problems as the migratory experience can have significant negative impacts on a person's health, as migrants often face particular health risks before, during and after they flee from their country of origin (Janssens *et al.*, 2006). In this context of cross-border movement, numerous issues can arise, including duplication of vaccinations, lack of awareness of current medications or previous adverse reactions to treatments. These issues can be compounded by culture and language barriers and other cultural barriers to accessing health care (Clark & Mytton, 2007; Hacker *et al.*, 2015; Langlois *et al.*, 2016). including differences regarding what is seen as appropriate health care. There is an increasing awareness of such barriers but ongoing difficulties in finding effective ways to address them, e.g., difficulties in ensuring accurate translation of technical, medical language. Migrant-centric eHealth initiatives would not only be of benefit to the migrants themselves but would also be of benefit to organisations, healthcare services and countries that receive migrants by saving resources and reducing duplication of workload (Clark & Mytton, 2007). Overall, such emerging cross-border eHealth initiatives can better monitor migrants' health, passing from jurisdiction to jurisdiction, and thereby enabling a more efficient and cost-effective use of limited public health funds and personnel, especially in crises. Even if, as some point out, the burden of migrants on states and health services (and the corresponding savings in terms of avoiding duplication of examinations and treatments) may be overblown, savings of some lower-level would still seem prudent if possible without cost to the quality of healthcare

[6] Comparing benefits and ELSI concerns between the different variants of electronic health/medical records would be an important task for another day.

itself.[7] The possibility of ongoing revisions to medical information can also enable the complex and changing needs of vulnerable groups, including those acquired throughout migration: e.g., elderly persons, pregnant women, disabled people, persons who have undergone torture, rape or other severe forms of psychological, physical or sexual violence. With suitable safeguards in place, it can also apply to minors and those with diminished capacity, victims of abuse, neglect, exploitation, torture, cruel, inhuman and degrading treatment or who have suffered from armed conflict (European Parliament & The Council of the European Union, 2011b, art. 30). In general, there can be a better response to various unanticipated special needs of migrants[8] resulting from forced migration (Janssens, *et al.* 2006). Forced migration can also highlight some special needs of women while flagging differences in health services provided in different European countries. For instance, migrating women can run a higher risk of unwanted pregnancy, induced abortion, sexually transmitted infection, HIV, experiences of sexual violence, both prior to and due to the migration process (Janssens, *et al.* 2006). These special needs in healthcare may often be difficult to integrate into more limited and static forms of paper-based medical records. The issue would be further complicated because European countries differ regarding legislation and practices on abortion, contraception, and other reproductive issues[9]. WHO (2020) reports, for example, that the use of contraception differs across Europe, where, in some countries, many women who need modern contraception are unable to access it. Apart from direct improvements to the healthcare services directed toward migrating peoples, there would be the potential for electronic health records to help build up a body of healthcare-related data —appropriately protected and only for improving healthcare outcomes— that can contribute to research and better evidence-based responses (Cheng *et al.*, 2018).

Potential Disadvantages of Migrant-Centric ePHRs

The very possibility of increasing the amount and individualised detail of the medical records held by migrants via the m-ePHRs, also opens up the possibility that this information can be used against their interests, either deliberately or accidentally. This issue was highlighted prominently in the UK, where a memorandum of understanding between the Home Office and NHS Digital allowed for the sharing of non-clinical data between the NHS (UK National Health Service) and immigration

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[7] I wish to thank Su-Ming Khoo from NUI Galway for the point of observing exaggerations in terms of migrant-related costs on states and healthcare services, even if duplications of healthcare exist.

[8] According to Art. 30(1) Directive 2011/95/EU, "Member States shall ensure that beneficiaries of international protection have access to healthcare under the same [!] eligibility conditions as nationals of the Member State that has granted such protection". According to Art. 19(1) Directive 2013/33/EU, "Member States shall ensure that applicants receive the necessary health care which shall include, at least [!], emergency care and essential treatment of illnesses and of serious mental disorders".

[9] The area of technologically assisted reproduction will also be increasingly relevant in the longer term when such migrants become settled in a target country. See University of Cambridge Centre for Gender Studies (2015).. For a fuller analysis on issues raised on the EU front in the context of technologically assisted reproduction, see Frischhut, M. (2017)..

authorities (See O'Donnell *et al.*, 2019; Campbell, 2018). Depending on whether a person's status is an asylum seeker, refugee or undocumented migrant will have significant implications for the safety and security of their information held and sharable via electronic means. While it is helpful to identify the special health needs of individuals who are members of one of these groups, the status of being an asylum seeker, refugee or undocumented migrant is not health data or medical information itself (Clark & Mytton, 2007).[10] Some migrants may also find the recording of their status to be potentially stigmatising and could fear that the information may be used against their overall interests instead of better addressing their health interests. As highlighted in the UK case, some European countries already use information about asylum seekers' physiological and medical states for purposes other than enhancing their health (European Parliament & The Council of the European Union, 2013, art. 25). For instance, applications for refugee status sometimes include medical reports written by medical doctors where the migrants' clinical signs and symptoms are assessed to be consistent, or not, with the alleged traumatic events on which the refugee claim is based. This potential misuse of migrant data (both health and non-health) combined with clinically inadvisable avoidance of related healthcare services by migrants may limit the potential benefits and effectiveness of m-ePHRs to such a degree that it is considered potentially dangerous for such data to be stored in the eHealth system at all. Age evaluations of asylum seekers can take the form of x-rays of teeth and bones or other medical information (e.g., results of gene tests) (Sauer *et al.*, 2016; Metsäniitty *et al.*, 2017). As under-age asylum seekers enjoy some benefits not available to adult asylum seekers, the perception by immigration officials will likely question whether a person who claims to be under-age is really the case. Whatever the appropriateness or not of such actions by immigration officials, the commandeering of healthcare data from independent healthcare services is problematic on several levels.[11] Apart from the risk of information collected by medical means being used for purposes other than enhancing the health of the migrant, there is the related issue regarding who should have authorised access to the information stored in the m-ePHR system. If immigrant authorities can legitimately have access to medical information relevant to the refugee application, there should be a way to distinguish and control the parts of eHealth records that can and cannot be given to immigrant authorities, especially to ensure that important health information that is not strictly required is not given.[12] While some aspects of such information might be helpful for policy formation, the medical privacy rights of the individual should be taken seriously. Protection of information from wrongful access is also important where the health information could be viewed as a valuable commodity to various groups and, as such, may entail a personal security risk for the migrants if effective access restrictions are not in place. The loss from one's bank details being taken can be problematic, but the bank details can be changed. A migrant's health details are not similarly replaceable or revisable in cases where stolen by others.

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[10] On special health needs see Hebebrand et al. (2016), and Langlois et al. (2016).

[11] Some EU member states are expected to carry out medical age-evaluations. The Asylum Procedures Directive (Directive 2013/32/EU) notes that European Union Member States "may use medical examinations to determine the age of unaccompanied minors within the framework of the examination of an application for international protection" (European Parliament & The Council of the European Union, 2013, art. 25).

[12] This "firewall argument" has been addressed by Carens (2015).

With the above challenges over what information is safe to store and who should or should not have access, it is not surprising that mistrust and suspicion are common among asylum seekers, refugees and undocumented immigrants (Janssens *et al.*, 2006). Ehealth monitoring may be a further source of mistrust, especially if a language barrier is still unaddressed in the system and the person is unfamiliar with digital records and cultural differences. Furthermore, there are questions regarding whether storage in databases deprives the migrant of any possibility to control it and to what degree this should be facilitated. The understanding of confidentiality and privacy differs between cultures (Eklöf *et al.*, 2015). In such cases, there may be a danger that a person omits to seek medical help because he/she does not want her health information to be stored. Designers of eHealth records need to be aware of potential fears and misuses in the design of the record and whether health-related information can be used in ways harmful or discriminatory to migrants (or to their dignity) by various groups. For example, refugees fleeing persecution may still fear for their lives in the European context. An electronic health record may be seen as a method of revealing their identity and movements that are to be avoided. Similarly, any record of where they may be similarly problematic for an undocumented immigrant and seen as something to be avoided, even if this adversely affects their healthcare.[13] Even if their location is not directly recorded, the locations of the healthcare professionals storing the data may be identifiable, indirectly identifying the locations of the migrating patient.

The above points outline only some of the potential ELSI concerns that can arise with any migrant-centric ePHR initiatives and highlight why such initiatives need to address such ELSI issues in the design and roll-out of their (otherwise admirable and much needed) measures. There are important benefits that migrant-centric ePHRs can offer, and these should be safeguarded with robust migrant-centric ELSI protections in place to prevent or mitigate potential unintended negative consequences, such as those noted above.

The Examples of CARE and Re-Health2

Currently, the ePHR responses for migrants are most explicitly addressed under two projects: (a) Common Approach for Refugees and Other Migrants' Health (CARE)[14] and (b) RE-Health[15],

[13] Similar to Rechel et al. (2011).

[14] The project CARE (Common Approach for REfugees and other migrants' health [2014-2020]) aimed to promote a better understanding of refugees and migrants' health condition and towards the health needs of fragile subgroups, such as minors, pregnant women, and victims of violence.

[15] The RE-HEALTH action aimed to address PHR as an important health-related issue of migrants arriving at key reception areas, while preventing and addressing possible communicable diseases and cross-border health events. European Union & International Organization for Migration (IOM) (2016).

particularly by the follow-on RE-Health2 initiative[16]. Both projects focus on collaboration with the main migration-gateway countries: Italy, Greece, Slovenia, and Croatia. Under CARE, Malta was also included, and Re-Health2 has expanded to include Cyprus, Romania, and Serbia. CARE (European Union Health Programme, 2014-2020)[17] developed an ePHR in the form of a USB stick that can be combined with software enabling trained health personnel to modify the data stored on the stick and in a data cloud. The memory sticks were distributed to a small number of migrants, and healthcare professionals were given a comprehensive manual on using the corresponding software. The ongoing Re-Health2 initiative is also devoted to building an electronic database for migrants' health data, focusing on data protection under different European guidelines. Re-Health brings together stakeholders in migrant health to establish a solid network for further collaboration. Additionally, RE-Health aims to train "health mediators", personnel with the intercultural skills needed to illustrate the benefits of health assessment to migrants and ensure that the basic human rights of patients are protected. These projects are designed to promote a better understanding of the health conditions of refugees and migrants. They are further designed to improve EU cooperation in monitoring activities and potential health risks. This means tailoring healthcare delivery to migrants' health needs, keeping the risk of infectious disease outbreaks under closer control at the early stages of migrant care, and overall taking better care of migrants' health across the European area. This, in turn, includes ensuring that any disease outbreaks and public health emergencies are detected at reception centres[18], helping to prevent cross-border health threats and providing frontline healthcare workers with information about endemic diseases in the newly arrived migrants' countries of origin. In both projects, the expansion and use of ePHRs are considered crucial in supporting the EU Migration Agenda. The Action Plan on the Integration of Third Country Nationals and Promoting the e-PHR will also be in keeping with the broader goals of the EU Digital Agenda.

Unfortunately, as we recently highlighted (Feeney *et al.*, 2020), both projects have primarily focussed on overcoming technological barriers while placing far less (indeed, insufficient) emphasis on addressing ELSI issues in the design or roll-out of their respective ePHR systems. For the above issues to be adequately addressed by migrant-centric ePHRs, these proposed e-tools must be ethically, socially and legally robust (EDPS Ethics Advisory Group, 2018). Otherwise, it would fail to adequately address such problems facing vulnerable migrants while also risking the creation of additional difficulties. In CARE, for instance, the aforementioned manual for health professionals

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[16] Project RE-Health2 aims for the "Implementation of the Personal Health Record as a tool for integration of refugees in EU health systems" is a project focusing on "utilization of the PHR/e-PHR as universal EU tool for health assessments that aims at improving the continuity of care, making medical records available to health professionals within and from reception to destination countries, and facilitating data collection to better understand and meet migrants' and refugees' health needs as also through supporting and fostering use of and capacity-building of health mediators", European Union & International Organization for Migration (IOM) (2016).

[17] CARE project provided the development of an integrated electronic system for tracking and monitoring the health status of migrants and refugees, available at: http://careformigrants.eu/wp-content/uploads/2017/08/CARE-HTMS-User-manual.pdf

[18] For a legal analysis see Frischhut & Greer (2017).

on the usage of the corresponding software lacks information on the safe handling of patient data or further ELSI issues. There is no mention of 'ethics', 'social concerns' or 'vulnerable' in the user manual (CARE, 2017). There is some limited reference to legal aspects in the recommendations —i.e., the unclear legal status of various migrant groups— but not in relation to ePHRs. In the case of Re-Health/Re-Health2, there is mention of several legal documents on their website regarding data protection, but no other issues are mentioned (Re-HEALTH², n. d.).[19]

Providing adequate healthcare to rapidly migrating populations poses challenges in various fields. Up to date personal health records that are functional across European borders could prevent many unnecessary measures and complications. Electronic Personal health records, such as proposed and developed by the CARE and Re-health projects, could be a valuable tool if adjusted to face specific challenges, especially concerning the storage and access to personal data of the migrant. Although Directive 2011/24/EU on cross-border healthcare has been set up for EU citizens, it uses a neutral wording about "medical records", which could also be utilised in our ELSI context. However, as we have shown, greater attention to ELSI issues is needed. In much of the literature, including in the two initiatives (CARE, Re-Health), there is a depiction of migrants mostly seen as "carriers of disease", while far less focus is given to issues like benefits for migrants suffering from chronic disease as well as the many maternal health issues exacerbated by the migratory experience. This is particularly urgent in cases of pregnant women, unaccompanied minors, persons with disabilities, the elderly or strongly traumatised patients. Treating migrants as a single, cohesive group is very problematic, especially when there are significant individual and cultural differences among them (e.g., toward contraception or abortion, among others).

Overall, we conclude that there should be a much stronger focus on creating robust ELSI guidelines for the ongoing development and use of migrant-centric ePHRs to ensure that such records can effectively contribute to care in line with migrants' own needs and preferences.

Concluding Remarks and the Next Steps

The EU Charter of Fundamental Rights (CFR) (European Union, 2016), legally binding since 2009, emphasises vulnerable groups such as children (Art. 24), the elderly (Art. 25) and people with disabilities (Art. 26). While clearly having an EU focus, most articles, including the aforementioned rights, are not only addressed to EU citizens but entitle all human beings, hence also migrants and refugees. The concept of vulnerable people comprises those "which are particularly prone to being

[19] The German bioethics committee recently made a very detailed analysis regarding Big Data & Health (while not migrant-centric, it did focus on vulnerable groups in general) where they identified many more issues around the use of data than only security issues (https://www.ethikrat.org/publikationen/publikationsdetail/?tx_wwt3shop_detail%5Bproduct%5D=115&tx_wwt3shop_detail%5Baction%5D=index&tx_wwt3shop_detail%5Bcontroller%5D=Products&cHash=eaab064e71492c426c4478bd6d69af66). In addition, the UK's Nuffield Council made recommendations already in 2015 where they explicitly mention that following the law might not be enough to deal with data in health (See Nuffield Council on Bioethics, 2015; https://www.nuffieldbioethics.org/publications/biological-and-health-data).

harmed, exploited or discriminated include, among others, children, women, older people, people with disabilities, and members of ethnic or religious minority groups" (Andorno, 2016). This reference to discrimination opens up a broad range of vulnerable people, as the CFR prohibits discrimination on the grounds of "sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation" (Art. 21 para. 1). Therefore, most migrants and refugees might be seen as 'multi-vulnerable', as they potentially fulfil several of these criteria. As several EU directives in the field of migration and asylum emphasise the importance considering the specific situation of vulnerable persons, this idea of a European eHealth response to the migration crisis, which adequately takes into account an ELSI assessment, would be a good approach to filling these human rights with life.

In conclusion, we would make the following suggestions for any m-ePHR system, such as the two projects noted, for their systems to be ethically, legally and socially robust. We also make these suggestions with the knowledge that the systems above have been up and running on a trial basis and with real migrants involved, and apparently without any substantial ELSI work done to protect them or their health data. Firstly, we call for an immediate assessment and investigation of potential ELSI problems, both short-term and longer-term. This would require discussions between ELSI experts and key members from both CARE and Re-Health project, as well as migrant representatives and information technology people. One key outcome would be a list of key ELSI guidelines and information to be disseminated to staff working in CARE and Re-Health2, medical practitioners, IT support, migrant representative groups, as well as a short, clear, multi-lingual list of key do's and don'ts for migrants using the m-ePHRs. Beyond the immediate action, there needs to be a longer, more comprehensive development of ELSI guidelines and recommendations, including updating and improving the emergency measures and moving broader (less immediately urgent, but important longer-term steps).

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Europe in the Face of the Refugee Crisis

Héctor Romero Ramos

María Magnolia Pardo López

Introduction

It is on everyone's lips today: the European Union is in crisis, its worst crisis yet. It is even debated whether the future of the Union is threatened. The United Kingdom confirms what until recently was unthinkable: a reversal in the integration process, and the many Member States, to the east and west, are questioning the benefits of adopting the euro and belonging to the Union, with a lively and bitter social debate between the transfer of sovereignty or the national withdrawal.

It is true, talking about a European Union in crisis or its uncertain course or seeing it plunged into paralysis is part of recurring rhetoric, almost a tradition. Suppose the already effective exit from the United Kingdom has been the most significant evidence of the said crisis in recent years. In that case, the pandemic generated by the spread of Covid-19 in late 2019 and early 2020 threatens to become the new emblem of that disturbing internal division.

However, the narrative about the crisis has been part of constructing a success story about the European integration process until today.

> According to this narrative, the integration process's main actors have actively sought the development of "crisis" situations to promote the European project's advancement. This has been interpreted as authentic turning points —understood as opportunity cost— where the European Union must choose between greater integration or jeopardizing what has already been achieved.
>
> Obviously, from this dilemma, the first option was an inevitable choice as a product of the zero-sum game between national and European interests, while the emerging crises allowed agreements between political leaders and public opinion about the need for greater integration. The main consequence of that European narrative was a broadening of the term "crisis" semantic field by adding the meaning of "stimulus" to it. Its main use value lay in its explanatory capacity to describe the passage from one stage to another in the integration process. (Moreno Juste, 2016, p. 230)

But the ideological function of this rhetoric seems to have been broken. Today we have gone from thinking about the crisis, using the terminology of Janet Roitman (2014), from the *account of the error* to doing it from *the account of the complaint* where moral arguments predominate over the institutional or technical explanations.

> The account of error gives us a definition of a crisis as a result of an institutional or agent error. As such, it can be corrected through institutional reforms and behaviors, which leads to a "happy ending" when we reach the foreknowledge that we have lacked until now. The second account is about the denunciation of the immorality of the world. It shows that the crisis is the result of the moral deficiencies of the institutions or the decisive agents in the events. This supposes that, if there were a moral reform, things would happen

> differently; and consequently, this will venture the moral reconversion of the world through a new equilibrium. (Ramos-Torre, 2016, p. 336)[1]

Are there reasons to think that we are talking about a severe crisis, a real possibility of decomposition, or perhaps a radical reconfiguration of the European project this time? Yes, there are. Two specific episodes or processes have, in fact, placed the Union in the face of its most overwhelming contradictions and its most damaging dysfunctions. First, the mismanagement of the debt crisis in the euro area resulting from the international financial crisis of 2007; and second, the Syrian refugee crisis, which is getting worse by the day. The first one opened a fissure between northern and southern Europe, disseminating resentment through the continent. The second has turned the Mediterranean Sea into a grave, and borders that we believe will always be open are closed, almost erased. Both episodes confirm that when a problem affects different Member States unequally, where the solution only involves carrying out an exercise of authentic solidarity, transfer of powers, resignations, and concerted political action, the problem is poorly solved or not solved at all. Both crises have not only given more power to the Eurosceptic sectors but have also undermined the social foundations of Europeanism, even in those countries such as Spain, whose public opinion had shown for years an unwavering enthusiasm for belonging to the Union. Perhaps it is nothing more than speculation, but in our view, the refugee crisis has caused more irritation and disenchantment among European citizens than the crisis of economic governance in the eurozone. The latter gave arguments to those who had opposed Europe in the first place by criticizing the design of the euro and the Maastricht Treaty, particularly among the left-wing parties of the Social Democracy. Although they showed their arguments under the rhetoric of no to the "Europe of the bankers," it is not a surprise for anyone that a part of the social bases of the old communist parties has fed the anti-European and xenophobic far-right formations. Formations that rise in the polls and occupy most seats in parliaments (in Italy, they have already reached the government. In Spain, they are the third political force in Parliament). However, the disastrous management of the Syrian refugee crisis has directly fired into the moral structure of the European project, shaking the arguments from those supportive of it and confirming its failure to those who were never convinced.

In this chapter, we will defend that: 1) although the European protection and asylum system is incomplete and precarious, the European Union had legal instruments to have given a substantially different response to the Syrian refugee crisis, perhaps not the best but clearly a better one than the one given; 2) consequently, an essential part of the problem for which the Union did not know or was not able to respond under its own laws and principles was political and not just legal; 3) that the solution (not a solution) that the EU has found for the refugee crisis manifests, beyond proclamations and good intentions, a reaffirmation of the security and authoritarian turn in border management that distances us from a common asylum policy per the law and capable of strengthening the Union's guarantee structures and deepening the defense of fundamental rights.

[1] Translation done by the authors.

Some Historical Notes

Martin Schulz, President of the European Parliament during the Syrian refugee crisis, said: "These images of men, women, and children who died seeking protection in Europe represent a stain on the values we defend." The phrase appears highlighted in a box within the information sheet that the European Parliament released on the reform of the Common European Asylum System (SECA). Why has this refugee crisis directly affected the moral structure of the Union?

The living memory of World War II drove the European project. In consequence, European countries founded an economic agreement with political and ethical rhetoric tied to the memory of the dead. This agreement promoted a program of material reconstruction that, in turn, would bring the moral reconstruction of the European continent. However, it was not only the dead or financial ruin that was remembered. Following the pioneering study of Malcolm J. Proudfoot (1958), Keith Lowe, the historian of World War II, claims that a population of more than 40 million was forcibly displaced during the war (2014).

> Between 1945 and 1947, tens of millions of men, women, and children were expelled from their countries in some of the biggest acts of ethnic cleansing the world has ever seen. This is a subject that is rarely discussed by admirers of the 'European miracle', and even more rarely understood: even those who are aware of the expulsions of Germans know little about the similar expulsions of other minorities across Eastern Europe. The cultural diversity that was once such an integral part of the European landscape before, and even during, the war was not dealt its final death-blow until after the war was over. (Lowe, 2012, p. 17)

In Germany, there were 8 million foreign forced laborers. At the end of the war,

> the United Nations Relief and Rehabilitation Administration, looked after and repatriated more than 6.5 million displaced persons. Most of them came from the Soviet Union, Poland and France, although there were also significant number of Italians, Belgians, Dutch, Yugoslavs, and Czechs. (Lowe, 2012, p. 81)

They were not only military prisoners but a civilian population that had been enslaved "in a way that had not been seen in Europe since the time of the Roman Empire. (Lowe, 2012, p. 81). Deportations were also a constant in the Soviet Union. As soon as the war began, The Soviet Union expelled approximately one and a half million people to Siberia (who would eventually end up dispersed among India, New Zealand, Iran, Lebanon, Mexico, Palestine, and South Africa). Between 1940 and 1941, the entire population of German origin living in the Volga region was deported."Between them Stalin and Hitler uprooted, transplanted, expelled, deported and dispersed some 30 million people in the years 1939-43" (Judt, 2005, p. 23). In the Balkans, forced displacements of Albanians, Bosnians, Croats, Slovenes, Kosovars, and Serbs were constant (Puell de la Villa & García Hernán, 2017) and, in 1945, "100,000 Croats from the fallen wartime fascist regime of Ante Pavelic, fleeing the wrath of Tito's partisans" (Judt, 2005, p. 23).

In his foreword to the Spanish edition of the writings and speeches of one of the founders of the European Community, Alcide de Gasperi, his daughter pointed out the fact that both he and Robert Schuman were "frontiersmen, who had lived among ethnic minorities, one in Alsace-Lorraine when he was part of the Second German Reich and the other in Trentino when he belonged to one of the Austrian Länder" (de Gasperi, 2011, pp. 13-14). In 1911 De Gasperi had been elected as representative in the multinational Parliament of Vienna. Only from the experience of

those generations of Europeans who witnessed the incessant process of destruction, invention, and raising of new borders during the two world wars (or, according to Enzo Traverso's analysis, the long European Civil War) we can understand the meaning of the Union project in 1950 with the creation of the CECA.

Hannah Arendt, who had suffered refugee status, understood the impact that the border issue and its consequences on the displaced and stateless population had occurred in Europe at the end of World War I. Hannah Arendt, who had suffered refugee status, understood the impact that the border issue and its consequences on the displaced and stateless population had occurred in Europe at the end of the World War I. Reading today, that is, looking at Europe today, some passages from the second volume of The Origins of Totalitarianism are illuminating but also disturbing.

> The first World War exploded the European comity of nations beyond repair, something which no other war had ever done. (…) Civil wars which ushered in and spread over the twenty years of uneasy peace were not only bloodier and more cruel than all their predecessors; they were followed by migrations of groups who, unlike their happier predecessors in the religion wars, were welcomed nowhere and could be assimilated nowhere. Once they had left their homeland, they remained homeless, once they had left their state they became stateless; once they had been deprived of their human rights they were rightless, the scum of the Earth. (Arendt, 1979, p. 267)

This is how the writer Stefan Zweig recalled it in his memoirs, an essential document for understanding European history and culture in the first half of the 20th century and the material and moral collapse of the continent after the Great War.

> Only yesterday, still a visitor from abroad and, so to speak, a gentleman who was spending his international income and paying his taxes, now I had become an inmigrant, a 'refugee.' […] Besides that every foreign visa on this travel paper had thenceforth to be specially pleaded for, because all countries were suspicious of the 'sort' of people of which I had suddenly become one, of the outlaws, of the men without a country, whom one could not at a pinch pack off and deport to their own State as they could others if they became undesirable or stayed too long. […] Indeed, nothing makes us more sensible of the inmense relapse into which the world fell after the First World War than the restrictions on man's freedom of movement and the disminution of his civil rights. Before 1914 the earth had belonged to all. (Zweig, 1943, p. 409)

Zweig's friend, Joseph Roth, left similar words in his unpublished 1936 foreword to his book *The Wandering Jews*.

As Tony Judt points out in Postwar, during World War I, borders moved, while during World War II, it was people who moved. Since the end of the Great War, the refugee issue has been placed on the international stage, focusing on the European drama. The International Labor Organization began in 1919 to speak of the need for *protection of the interests of workers employed abroad*. Just two years later, the High Commissioner for Refugees was created. A year before the outbreak of World War II, there was an attempt to respond to the situation of the Jewish population fleeing Nazism with the creation of the Intergovernmental Committee for Refugees (IGCR). During the war, the Administration has instituted the United Nations for Relief and Reconstruction (UNRRA). Once the war ended, in 1946, the Committee and the Administration came together in the International Organization for Refugees (OIR). From that moment on, the definition of refugee and its successive variants deserve special attention since they conceal a conflict of views and

interests, characteristic of the international context under the Cold War[2]. Refugees became "victims of the Nazi or fascist regimes or of regimes that took part in the Second World War [...], the Spanish republicans and other victims of the Falangist regime in Spain" and "the people considered refugees before the Second World War because of their race, religion, nationality or political positions."

This event helped establish the distinction between refugees and displaced persons. The latter was basically intended for people from Eastern Europe, and under this distinction, two solutions were derived: for refugees, it was settlement, but for the displaced, it was repatriation. Since the end of the first war, the position the ILO had defended, that is, the indistinctness in the postwar context between refugees and economic migrants was also blurred. The management of the OIR took a pragmatic and geopolitical turn from a humanitarian perspective towards a demographic outlook oriented to the "planned redistribution of the population." (Redondo Carrero, 2017, p. 374). As Didier Fassin stated, "the refugee issue and the contours of asylum are permanently reconfigured, and these transformations are mostly caused or associated with the representation of the people involved and the legitimacy of their claims. It is not that the victims' situations are different, but the values and affections that these situations generate that change over time" (Fassin, 2015, p. 277).

But in the early 1950s, the issue of World War II refugees in Europe was still far from being addressed. After the Preliminary Conference on Migration held in Geneva in 1950, on May 9, 1951, the foreign ministers of the United States, France, and Great Britain met in London in what is now considered "a milestone in the European integration process due to the importance of the positions taken" (Redondo Carrero, 2017, p. 378). At that meeting, Robert Schumann made his statement in favor of European unity (Fassin, 2015, p. 379). The language, however, was still permeated with functionalist rhetoric of the Europe of reconstruction and planning, where the migration issue was seen as a matter of managing the "surplus population."

After the creation of UNHCR in December 1950 and the signing of the Geneva Convention on July 28, 1951, the UN, the OIR, and UNHCR representatives met, this time in Naples6 Unfortunately, the encounter was a failure. At the Brussels Conference, held between November 26 and December 5 of that same year, the Provisional Intergovernmental Committee for Migration Movements in Europe (CIPMME) was created. The CIME was definitively constituted during its fourth meeting in Venice in 1953 and has remained active until 1989. From February to December 1952, 77,664 people were transferred to Europe, of whom 51,341 were "migrants who can be classified as refugees," and 27,310 of those were included in the UNHCR mandate (Redondo Carrero, 2017, p. 381).

In light of this historical perspective, we should analyze the political significance of the European Union and the values of those "frontiersmen" who promoted it.

[2] I schematically follow the study by Redondo Carrero (2017).

The Refugee Crisis

The war in Syria and the processes of political change in the Maghreb and the Middle East since 2011, grouped under the label of Arab springs, altered and increased migratory flows in the Mediterranean, aggravating a situation that was already dramatic.

To the routes that link Libya with southern Italy by sea —the island of Lampedusa is 205 kilometers away from the south coast of Italy and only 113 from North Africa—, and the Strait of Gibraltar joined the so-called "Balkan route," which brought thousands of displaced people to the coasts of Greece when the country was experiencing a critical economic situation. The route to Italy was also saturated, with a continuous arrival of boats to the island of Lampedusa. The implosion of the Libyan state due to the civil war and the fall of the Gaddafi regime caused the refugee camps that already existed there to be dissolved. Shipwrecks off the coast of Lampedusa littered the island with corpses, its cemeteries saturated with nameless graves. Between 2014 and 2016, the number of displacements, shipwrecks, and victims grew without stopping. The figures are still unclear today, but it seems assumed that more than 10,000 people died in Mediterranean waters between those two years. The International Organization for Migration (IOM) estimates 14,652 people killed between 2014 and 2017 in the Mediterranean.

Tens of thousands of people had already died in the Sicilian Channel since 1990. It was there that, in October 2013, the first major shipwreck occurred that raised awareness in Europe. On April 19, 2015, 700 people died when they were 190 kilometers off the coast of Libya. A few days before, on the same route, 400 people had disappeared; On September 14, 112 people were shipwrecked off the Greek island of Farmakónisi, 34 of them lost their lives. By then, the picture of the Syrian boy, Aylan Kurdi, drowned on the Turkish beach of Bodrum had already been around the world. His boat had been wrecked when it was leaving for the Greek island of Lesbos. During that same week, 23,000 people had arrived in Greece: 5,400 had been rescued at sea, 55 had died.

Borders began to close: first, it was Hungary (September 14, 2015) on its border with Serbia. In March 2016, it was Macedonia, a month later, Austria. Routes were closed, and refugees drew new routes: to Sweden and Norway through the Russian Arctic; between Belgium and England, when the Calais refugee camp, known as "the jungle," was overwhelmed (between 7000 and 9000 people); in France, where there were 160 refugee centers. Makeshift camps were set up precariously throughout the parks and squares of Athens. Legislative changes, increasingly restrictive and less guaranteeing, took place, and not only in the countries of the Visegrad group (which in 2018 have been sanctioned by Brussels for non-compliance with the relocation quota policy) but in almost all the countries of the Union. The case of Hungary is especially alarming. It practices summary returns at the border, has passed five anti-immigration laws that allow the automatic detention without judicial review of asylum seekers, and has restricted the procedures for the application for protection to minimum quotas, leaving trapped between 6,000 and 8,000 people in Serbia. Policies and regulations that are applying even to unaccompanied minors.

Since the flow of Syrian displaced people was reduced, in part as a result of the EU treaty with Turkey —which, according to CEAR data, today welcomes more people in need of international

protection than the 28 countries of the EU combined—, and due to the exhaustion of the exodus itself —not everyone who wants to emigrate can do it, and the amount of population that can move in a humanitarian emergency is not infinite—. However, it is striking that the number of deaths in shipwrecks has not decreased in the same proportion. According to the IOM, 3,139 people died in the Mediterranean in 2017, 51% of migrant deaths at sea worldwide, which tells us how border control measures have been prioritized over sea rescue.

According to the 2018 report of the Spanish Commission for Refugee Aid (CEAR, by its Spanish acronym):

> In 2017, the number of people who applied for international protection in the EU (704,625) fell by almost half compared to 2016 (1,259,265) and 2015 (1,321,600), due to border closure policies. Following in the wake of the controversial EU-Turkey Agreement of March 2016, in February 2017, the European Union signed an agreement with Afghanistan to promote the "voluntary" return of refugees, whose Operational Plan remains protected by secrecy. A month later, the EU-Action Plan on Return was announced, suggesting Member States measures to speed up return procedures and improve collaboration with countries of origin for the same purpose. Consequently, the dangerousness of the migratory routes to Europe continues to grow, and European borders have become the scene of serious human rights violations. (CEAR, 2018, p. 129)

The Protection System under Debate

The right to asylum is included in Article 18 of the Charter of Fundamental Rights of the European Union, which guarantees it "under the provisions of the Geneva Convention of July 28, 1951, and the Protocol of January 31, 1967, on the Status of Refugees under the Treaty establishing the European Community". Article 19 specifies the protection in case of return, expulsion, and extradition, sanctioning the prohibition of collective expulsions. It states, "no one may be returned, expelled or extradited to a State in which they run a serious risk of being subjected to the death penalty, torture or other inhuman or degrading treatment or punishment" (Charter of Fundamental Rights of the European Union, 2020, article 19, point 2). However, the issue of asylum and refuge has not been reflected from the normative point of view in European construction under the historical experience's scope.

Martín-Arribas claims that "from a strictly legal perspective [...] the Treaty of the European Economic Community did not contemplate community competences to act accordingly to the status of refugees and the right of asylum" (2000, p. 113). It seems clear that the issue of asylum was not part of the agenda at that time, and "quite subsidiary decisions were made in the face of a problem that seemed collateral" (Martín-Arribas, 2000, p. 113).

In the Treaty of Rome and during the political development and legal architecture of the EU, the priority approach concerning the migration issue has been of security and internal politics. In this sense, when we speak of a 'security shift' in Europe's migration policy or about refugees today, perhaps it would be more appropriate to speak of its deepening. The Single European Act of 1985 (SEA), which sanctioned the disappearance of the internal borders of the Union, reflected the resistance of the Member States to cede competencies in migration matters, which was, once again, limited to the sphere of intergovernmental cooperation and outside the process

of political integration. Only with the signing of the Maastricht Treaty, which in its Title VI "confers binding force on the state obligation to cooperate in a series of matters considered to be of common interest, among which the right to asylum is expressly included," can see some progress, in the sense that "the evolution from a classic intergovernmental cooperation obeys to criteria of permanence, effectiveness, and coordination of efforts of the institutionalization of that cooperation" (Martín-Arribas, 2000, p. 121-122)[3].

Following the interpretation —optimist but enunciated before the crisis of the Syrian refugees in Europe— of Professor Martín Arribas, with the Treaty of Amsterdam (art. 2 and 61-73, Title IV, on Visas, asylum, immigration and other policies related to the free movement of persons): "the right to asylum is communitarianized as a minimum right," reinforcing "the resources available to the Union in this matter as part of the logic of the dynamics that imprints the European construction" (2000, p. 127). From a critical perspective and in the current context of the crisis, Pérez González warns us regarding the Title IV of the Amsterdam Treaty:

> decision-making in this area was submitted, however, for five years after (its) entry into force […], to a hybrid regime where the powers of the European Commission, the European Parliament and the Court of Justice were severely restricted in favor of those of the Council, which represents, as is known, the interests of the Member States. (Pérez González, 2016, p. 114)

The development of "a common policy on asylum, subsidiary protection and temporary protection destined to offer an appropriate status to every national of a third country who needs international protection and to guarantee the right of non-refoulement" is projected in article 78 of the current Treaty on the Functioning of the EU (TFEU). The treaty states that "this policy must comply with the Geneva Convention of 28 July 1951, and the Protocol of 31 January 1967 on the Statute of Refugees, as other pertinent treaties". The Common European Asylum System (CEAR), which has been developing since 1999, emanates from this article that offers some legal tools to the Union, such as Directive 2001/55 /EC, to have faced the refugee crisis more effectively because:

> It incorporates a mechanism that allows a collective decision to be taken to face situations of massive influx and temporarily welcome the people who arrive. A mechanism that, of course, could have been activated —and has not been done yet— to welcome refugees and people displaced by the conflict in Syria and other countries in the region. (Pérez González, 2016, p. 117).

In September 2015, two European Council decisions established a temporary emergency relocation regime. The Member States promised to relocate people in need of international protection from Italy and Greece. On 8 June 2015, the Commission had adopted a proposal on a European resettlement program, and on 20 July, the Member States committed to resettling a total of 22,504 people. One year later, following an amendment to the second Council Decision on relocation, the commitment already involved 98,255 people. The Council had approved this modification on 29 September 2016. By then —and after an appeal from the Council in March urging to speed up the relocation processes to alleviate the humanitarian crisis in Greece— the EU-Turkey Declaration

[3] Martín Arribas considers that this "represents a significant advance that, over time, has been clearly transferred to both public opinion in the Member States and the rest of the world." (p. 122)

had already been begun (18 March 2016, in force since 4 July) (European Commission, 2017). None of the Member States even remotely complied with their commitments on resettlement quotas.

On 13 July 2016, the Commission proposed "a permanent EU Resettlement Framework to establish a common set of standard procedures for the selection of resettlement candidates and a common protection status for people resettled in the EU, to in order to streamline and better target European resettlement efforts in the future" (European Commission, 2017, p. 3). An information sheet from the European Parliament gave an account of the failure in the management of the crisis and the dimensions of that failure, ensuring that Parliament had asked to address the migration phenomenon from "a comprehensive approach" and that consequently, the European Commission had proposed a "review of the current asylum system." The tone of the text, intended to explain the main dimensions of what the Reform of the CEAR would be, is severe and concrete.

> Europe has been overwhelmed by the refugee crisis, and the current Common European Asylum System (CEAR) has shown its shortcomings. The relocation system launched in 2015 has not met its objectives, since in one year only 3.5% of the 160,000 refugees from Greece and Italy that the EU had proposed to transfer to the other member countries have been relocated (p. 1).

In 2015, according to Parliament's data, 3,771 people died in the Mediterranean. At that time in 2016, 4,233 people had already died. Eight hundred eighty-five thousand people had arrived from Greece and Bulgaria, 17 times more than the previous year. Of these, 56% were Syrian, 24% Afghan, and 10% Iraqi. In Italy and Malta, 154,000 people disembarked in the same period (25% were Eritreans and 14% Nigerian). Frontex detected 1.8 million illegal border crossings: 885,000 through Greece towards the Balkan route, 154,000 through Sicily, and 7,500 through the Strait of Gibraltar towards Spain.

The reform of the CEAR, mainly thought of as a revision of the Dublin III regulation, was proposed "to establish a clear criterion on which country should send an asylum application and correct the disproportion of refugees hosted by Greece and Italy." The European Parliament warned of the need to end duplication in reception processes: that refugees initiate reception procedures in more than one country, something that, according to their data, a quarter of applicants did during 2014. Thus, "the new specific system that the first EU country that a refugee steps on is the one that must take charge of their reception process."

The Dublin III revision proposal implied that the Member States assumed an "automatic equitable sharing mechanism." The said mechanism would have to be put into operation once one of the Member States has exceeded by 150% the number of people —the connotation of the word "load" in the document of the European Chamber is entirely inappropriate—. This number assigned according to a policy of quotas established by the country's population and its gross domestic product. In addition, "States may choose to temporarily stop receiving asylum seekers if they pay 250,000 euros per person to the country that takes over their quota (yearly renewable)." The responsibility of verifying that an applicant does not come from a third country considered safe rests with the State responsible for the host —except if the person was relocated from a country of the Union that has exceeded his "load" in the established terms.

Thus, according to the reform of the CEAR, people seeking asylum and refuge will not be able to choose the host Member State but will necessarily have to request it in the country whose border they have crossed or move to the country that the mechanism automatically set for them. For example, for a person who was received as an asylum seeker in the European Union, Schengen is not applicable. The suggested reform warns that, although asylum seekers will have fundamental rights to accommodation, food, health, and education, "to avoid secondary movements, if the applicants are outside the responsible country from their process, they would only receive basic health benefits." In any case, the intention of the reform remains unclear. At this point, it no longer seems that this reform wants to clean the "stain on the values we defend" of which President Shulz spoke, in the sense that these values were to guarantee the fundamental rights of refugees but rather to manage the migratory flows in the Union. By seeking relief from the load suffered by Greece and Italy, the reform made them priority host countries thanks to their geography compared to what they were until then: transit countries. With this reform, some sectors of the electorate of the countries hypothetically receiving the surplus of applicants breathed a sigh of relief. As the intentions of this reform are still not clear, it is also noted that the "reduction of rights outside the relevant country includes minors, who will not be able to attend school and will instead participate in educational activities." We suppose that to compensate for the loss of their rights, the project considered an extension of the definition of family reunification to include those "families that have been formed during the journey to Europe" and also to include siblings, in addition to reducing "detention times due to transfers: from six to four weeks."

From the perspective of institutional development, the reform created a new European Union Asylum Agency, the already existing EASO (European Asylum Support Office), with new powers, such as the control of asylum processes, the coordination of the Member States and the possibility of deploying "support teams in countries under migratory pressure." In the end, the inevitable emphasis on security remains: the new Agency will be able to rely on Eurodac (the European system for capturing and storing fingerprints and facial images) "reinforced" because "until now it had been underused" and will be able to contribute to "lighten processes." Europol and "the police authorities will maintain access to the database, which may also include information on non-European citizens in an irregular situation in the Union, even if they have not applied for international protection."

The emphasis on security is endorsed in "the pressure exerted on the United Nations Security Council to authorize it on 9 October 2015, in a decision adopted based on Chapter VII of the Charter, the use of 'all measures dictated by the circumstances to deal with smugglers and traffickers' operating from Libya." It is called "Operation Sophia" to combat the trafficking of immigrants on the Mediterranean route to the Italian coast. This operation replaces the so-called "Operation Triton," whose objective was substantially different: to support search and rescue operations in the central Mediterranean" (Pérez González, 2016, p. 121).

The security shift in border control (Ortega Terol, 2010); the support of the Security Council and the intervention of NATO, requested in 2016 by Germany, Greece, and Turkey in collaboration

with Frontex; the "hot returns" (Martínez Escamilla, 2017)[4]; the use of new surveillance and control technologies, and the creation of a lucrative industry that feeds them (Brown, 2015; Rodier, 2013; Pedreño Cánovas, 2016) and determines the action of the States in matters of border control; the relocation fees; the unfulfilled commitments acquired; the detention of immigrants in Detention Centers of doubtful legality (Boza Martínez, 2017)[5] is the European Union's response to the refugee crisis as a host territory.

The EU agreement with Turkey, an example of the increasingly widespread strategies for outsourcing border control (such as Spain's agreements with Morocco) to third countries whose consideration of "insurance" is defined ambiguously based on critical needs, was the penultimate episode of the failure of Europe. To sign the so-called "Pact of Shame," Greece had to consider Turkey a "safe country" even though Brussels recalls that it did not ratify the European Convention on Human Rights —which establishes the prohibition of collective returns— and regularly refers to the need for legislative reforms in this regard, essential to create a negotiating framework for Turkey's integration into the EU. Likewise, Spain considers Morocco a safe country to sign migration policy agreements, ignoring the complaints of human rights violations due to acts committed on the border with Melilla (which represents the largest inequality gap in the world, perhaps one place behind the two Koreas).

The Spanish Commission for Refugee Aid (CEAR) denounced the agreement before the European Commission and filed a complaint with the European Ombudsman for the violation of the main European directives on asylum. Using the exact terms of the European Commission report of 19 April 2016, the commission claimed that:

> Turkey cannot be considered a safe country, a qualification that, in any case, requires a prior assessment of the practical application of International Law, adequate respect for human rights or the absence of persecution or severe damage that gives them the recognition of international protection. In the case of Turkey, of the 2,899 cases submitted to the European Court of Human Rights, a decision on the merits was issued only in 110, and the violation of the European Convention on Human Rights was established in 94 of them. (CEAR, 2016, pp. 51-52)

Less than a year later, the Commission estimated 18,418 people relocated —5,711 from Italy and 12,707 from Greece— and 16,163 resettled people, which, according to the report, demonstrates that the relocation system works as long as there is the will to respect or jointly agreed in a spirit of loyal cooperation (CEAR, 2017). A "remarkable progress" that "has allowed facilitating legal and safe routes" to thousands of people. However, the reality is that the figures remain well below the commitments made. Countries such as Hungary, Poland, and Austria have not relocated a single person, and the Czech Republic interrupted the relocation processes. The report's recommendations include that Bulgaria and Slovakia "should show more flexibility in terms of their preferences"; Ireland and Estonia must start relocating, for which "they must find mutually acceptable solutions

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[4] That goes against International Human Rights Law. Beyond discussions of jurisdiction and the transfer or not of sovereignty by the Member States marks a clear limit on the principle of non-refoulement.

[5] Considering that illegal border crossing is not a crime but an administrative offense that does not entail any form of deprivation of freedom of movement.

regarding additional security interviews"; besides, Spain, Belgium, Croatia, Germany, Romania, Slovakia, France, and Cyprus must "increase their monthly commitments". This is an optimistic view considering that only 3.5% of the 160,000 people engaged had been rehoused a year earlier. At the time, Spain had only taken in 642 of the 15,000 asylum seekers assigned to it. Apart from that, little is said on the agility of the procedures to resolve the requests, or the issue of hot returns and bilateral agreements between the Member States and third countries considered "insurance" based on practical criteria when not spurious, or about the persistent numbers of shipwrecks and deaths at sea.

On 13 July 2018, the final draft of the Global Compact for Safe, Orderly and Regular Migration (PMM) was approved, which has just been ratified in Marrakech (December 10-11). It is, in the words of the President of the United Nations General Assembly, "the first global framework for global governance and international cooperation on migration." Even though the pact is not binding, it began to discuss the trickle of countries that have decided not to ratify it has been incessant. Neither the United States, nor Australia, nor Israel have ratified it. Among the European states, Austria, Hungary, Slovenia, and Belgium have not joined either. As Gonzalo Fanjul has written for *El País*, "only the exceptional nature of these times explains that a non-binding, strictly cooperative and too open agreement arouses this pathological caution in nations that until four days ago were struggling to build similar mechanisms in the field of trade, climate change or international criminal justice" (Fanjul, 2018). The PMM supposes the definition of 23 objectives on the migration issue, establishes a principle of shared responsibility, and creates, within the framework of the UN, the Migration Network under the coordination of the IOM (integrated into the UN since September 2016) and the International Forum for Migration Review, to be convened every four years.

On the State of the Union

The failure to comply with the agreement on relocation quotas and the inability of Brussels to enforce it, the policy of border closure that has de facto suspended the Schengen treaty, and the succession of restrictive legal changes on the rights of migrants in numerous countries[6] the inability to prevent the xenophobic extreme right on the rise in many European countries from setting the EU agenda despite the vast civic movement that has demanded from Brussels another asylum policy that complies with International Human Rights Law and with the Union's own laws, suggest that the refugee crisis has caused a multi-organ failure in the EU.

Regarding this last aspect, the neglect of citizen demands, as usual, very little attention has been paid to the analyzes. And yet, it can be as important as the discussion on the respective competencies, the budgetary efforts, and the final decision-making bodies to understand why the Union has failed. On 12 September 2015, thousands of people demonstrated in the main European cities in favor of the right to asylum and demanded that their respective governments and the EU speed

[6] Including some, such as Sweden or Norway, with a long tradition of reception and whose legislation was highly guarantor.

up the refugee reception processes. In Madrid, 2,500 people marched to the Ministry of Foreign Affairs facade after a banner that read: "For a responsible European policy. Refugees welcome." The promoters included the main left-wing parties and trade unions, with the support of the European Social Summit. On 27 February 2016, the European March for Refugees took place, held simultaneously in 25 countries in Europe. In Brussels, more than 3,000 people, according to police sources, marched under the slogan #safepassegenow. It was seconded in 50 Spanish cities, where a change in the EU reception policy was requested. One thousand three hundred people demonstrated in Barcelona, some of them wearing life jackets and inflatable rafts. Six hundred people did so in Santander and hundreds more in Bilbao, San Sebastian, and Vitoria, demanding "legal and safe routes" for the refugees. Among the organizations that promoted this mobilization was Amnesty International. Less than a month later, on 19 March 2016, the International Day Against Fascism, Racism, Homophobia, and Islamophobia was celebrated. There were rallies in Madrid and Barcelona called by the Unity Platform against Fascism and Racism, with the support of the Catalan Commission for Refugee Aid (CCAR) and organizations such as SOS Racismo and Stop Mare Mortum. At the same time, rallies were held in Athens, London, and Vienna, among other European capitals. Even in the United States, chaired by Donald Trump, a Gallup poll in 2018 confirmed that 75% of US citizens consider immigration to be "a good thing." In 2017, the percentage of citizens who considered that immigration "mostly help" was the highest since1993, when they began to survey about it (Jayapal, 2018).

Why have these citizen demands not been addressed? Why have material and human resources used for the reception and channeled through the local governments that participated in the Welcome Refugees been lost?

European leaders, with the honorable exception of Angela Merkel, have not learned the lessons of history. Moreover, the rise of the xenophobic extreme right can end up functioning as a self-fulfilling prophecy. Thus, when liberal governments act based on the demands of the extreme right, supposedly to appease them, they will end up feeding them.

As Pedreño Cánovas has said:

> it is striking (the) absence of public debate about what is tragically happening on the border. It is as if this reality were outside the political sphere and, therefore, the public controversy, in such a way that as a depoliticized fact, the border is presented to us as a fetish. This fetishism of the border veils its political content: it is the result of certain historically constructed political and social relations. As a fetish, democracy seems to stop at its doors; what happens there is a parenthesis in the fundamental rights that govern democratic constitutions. (Pedreño Cánovas, 2016, p. 18)

The problem is not the absence of laws but democratic weakness. In one of his last books, Democracy, the sociologist Charles Tilly warned about the analytical limits of established definitions of democracy: constitutional, substantive, or procedural (Tilly, 2010). From the historical and comparative analysis of a substantial number of democratic processes, it follows that democracy is precisely that: a process. A permanently open process that relies on a permanent negotiation between the State and citizens for significant resources, defined by the latter's ability to articulate, deliberate, and negotiate demands and the former to channel them; a relationship that is based on broad, equal, protected, and mutually binding consultation. In Tilly's words, "democracy from

below," that is, one that is based on the leading role of civil society and the effervescence of social movements, advances and is consolidated as a democratic process[7].

On the contrary, the one that is established "from above" where the influence of the elites is greater in the face of popular participation impoverishes the democratic process, ends up weakening the institutions, and becomes a process of de-democratization (Moraes y Romero, 2016). The legitimacy crises are not only the product of the ineffectiveness or lack of exemplarity of the ruling elites but of the failure of negotiation processes. Bankruptcy derived, as regards the Union, on the one hand, in the low permeability of the community decision-making bodies and, on the other hand, the absence of channels for deliberating public affairs on a scale of European citizenship.

Solving the problem of scale is the challenge of the Union as a post-sovereign democratic political project or of dispersed sovereignty since there is no historical experience of democracy beyond the State (Bayón, 2014). The Union's attempts to shift sovereignty upward and consolidate a larger supranational state unit are slow, erratic, and continually questioned. The heterogeneity of the Union demos hinders the majority decision system and encourages the presence of veto minorities, a decisive fact in the failure of the quota policy and in the possibility of promoting a common asylum system, beyond the apprehensions rises in those who defend cosmopolitan ideals and demand to strengthen the guaranteed structures of the fundamental rights in the Union and not just border control policies. The absence of effective channels that enable civic discussion of the Union's political affairs also takes its toll. In Europe, communication and participation are limited and restricted to the elites. In this context, it is much easier for minority demands for national withdrawal to gain strength than those for the transfer of sovereignty and the formation and reinforcement of common guaranteed structures that are binding on all Member States.

Conclusion

The current migration crisis in the Mediterranean forces us to think radically about asylum, refuge, and the border. Any careful observer of global trends in demographic, ecological, and technological matters will soon conclude that we are using old language. We are not acting accordingly, and we are no longer thinking about dealing with the current political and legal issues. The demographic pressure of the so-called global south will continue to lead thousands of people to knock on the doors of our borders. Climate refugees, people displaced due to desertification processes and the famines that it causes, are now a reality and not a hypothesis; the new communication technologies and 'navigation' have entirely transformed the migratory experience.

How can we name these realities? What concepts do we use to think about them? How do we have to redefine some legal terms so that they continue to sanction rights, obligations and establish guarantees? In some Central American countries, the death toll resulting from a general state of

[7] For a reading of Tilly's thesis applied to the case of the refugee crisis, see Moraes y Romero (2016), in particular the Introduction.

daily arbitrary violence (the scope of which is not completely captured by the word "insecurity") is typical of countries at war.

Even where there is no war, are Central American migrants who travel through Mexico in a caravan to the United States refugees? They are, of course, victims of violence, but not of a warlike conflict or specific political persecution for reasons of race, sex, religion; at least, they are not the main conditions to migrate. There is no clear, concrete criminal organization that persecutes a specific group, defined around a set of characteristics or a collective identity, but there is a State that has disappeared. Even the concept of a failed state, as in some African countries, is no longer helpful to us as we currently use it. To speak of the loss of the monopoly on legitimate physical violence is to speak a rusty language. The caravan, the testimony of the people who are part of those, and the intransigence of President Trump's wall cause astonishment. Wendy Brown has pointed out the apparent paradox between the multiplication of walls in the global age and the parallel evidence of their ineffectiveness. The border has become the symbol of a power that the States have lost. The material strength of concrete fulfills an ultimately illusory symbolic function: "The new walls hide needs and dependency just as they revive myths of autonomy and national purity in a globalized world" (Brown, 2015, pp. 152-153). Its immediate effect is the emergence of new routes and the strengthening of clandestine migrant smuggling networks, which the States claim to combat.

Quizá tiene razón Didier Fassin cuando afirma que

> the return of this 'problem' is not a mere repetition of what happened at the end of the Second World War. What characterizes it today is unprecedented: it is a symptom of the contemporary world, rather than of the idiosyncrasy of the asylum itself. (Fassin, 2015, p. 280)

And the word "border"? Where are the borders of Europe today? What remains of the legal and political concept of the border given the deployment of new surveillance technologies in the Mediterranean or the outsourcing of migration control to third countries?

Thinking radically about the forms of forced displacement implies understanding that our societies will have to transform themselves for the reception and bear the cost of this transformation. This includes a short-term reinforcement of our welfare systems that will have to be explained for what it is: an investment. The empirical confirmation that migration contributes more than it spends is overwhelming. It goes without saying that the greatest threat to social security lies in demography and not immigration, which is, instead, the solution. Nevertheless, even before that, it implies thinking about the migration issue historically. Not only by recalling the most traumatic episodes in the contemporary history of Europe but, for example, placing the public debate in less dramatic terms and recalling the historical experience of countries, such as the United States, Canada, or Australia, formed from a succession of intense migratory waves —even greater than those faced by European countries today— which do not seem to have gone so badly[8]. It is also worth remembering the historicity of the border itself and its control system. More so in these days, we commemorate in Europe the end of the First World War, which marked a before and after in the conception and

[8] It is saddening to see how Australia's current migration policies serve as an inspiration for xenophobic far-right parties in Europe. See Polakow-Suransky (2017).

management of the border and called thousands of displaced "refugees" or "stateless" people for the first time. As Pramila Jayapal recently recalled in the *New York Review of Books* (2018), during the 19th and early 20th centuries in the United States, there were hardly any immigration laws, beyond a physical examination and a particular orientation of preferences towards continental Europe to the detriment of Asia and the especially from China. During the early 1920s, some quota policies were applied, and regulatory processes were recurrent, such as the Registry Act of 1929.

However, there are not many reasons for optimism, which is why we share the sorrowful and clairvoyant diagnosis that the historian Tony Judt left us in his memoirs that he wrote during the last months of his life:

> I suspect we are entering a troubled time. It is not just terrorists, bankers, or the weather that will wreak havoc on our sense of security and stability. Globalization itself —that "flat" earth for so many fantasies of peace— will be a source of fear and uncertainty for billions of people, who will turn to their leaders for protection. "Identities" will play poorly and narrowly while the homeless and uprooted pound on the ever-higher walls of gated communities, from Delhi to Dallas. Being Danish or Italian, North American, or European, will not be just an identity; it will suppose a rejection and disapproval of those to whom this excludes. The State, far from disappearing, could be about to achieve its full realization: the privileges of citizenship, the protection of the rights of holders of residence cards, will be wielded as political triumphs. There will be bigoted demagogues in established democracies who will ask for tests —of knowledge, language, and attitude— to determine whether desperate newcomers deserve to display the "identity" of British or Dutch or French. They are already doing it. In this "splendid new century," we will miss the tolerant, those on the margins: the border people. My people. (Judt, 2011, pp. 219-220)

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Authors

Eduardo Díaz-Amado

Director of the Institute of Bioethics of Pontificia Universidad Javeriana, Bogotá, Colombia. Ph.D. in Philosophy and MA in History and Philosophy of Science and Medicine, University of Durham, UK. Specialist in Bioethics, Universidad El Bosque. Philosopher with option in Literature, Universidad de Los Andes and Physician, Universidad Nacional de Colombia, Bogotá. His main research and interest areas are bioethics and society, medical humanities, clinical bioethics, history of medicine and ethics, and bioethics. He has published several articles and books on these areas.

Andrea Hellemeyer

Psychologist and MA in Psychoanalysis, University of Buenos Aires. She's professor and researcher associated to the Department of Psychology, Ethics and Human Rights, Faculty of Psychology (UBA). Since 2012, she's an UBACyT researcher. She's currently working on the project "The testimonial literature about State terrorism in Argentina. An analysis of the written transmission of those directly affected by State terrorism and other authors" (2019-2022). Also, she's researcher at the Bioethics Research Group of the Bioethics Institute, Pontificia Universidad Javeriana, Bogota, Colombia. She's member of the Observatory of Freedoms, Antena Infancia y Juventud de Bogotá.

Andrés Cubillos-Novella

Professor and researcher at the Public Health Institute of the Pontificia Universidad Javeriana, with a Post-doctorate in mental health and migration from the University of Central Florida. Doctor in international and intercultural studies and European Master in migration, conflict, and social cohesion from the University of Deusto. Advisor to government agencies on mental health issues in migrant populations. Consultant for international organizations on migration, health, and public health issues. Author of articles, book chapters, and publications on topics related to health in migrant populations.

Juan Jorge Michel Fariña

BSc and Ph.D. in Psychology (Universidad de Buenos Aires). He pursued postgraduate studies at Paris VI University, France. Between 1983 and 1989, he coordinated the assistance program for victims of State terrorism. He has been visiting professor and guest speaker in France, the United

States, South Africa, Norway, Switzerland, Spain, and several Latin American countries. He has authored several publications within his field of expertise, including five volumes about Ethics and Human Rights topics viewed through cinema. He co-directs Ethics & Film Journal, Aesthethika, and the Spanish edition of JAHR, the European Bioethics Journal. He is a full-time Professor at UBA, where he teaches the course Psychology, Ethics, and Human Rights at the Faculty of Psychology. He is also a Class I Researcher in UBA's Scientific and Technical Program.

Eduardo Laso

Psychoanalyst. Former president of the *Porteña Society of Psychoanalysis* and Director of the Journal of psychoanalysis *La Porteña*. Professor at the Department of *Psychology, Ethics, and Human Rights* and the *Department of Scientific Knowledge* (University of Buenos Aires). Postgraduate teacher at the University of Buenos Aires in *Interdisciplinary approaches: cinema and psychoanalysis*. Author of the books *Ethics and discontent* (I Rojo, 2015), and *The marvelous eye: (dis)agreements between psychoanalysis and cinema*. In association with Juan Jorge Michel Fariña, he has published *Lacan's Ethics seminar through cinema (*Letra Viva, 2017*)*, and released the film *Freud at the cinema: from the sublime to the ridiculous. A film essay* (2019).

Alison Crosby

Alison Crosby, Ph. D., is an Associate Professor in the School of Gender, Sexuality and Women's Studies and former Director of the Centre for Feminist Research (2014-2019) at York University in Toronto, Canada. Her research and publications use an anti-racist anti-colonial feminist lens to explore survivors' multifaceted struggles for agency and subjectivity in the aftermath of violence. She is the author, with M. Brinton Lykes, of *Beyond repair? Mayan women's protagonism in the aftermath of genocidal harm* (Rutgers University Press, 2019), also published in Spanish as *Mas allá de la reparación: Protagonismo de las mujeres mayas en las secuelas del daño genocida*, translated by Megan Thomas (Cholsamaj, 2019). Additionally, she explores memorialization as a site of contestation in the project *Remembering and memorializing violence: Transnational feminist dialogues*.

M. Brinton Lykes

M. Brinton Lykes, Ph. D., is Professor of Community-Cultural Psychology and Co-Director of the Center for Human Rights and International Justice at Boston College, USA. Her feminist participatory and action research collaborations include local cultural resources and the creative arts to analyze the causes and document the effects of gross violations of human rights. Her current work focuses on (1) racialized gender and sexual violence against Mayan women during armed

conflict and their struggles for truth, justice, healing, and reparations; and (2) migration and post-deportation human rights violations and their effects on transnational families. She is a co-founder and a board member of several local and international NGOs.

Fabienne Doiron

Fabienne Doiron is a lecturer in the Department of Feminist Studies at the University of California, Santa Barbara. Her MA and Ph. D. research focused on gender issues in post-conflict Guatemala and were informed by her solidarity and social justice work with the Maritimes-Guatemala Breaking the Silence Network. Her Ph. D. dissertation, which focused on femi(ni)cide and gendered and racialized violence in Guatemala, was grounded in intersectional feminist theory and informed by socio-legal studies, critical race theory, and anthropological work on the 'violence of the everyday.' She was a Research Assistant with Drs. Alison Crosby and M. Brinton Lykes' project on gender and reparations in post-genocidal Guatemala.

Ayesha Ahmad

Senior Lecturer in Global Health at the St. George's University of London and Honorary Lecturer at the Institute for Global Health, University College London. She holds a Ph. D. in Medical Ethics and has a background in philosophy and psychoanalysis, specialising in trauma. Her work focuses on trauma therapeutic interventions using traditional storytelling for gender-based violence in conflict settings and includes research in Afghanistan, Kashmir, Turkey, Pakistan, and South Africa.

Awawu Grace Nmadu

Public Health Physician, Associate Professor, and Head of the Department of Community Medicine at the Department of Community Medicine, College of Medicine, Kaduna State University, Nigeria. She has a medical degree from Ahmadu Bello University Zaria, Nigeria. She is a Fellow of the West African College of Physicians (FWACP) in Public Health and a Fellow of Population and Reproductive Health Initiative (PRHI) Ahmadu Bello University Teaching Hospital Zaria/University of California Berkeley Collaboration. She also has a Master's in Public Health Degree from the University of Western Cape, South Africa. She has over 17 years of cumulative progressive experience working in Clinical Medicine, academics, and field research (quantitative and qualitative). Her research interests span Reproductive Health, Maternal and Child Health, Adolescent Health, and Bioethics with a passion for research in vulnerable groups. She is a member of the Council of International Forum of Teachers of UNESCO Chair in Bioethics; the UNESCO Chair in Bioethics International Research Group "Bioethics and human rights, forced displacement in

conflict scenarios"; and the Steering Committee Kaduna State University Centre of Medical Law and Bioethics and International Collaborations, Kaduna State, Nigeria.

Istifanus Anekoson Joshua

Bachelor of Medicine and Bachelor of Surgery (MB, BS), Master of International AÁfairs and Diplomacy (MIAD), Master of Public Health (MPH), and Doctor of Philosophy (Ph. D.) degrees from Ahmadu Bello University, Zaria, Nigeria.

He has attended courses at the prestigious Liverpool School of Tropical Medicine and Hygiene, Liverpool, UK; John Hopkins School of Public Health, Maryland, USA, and Harvard School of Public Health, Baltimore, USA. He is currently a Lecturer and Researcher in the Department of Community Medicine, College of Medicine, Kaduna State University, Kaduna State, Nigeria. He has taught at Centre for Disaster Risk Management and Development Studies (CDRMDS), Ahmadu Bello University, Zaria, Nigeria for several years. His area of interest includes environmental health, prison health, disaster management and molecular epidemiology. He was the first Medical Director of Kaduna State University Medical Centre, Nigeria and a onetime coordinator of Nigerian Technical Aid Corps volunteers in Rwanda, 2005- 2007. He has published over 80 scientific papers in local and international peered reviewed journals and is a member of the International Federation of Teachers (IFT) of UNESCO Bioethics.

Nafisat O. Usman

Lecturer at the Department of Community Medicine at Kaduna State University. She is also a consultant public health physician (Fellow West African College of Physicians) with special interests in Epidemiology and Occupational health. Dr. Usman oversees the occupational health clinic domiciled in the Teaching Hospital, affiliated with the university. Her career spans over 15 years, with research work covering various fields. She has several published articles in reputable journals and has presented her work at public health conferences in her home country, Nigeria, and abroad.

Bilkisu Nwankwo

Lecturer and Consultant Community Health Physician in the Department of Community medicine of Kaduna state university, Kaduna state, Nigeria. She had her primary education in Kaduna Polytechnic staff school and her secondary education in Kaduna Capital School. She graduated with an MBBS degree from Ahmadu Bello University, Zaria. She did her residency training at Ahmadu Bello University Teaching Hospital, Zaria. She is a Fellow of the West African College of Physicians. Her areas of interest are Reproductive Health and Public Health Nutrition. He has

published several research papers in reputable scientific journals and has presented papers in both National and International conferences.

Oliver Feeney

Centre of Bioethical Research and Analysis, Discipline of Philosophy, National University of Ireland Galway, Republic of Ireland, and Ethics of Genome Editing Research Unit, Institute of Ethics and History of Medicine, University of Tübingen, Germany. Oliver Feeney is a researcher in the ethics and governance of genome editing. His primary research is on the ethical, legal, and social (justice) implications of biomedical technologies, particularly genome editing; the ethics of human enhancement; on fostering trust with participatory involvement in science and medicine; the ELSI of electronic health records; and examining the role of patents/intellectual property rights in the context of new technologies. He is a member of the Royal Irish Academy Life and Medical Sciences Committee. His publications include articles in Bioethics, Developing World Bioethics, Cambridge Quarterly of Healthcare Ethics and The American Journal of Bioethics. Dr. Feeney's work is supported by the Hans Gottschalk-Stiftung.

Gabriele Werner-Felmayer

Institute of Biological Chemistry, Biocenter, and Bioethics Network *ethucation*, Medical University Innsbruck, Innsbruck, Austria. Gabriele Werner-Felmayer is Associate Professor of Medical Biochemistry at Medical University Innsbruck, Austria. She runs the bioethics network *ethucation*[1] committed to ethics education. Her main research interest is bioethics related to new technologies in genetics/genomics, reproductive and regenerative medicine. She focuses on underlying concepts of biological complexity and causation in health and disease and how data-driven systems and sociocultural contexts affect them. She is also a member of the national bioethics commission at the Federal Chancellery, Austria.

Helena Siipi

Department of Philosophy, Contemporary History and Political Science, University of Turku, Finland. Helena Siipi works as a University Lecturer at the Philosophy Unit at the University of Turku, Finland. Her research topics include environmental philosophy and applied ethics, especially ethics of food and ethics of new biotechnologies. She is also interested in research ethics and teaches it to students from various disciplines.

[1] See https://www.i-med.ac.at/ethucation/

Markus Frischhut

Jean Monnet Chair "EU Values & DIGitalization for our CommuNITY (DIGNITY)" & Study Coordinator European Union Law, MCI | The Entrepreneurial School®, Austria. Markus Frischhut is Jean Monnet Professor, Chair "EU Values & DIGitalization for our CommuNITY (DIGNITY)", and Study Coordinator European Union Law at MCI | The Entrepreneurial School®. He teaches and researches in the fields of EU law, EU health law, as well as EU law & Values and Ethics. In the latter field, he has recently published an open access book at Springer, entitled "The Ethical Spirit of EU Law"[2], kindly supported by the European Commission.

Silvia Zullo

Department of Legal Studies, University of Bologna, Bologna, Italy. Silvia Zullo is Associate Professor at the University of Bologna, where she teaches and conducts research in bioethics and the philosophy of law. In her research, she uses the philosophy of law as a lens through which to address issues arising in connection with technological and scientific innovation. She is currently investigating issues related to social rights, normative ethics and distributive justice, property rights in the body, and the vulnerability connected to the body and the person. These issues form the subject of national and international research projects in which she has participated, as well as books and essays she has published, talks she has delivered, and seminars she has held, both in Italy and abroad.

Ursela Barteczko

M.Sc. of Biotechnology at the University of Bielefeld and political science and sociology at the distance university in Hagen. During her research stays at the University of Heidelberg and the Center for the Study of Bioethics in Belgrade, she specialized in bioethics. She is currently studying Data Science and artificial intelligence at Saarland University.

Lars Øystein Ursin

Lars Øystein Ursin is an Associate Professor and Researcher of Bioethics at the Norwegian University of Science and Technology. His research and teaching interest span a broad set of topics in philosophy, ethics and RRI. Current research projects and committee appointments include research ethics, neonatal clinical ethics, biobank and health data ethics, philosophy of death, ethics of biotechnology, animal ethics, and RRI in higher education, basic research, and food production.

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[2] Which can be downloaded from here https://jeanmonnet.mci.edu

Shai Linn

Physician and epidemiologist. He holds M.D. degree from Hebrew University, MPH and DrPH both from Harvard University. Former Deputy Medical Director and Head of the Unit of Epidemiology at the Rambam Medical Center. Recipient of a MacArthur Foundation, Social Science Research Council grant. Founder and former Chair of the Departments of Epidemiology and Public Health at the Technion and The University of Haifa and former Dean of the Faculty for Social Welfare and Health Sciences at the University of Haifa, and deputy head, of the Center for Health Law and Bioethics, at the University of Haifa.

Heike Felzmann

Heike Felzmann, PhD, is a senior lecturer in Ethics at NUI Galway, Ireland. Her main areas of work are healthcare ethics, information ethics and research ethics. She has participated in various European projects, including H2020 MARIO, ERASMUS+ PROSPERO, H2020 ROCSAFE, COST CHIPME and COST CA16116 Wearable robots.

Dušanka Krajnović

BSc, MSc, Ph. D., holds a full Professor position of the Department for Social Pharmacy and Pharmacy Legislation at the University of Belgrade– Faculty of Pharmacy. Since 1998, she has been deeply involved in biomedical ethics, especially on ethical issues in pharmacy practice and the code of ethics for pharmacists. She has been a health services research & pharmacy practice researcher for over 10 years. She has a strong publication record of 44 articles in peer-reviewed international journals and more than 30 in national journals.

John Saunders

Honorary Professor in the College of Health & Human Sciences at Swansea University and formerly a Visiting Professor at the University of Otago. He was Chair of Ethics at the Royal College of Physicians of London for 10 years and has served on numerous public bodies (Dept of Health, Welsh Assembly Government, Medical Research Council, Multi-centre Research Ethics committee for Wales, among others). He holds a MA in Philosophy of Healthcare (Wales), an MA in Philosophy (UCL) and a PhD in Kantian philosophy (Cardiff University).

Vojin Rakić

Director of the Center for the Study of Bioethics and Head of the European Division of the International Chair in Bioethics, Working Group of the WMA. He is also Chair of the Cambridge

Working Group for Bioethics Education at the University of Belgrade in Serbia. Rakić heads the Department of Philosophy of the Institute for Social Sciences. His publications include various books and edited collections, as well as numerous articles from the domain of (bio-) ethics and political philosophy. Recent publications have been published in *Bioethics*, *Journal of Medical Ethics*, *The American Journal of Bioethics*, the *Cambridge Quarterly of Healthcare Ethics, Medicine, Health Care, and Philosophy, and Annals of Internal Medicine*.

Hector Romero

Ph.D. of Sociology from the Universidad Complutense, Madrid. Between 2010 and 2018 he taught sociology at the University of Murcia and is currently a professor in the Department of Theory, Methodology and Social Change of the Universidad Nacional de Educación a Distancia (UNED, Spain) and deputy director of the Master's in Governance and Human Rights of the Universidad Autónoma de Madrid. He has coordinated, together with Natalia Moraes, the books "La crisis de los refugiados y los deberes de Europa" (2016) and "Asilo y refugio en tiempos de guerra contra la inmigración" (2019). He is a founding member of the editorial board of the journal Sociología Histórica.

María Magnolia Pardo López

Ph.D. of Law from the University of Murcia, Spain. Since 1999 she has taught Constitutional Law and Administrative Law at the Faculty of Law of that university. She combines her teaching and research activities with management work at the Faculty of Social Work, where she is vice dean of academic organization. She is a member of the IDerTec Research Group (responsible researcher, Prof. Valero Torrijos) and director of the Spanish Unit of the International Chair in Bioethics (WMA). In addition, she is the author of several monographs on the Judiciary, independence, and disciplinary responsibility of judges and magistrates; she is also the author of several chapters in collective works carried out within the framework of international, national, and regional research projects. Coordinator and co-editor of several collective books, the last of which has been published in Aranzadi, Pardo López, and Sánchez García (directors), *Inclusión de cláusulas sociales y medioambientales en los pliegos de contratos públicos. Guía Práctica Profesional*.