Revisiting the Concepts of Forced and Voluntary Migration

Mila Dragojević

Associate Professor
Department of Politics
The University of the South

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Abstract:

This article analyzes the problems associated with employing a dichotomy of forced and voluntary migration and calls for a more critical approach when employing the concepts of immigrants and refugees in the scholarship. Migration scholars have already recognized the limitations of these categories for the analysis given the similarities in migrants' experiences, such as comparable motivations for migration, common migration experience, and similar socio-economic, cultural, and political incorporation challenges in the new communities. Yet, immigration policies of the receiving and transit states differ greatly based on whether a particular wave of migration is categorized as forced or voluntary. In many cases, the assigned categories may not be an accurate reflection of the migrants' actual reasons, but may be a response to particular political factors in the receiving states. Rather than accepting these categories uncritically, researchers should show in a more intentional way how political incentives drive the policy of categorizing migrants over time in particular transit or receiving countries.

Key Words: forced and voluntary migration, immigrants, refugees, immigration scholarship

One of the distinguishing characteristics between the concepts of "refugees" and "immigrants" that figures prominently in the scholarship is the forced versus the voluntary nature of migration (Benard 1986; Black 2001; Malkki 1995; Schmeidl 2001; Valtonen 2008, 4-7; Zolberg 1983, 1989; Zolberg, Suhrke, and Aguayo 1986). Based on the definition of refugees from the Convention Relating to the Status of Refugees, migrants are forced when they are fleeing direct violence or persecution on the basis of their ethnic, racial, religious, or political identity.[1] This leaves the "voluntary" category very broad. It may pertain to individuals who may be seeking

[1] This application of the category of refugees was, in part, connected with the historical context within which migrations or situations of forced displacement took place (Sassen 1999, 6). The distinction of forced versus voluntary migration was further codified in the Convention Relating to the Status of Refugees ("Convention and Protocol Relating to the Status of Refugees" 1951).

economic opportunity, but also those who may be facing existential risks in home countries. It may also apply to asylum seekers who request asylum after they arrive to the country on a student or a visitor visa. Therefore, when considered from the perspective of migrants, such a strict dichotomy between categories of forced and voluntary migration is not a fruitful analytical approach. Most migrants would argue that they are forced to leave their home countries and their families for a number of different reasons that may or may not include targeted violence or persecution on the basis of their cultural identities. For example, migrants may be forced to leave due to generally unstable political and economic situations, crime, domestic violence, or natural disasters.

When analyzing the actual migration or the processes of incorporation after settlement in the destination country, the distinction becomes even less relevant as refugees and immigrants share comparable experiences and difficulties (Ortner 1996). For instance, refugees and immigrants often travel together and face similar risks to their lives along the journey. Gender and age may be even more relevant categories of analysis rather than refugee or immigrant status. At destination, there are also important similarities given that many individuals who are fleeing violent conflict do not settle in refugee camps, but just like immigrants, reside in urban areas due to employment opportunities, either in immigrant neighborhoods or alongside locals, and face similar socio-economic, cultural, and political incorporation challenges. In short, regardless of how they are classified by their host states, immigrants and refugees represent comparable categories of analysis based on their migration experiences.

Receiving states' insistence on this distinction carries a greater political than an analytical significance. This was recognized by Oliver Bakewell who argued that this approach to conceptualizing different categories of migrants resulted from the policy concerns and policy

categories (2008, 433).[2] Some states may recognize these other situations as forced, or they may not if their decisions are based more on their economic and political priorities than on meeting the migrants' need for protection. One of the consequences of the inconsistent responses of receiving states to migrants fleeing their homes is that the practice of categorizing migrants prioritizes the rights of sovereign states to protect their borders while placing migrants' rights to life and safety in the secondary position.

Categories and Concepts

Conceptualizing migration as either forced or voluntary raises a number of questions, apart from the basic definitions of each category. Who decides whether migration is forced or voluntary? In other words, do migrants, international organizations, or state officials in the destination countries make that classification? Would a continuum ranging from forced to voluntary categories be a more realistic representation of the motivations for migration than a dichotomy? These questions have already been considered by migration scholars, and specifically by Saskia Sassen who asks: "Who is a refugee? Are those driven by economic despair which may come from war and generalized oppression as was the case with the 2.5 million Jews who left Russia and East Europe between 1880 and World War I, 'legitimate' refugees? Does such a broadening of the definition undermine the status of refugee?" (1999, 5-6). These questions are especially pertinent given the association between poverty, violence, and mass migration (Schmeidl 2001, 82). Thus, the forced category may be theoretically broadened to include migrants fleeing harsh economic conditions or environmental disasters.

Refugees in Europe in the early nineteenth century were not the "masses of poor, homeless people who figure in the twentieth century," but "cultured exiles" who left their countries for

[2] The analytical limitations of applying such strict dichotomy to categories of migration include "the type of questions asked, the objects of study and the methods and analysis adopted" (Bakewell 2008, 433).

political reasons (Sassen 1999, 36). Based on Hannah Arendt's analysis, the concept of refugees changed at the end of the eighteenth century following the Declaration of the Rights of Man in France and the fusion of individual rights and sovereign rights of emerging nations (1985 [1951], 290-1). A new group of people emerged in the process of the nineteenth- and twentieth- century nation-building - the excluded minorities or the stateless who did not belong to a sovereign state that could protect their human rights (Arendt 1985 [1951], 292-296). Despite the recognition of their human rights in the Declaration of the Rights of Man, "no authority was left to protect them and no institution was willing to guarantee them" (Arendt 1985 [1951], 292). Ayten Gündoğdu summarizes Arendt's complementary definitions of statelessness and rightlessness in the following way:

> Arendt's account of statelessness draws attention to the multiple interrelated dimensions of rightlessness. Legally speaking, the term denotes the loss of legal personhood that guarantees equal standing before the law. Politically, it captures the loss of an organized community where one's actions, opinions, and speech are taken into account (2015, 95).

The condition of rightlessness, conceptualized as "the loss of legal personhood," could then theoretically apply to any migrants who fall outside of the legal protections, such as asylum seekers, refugees, migrants who are denied entry, or undocumented immigrants, among others (Güundonğu 2015, 109). Therefore, both analytic categories – refugees and immigrants – could be considered stateless and rightless if they fall outside of the legal protection of their states of origin or the receiving states.

The number of individuals falling outside the legal protection of a state in 2017 included 68.5 million people who are classified by the United Nations High Commissioner for Refugees (UNHCR) as forcibly displaced ("Global Trends: Forced Displacement in 2017" 2018). Only one third, or 25.4 million people, of those who were categorized as forcibly displaced were registered as refugees ("Global Trends: Forced Displacement in 2017" 2018). Most refugees did not leave

the region of conflict, but were hosted by the neighboring countries. Specifically, most refugees in 2017 came from Syria, Afghanistan, South Sudan, Myanmar, and Somalia, while the countries that hosted the most of world's refugees in the same year were Turkey, Pakistan, Uganda, Lebanon, Iran, Germany, Bangladesh, and Sudan ("Global Trends: Forced Displacement in 2017" 2018). Only a small portion, or 102,800 refugees, were admitted for resettlement in the third country in 2017 ("Global Trends: Forced Displacement in 2017" 2018). These trends show that even individuals who are categorized as forcibly displaced are not guaranteed legal protections.

As the European region experienced the wave of mass migration as a result of the war in Syria that escalated in the summer of 2015, the questions of refugee and immigrant rights returned to the forefront for the European Union's (EU) institutions and leaders, state leaders, policy makers, journalists, humanitarian organizations, and scholars. In response to the increase in migration in Europe, the European Commission published a definition of "migration crisis" that identified two sets of migrants: 1. Migrants who may qualify for refugee status and for whom the EU has "a legal and moral obligation" to provide protection because of a "well-founded fear of persecution or risk of suffering serious harm," and 2. Other migrants who do not qualify for international protection ("The EU and the Migration Crisis" 2017). For the latter category, the following description was provided:

> But not everyone who comes to Europe needs protection. Many people leave their homes in an attempt to improve their lives. These people are often referred to as economic migrants, and if they do not have a legitimate claim to protection, then national governments have an obligation to ensure that they return (either voluntarily or with use of coercive measures) to their home country, or to another country through which they have passed ("The EU and the Migration Crisis" 2017).

The most problematic part of this definition of "voluntary migrants" is the assumption that people in this category leave their homes exclusively voluntarily with an aim to "improve their lives" in a narrowly defined economic sense. This point is not just a matter of conceptual scholarly debate.

Human lives are at stake. This narrow definition for those seen as voluntary migrants gives EU states the opposite legal prescription from that given to those seen as refugees, ignoring the many other reasons that often underpin migrants' departures from their home countries.

Migration scholars, however, find that immigrants' motivations for migration are mixed and include a combination of voluntary and forced factors (Massey and Sanchez 2010, 40). In a study of Latin American immigrants in the Northeast United States, migrants who would be categorized as "economic migrants" listed a number of different motivations, including "economic conditions at origin," "opportunities at destination," "network links," "family reasons," "violence at origin," and "other" (Massey and Sanchez 2010, 40). A diverse list of motivations for migration, not easily categorized into "forced" or "voluntary" reasons, is echoed by Oscar Martínez, who traveled with migrants along the treacherous journey through Mexico on top of the train nicknamed the Beast:

> There are those who migrate to *El Norte* because of poverty. There are those who migrate to reunite with family members. And there are those, like the Alfaro brothers, who don't migrate. They flee. Recently, close to the brothers' home in a small Salvadoran city, bodies started hitting the streets. The bodies fell closer and closer to the brothers' home. And then one day the brothers received the threat. The story that follows is the escape of Auner, Pitbull, and El Chele, three migrants who never wanted to come to the United States. (Martínez 2014, 1)

Even though individuals who flee violence at home, like the three brothers in this example, may qualify for a humanitarian type of visa in the United States, many immigrants end up being deported because of procedural errors or lack of institutional support to migrants in need of protection (Stillman 2018; "Victims of Criminal Activity: U Nonimmigrant Status" 2018). This was the case of a number of Central American migrant children who fled gang violence in their home countries and had to respond to many questions before the Border Patrol officers would determine their eligibility for protection and residency in the United States. In the account of

Valeria Luiselli, an author who worked as a court interpreter for migrant children, all stories, or reasons for migration, are slightly different, but they are also similar in many ways because of the dangers that children faced in their home countries and on their migration journeys, as well as in the generally impersonal and standardized treatment they tend to receive from immigration officials once in the United States (2017, 50-51). The process begins with detention in the "icebox," then a temporary shelter while children look for parents or relatives, and finally, the court proceedings (Luiselli 2017, 51). Columbia University's Global Migration Project documented more than sixty cases of immigrants who were deported even when there was evidence that their lives were in danger (Stillman 2018). In some cases, such as that of Nelson Avila-Lopez, who arrived in the United States when he was seventeen while fleeing from gang violence, deportation was the result of an administrative mistake (Stillman 2018). Realizing that asylum decisions may be random and uncertain, in some cases, migrants may change their story appropriately, while remaining as close to the truth as possible, to increase their chances of being granted asylum. In the most extreme situations, migrants even invent stories, as in the case of the person of Nuer ethnicity who fled Sudan:

> Gatluak Luoth, for example – who had fled Sudan because of general conditions of warfare and famine – explained how he had altered his story in order to gain resettlement…another Nuer described how he had failed the screening interview the first time, when he said, truthfully, that he had come to the refugee camp in Ethiopia to get medical assistance for his sick child. When he later managed to get a second interview, he was accepted for resettlement by making up a story which purported to describe his personal persecution (Holtzman 2000, 26-27).

These examples show how even in the cases when migrants leave home countries due to extremely difficult conditions that may qualify them for protection in the receiving country, they may be denied entry. Migrants who are aware of this may find the risk of altering their personal account

to officials smaller than the risk of violence that they and their families would face in their home countries.

Given the information presented thus far, and that from the migrants' perspectives, even in cases of refugees who are fleeing violent conflict, the reasons for migration may not fit neatly into forced or voluntary categories, why do these distinctions figure prominently in the states' immigration and refugee legislation and policies? Do changing political and economic circumstances in the countries of origin, transit, and destination influence how these terms are defined and applied?

The Shared Experience of Migration

There are some general experiences that characterize most situations of displacement or migration, such as the dangers faced along the journey, risks, and a sense of uncertainty, regardless of migrants' particular motivations for migration or their immigration status. Migrants fleeing wars or severe economic hardship, among many other possible reasons for their move, travel together on the routes where their lives may be in danger due to a number of possible risks ranging from drowning, asphyxiation, dehydration, illnesses, exhaustion, kidnapping, violent robberies, and sexual violence. Even if some migrants succeed in qualifying for resettlement as refugees, they begin the process of integration, which may increasingly resemble the integration paths of other immigrants who were classified as voluntary or economic migrants.

Given the increasing border protections and the growing risks entailed in the migration process, the migrants' journeys, particularly in the cases of clandestine migrations, in terms of uncertainty of survival and safe passage, are comparable along the migration routes. For example, in the Mediterranean, smugglers transport migrants in unsafe vehicles or over-crowded boats. This was the case, for instance, with the sinking of *Nazar* near the Libyan coast in 2009 when only ten

survivors were found from over 250 people who were on board of the boat with a capacity of fifty (Carr 2016 [2012], 65). In another case in 2000, fifty-eight migrants from China suffocated in a truck transporting them from Rotterdam to Dover (Carr 2016 [2012], 160). Moreover, migration is especially dangerous to women and girls who may be victims of sexual violence along the journey (Carr 2016 [2012], 59-60; Martínez 2014). For example, on the route from Central America to Mexico, based on the estimates of Guatemalan government, "eight of every ten Central American migrant women suffer some form of sexual abuse in Mexico" (Martínez 2014, 72). Women migrants are aware of the risk of rape from anyone, not only criminals, but also the officials and other migrants along their migration route, and they essentially "play the role of second-class citizens" (Martínez 2014, 43). Thus, some "scars" that migrants, particularly women and children and other more vulnerable populations of migrants, acquire in their journeys, as Martínez writes, "don't only mark their bodies, they run deeper than that" (2014, 43).

Furthermore, the often clandestine nature of migration puts all migrants, regardless of gender or age, in a vulnerable situation to be exploited by smugglers and criminals, if not kidnapped and extorted, along the way (Bauer 2016; Martínez 2014). In Mexico, drug cartels, such as Los Zeta and others, "kidnap tens of undocumented Central Americans, in the broad light of day" (Martínez 2014, 92-3). When migrants are not able to pay, or refuse to work for the kidnappers, they risk being killed, as was the case when Los Zeta killed seventy-two migrants and buried them in a mass grave in San Fernando, Tamaulipas (Luiselli 2017, 26). In 2008, there were 650 kidnappings accounted for by the Mexican government, while there were probably many other unreported instances (Martínez 2014, 93). The act of kidnapping has become a business for illicit organizations, and migrants, regardless of their formally recognized status as economic migrants or refugees, are vulnerable in the border areas of heavy migration traffic, such as the U.S.- Mexico,

Mexico-Guatemala borders, the Mediterranean region, or the Balkans. Individuals who make it safely to their first destination may be detained regardless of their reasons for migration. This was the case in Malta where asylum seekers and economic migrants were detained as "prohibited immigrants" under the Maltese law because they were undocumented (Carr 2016 [2012], 69). People share similar experience in refugee camps, such as the Hal Far camp in southern Malta, where the migrants "complained of the same things: isolation, freezing temperatures in winter and excessive in summer…boredom, frustration, and continual uncertainty about their future and the fate of their relatives back home" (Carr 2016 [2012], 72). These risks and uncertainties of the clandestine migration journey are something that all migrants share regardless of their reason or motivation to migrate or the immigration status they are able to secure.

The experiences of refugees and immigrants following migration may also be comparable. For one, their decisions on where to settle may be driven by similar motivations, as they may be drawn to areas where other migrants from the same origin already reside (Holtzman 2000). Once refugees or asylum seekers settle in their new country, they experience similar challenges of incorporating in their new communities as immigrants (Čapo Žmegač 2007; Sassen 1999, 133-134). Both refugees and immigrants seek to learn the new language and culture, find employment, and re-establish a new social network in their new communities in the initial period of arrival (Haines 1989, 23). The level of socio-economic incorporation is in large part driven by immigrants' cultural capital, including their level of education and their material resources at the time of migration. Based on a study of Asian immigrants in the greater Los Angeles area, immigrants who arrive with lower levels of financial and cultural capital are more likely to find employment in the "ethnic economy" (Nee and Sanders 2001). In contrast, those immigrants with higher levels of human cultural capital are more likely to be employed in the "broader mainstream

economy" (Nee and Sanders 2001). Even immigrants with higher levels of education, such as doctors, lawyers, or teachers, however, may not be able to find employment in their respective professions because they may not be allowed to work in those fields in their new countries without additional permits, approvals, or additional education. Thus, the experience of incorporation is less driven by the migration status of newcomers than their own human capital resources, whether they are financial, cultural, or social resources, and the destination states' employment regulations at the time of migration.[3]

In addition to the human capital that migrants bring with them, their incorporation in the new community is also influenced by the overall economic conditions and political stability in the destination country, as well as by the natives' conditions and responses to the newcomers (Massey and Sanchez 2010). In some cases, immigrants may experience conflict with or rejection by the native residents. Many of the challenges are due to the migrants' condition as newcomers in relation to the established, or the locals (Čapo Žmegač 2007; Elias and Scotson 1994). Scholars who applied insight gleaned from social identity theory argue that the prejudice that newcomers may experience in their new communities may be due not to actual difference, but to the result of the judgment, or perception, of difference (Sniderman et al. 2000, 8). Other scholars extend the findings from realistic conflict theory, which claims that competition over scarce resources generates conflict, to argue that the conflict will take place in those communities where a combination of the influx of newcomers in local communities coincides with the prominent national media reports and rhetoric about immigrants (Hopkins 2010). Combining the insights from realistic conflict theory and political competition, while examining immigrants in the UK, Germany, and France, Rafaela Dancygier found that a greater degree of the conflict between the

[3] One difference in the case of refugees in the United States, for instance, is that they receive integration assistance, including money that helps them integrate in the new community.

newcomers and locals in some neighborhoods, such as East London, was the result of a combination of the scarcity of economic resources, the political mobilization of immigrants, and the state ownership of resources (2010). When country-level policies are taken into account as an explanation of the violent conflict between the immigrants and the natives, the degree to which the state invests in socially and economically integrating immigrants may explain why violence between immigrants and natives was more prevalent in Britain than in Germany (Dancygier 2010). In short, in the scholarship examining the sources of immigrant-native conflict, the causes of conflict are less related to the migrants' cultural backgrounds or particular immigration status than to factors such as the policies of local and state governments and media framing, as well as the socio-economic and political competition between the established and the newcomers.

When the journey of migrants and their incorporation into destination countries and societies is taken into account, the experiences of refugees and immigrants may be highly comparable. They face similar risks in their migration journeys regardless of the official or stated claims, whether forced or voluntary, for why they are fleeing their home countries. Differences in experiences are more attributed to gender or age of migrants than to reasons for their migration. Furthermore, the reasons for settling in some countries or regions are usually driven by practical concerns, such as ability to find employment or presence of other family members or friends. Finally, the processes of incorporation into the final destination are also comparable. The degree and the ease with which migrants incorporate have to do more with their financial, cultural, or social capital than with their origin or official immigration status.

There are some differences. As a result of being exposed to violence prior to migration, refugees may suffer psychological trauma that makes them more prone to depression. For example, a study of Vietnamese refugees in the United States found that "refugees experience significantly

greater psychological distress and dysfunction than other immigrants" (Rumbaut 1989, 164). However, even among refugees, the risks of depression will vary to a great degree depending on their age, gender, or loss of family members (Rumbaut 1989, 165-166). Another difference may be the stigma associated with different types of migrants in different contexts. In some contexts, and during particular times, the social category of immigrant may carry negative connotations, while in others, the category of refugee may be perceived as less desirable than immigrant. This may occur even in cases where refugees share the ethnicity of locals, as in the case of ethnic Croat refugees in Croatia who arrived in the early 1990s from Serbia (Čapo Žmegač 2007). However, these differences have less to do with the actual status of migrants and more to do with the particular political and social context within which migrants are arriving and settling into their new communities, as will be discussed in the next section.

The Political Significance of Categories

While efforts of states to classify migrants and limit the immigration of "foreign populations" can be traced to the period of World War I, when the "modern notion of refugee 'crisis'" began, the formation of modern nation-states in the nineteenth century significantly shaped the "contemporary issues in immigration policy" (Sassen 1999, 51 and 78). From the modern states' perspectives, the categorization into those who belong, or the citizens, and those who do not, or the population that may not yet qualify for citizenship and political rights, may form part of the national identity construction process (Sassen 1999, 58). Another reason for categorizing modern states' populations into those who belong and those who do not, as critical theorists, such as Michel Foucault, have argued, may be for sovereign states to project power and claim control of the society and forces that are in reality outside of their control (Sassen 1999, 58).

Categorization of migrants differs across countries, and continues to change in response to internal pressures that may have political, economic, or cultural justifications.

In most countries, based on the *jus soli* principle, it is possible to become a citizen after residency, language, or other requirements are met. However, some countries applied the *jus sanguinis* principle, prioritizing the acquisition of the citizenship based on descent. This was, for example, the case in Germany before the reform of the German citizenship law in 2000 (Benhabib 2002, 461; Brubaker 1992, 9-13). Even in countries, such as the United States, that have a *jus soli* principle of citizenship and prioritize civic over ethnic belonging, there were periods in history when the ethnicity of immigrants was a criterion for admission or citizenship. An example of one of the most restrictive pieces of legislation in the United States based on ethno-cultural identity was the Chinese Exclusion Act of 1882, which stopped Chinese labor migration for ten years and many years after that by legislation, and which was passed in response to anti-Asian mobilization by whites in California (Graham 2004, 11; Alba and Nee 2005, 168). The restrictions on the basis of ethnicity were further institutionalized in the United States with the Immigration Act of 1924, which introduced "a system of quotas based on national origin that favored immigrants from northern and western Europe" (Alba and Nee 2005, 168). An attempt to move away from prioritizing migrants on the basis of ethno-national identities in the United States was the Hart-Celler Act (The Immigration and Nationality Act of 1965) which is a system of "preference" still in place today and prioritizes family relationships. While the Immigration Act of 1965 eliminated the national-origin quotas and quotas for countries in the Western Hemisphere, it also introduced a "uniform annual quota of 20,000 for each country in the Eastern Hemisphere" (Alba and Nee 2005, 174). The practice of prioritizing ethno-cultural forms of belonging over civic belonging, thus, is one way in which states may formulate citizenship laws. The consequences of this type of

citizenship policy are detrimental to the basic human rights of migrants because by prioritizing *categories of belonging* over *categories of experience,* states disempower migrants, including those who are entitled to protection based on the narrow definition of the UN Convention Relating to the Status of Refugees.

The political significance of states' decisions on how to categorize migrants is evident when the concern for resources and national security overshadows the concern for human beings and their personal security. This may be manifested, for example, in the statements of political or state leaders that justify policies restricting immigration due to their concerns for distribution of existing resources, social policy, addressing crime, or protecting national security. Also, the political significance of migration policies may be evident in the decisions regarding who would be admitted as refugees or granted asylum in the country (Rottman, Fariss, and Poe 2009). The EU did not have a timely response to the Syrian refugee crisis, which began in 2011, and only after the crisis was publicly declared in 2015 did discussions start on how to improve the asylum system by providing clearer guidelines for admission and the sharing of responsibility across the EU nations ("Improving the Common European Asylum System" 2017). The closure of borders to Syrian refugees along the southeastern borders of Hungary, Croatia, Serbia, and Macedonia created this crisis in large part, in a similar way as the European refugee crisis began when North America closed borders to Jewish refugees in the 1920s (Sassen 1999, 87). Based on the UNHCR (United Nations High Commissioner for Refugees) data, most Syrian refugees, or about 5.6 million are temporarily in the neighboring or nearby countries, including Turkey, Lebanon, Jordan, Iraq, Egypt, and other North Africa ("Syria Regional Refugee Response" 2018). There were 650 first-time asylum applicants in 2017 EU in total, and from that number, 102 thousand were Syrian refugees, down from 335 thousand in 2016 ("Eurostat Asylum Statistics" 2018). ("Eurostat

Asylum Statistics" 2018). Applicants also came from Iraq, Afghanistan, Nigeria, Pakistan, and other countries, while Germany, Italy, and France were the main destination countries ("Eurostat Asylum Statistics" 2018). In France, the number of asylum seekers increased in 2017, with 91 thousand applications, or nineteen percent more than in the previous year ("Eurostat Asylum Statistics" 2018). The French government responded by proposing a law that would make it more difficult for migrants to apply for asylum and easier for the officials to deport migrants who are categorized as illegal ("French Government Unveils Tougher Asylum Rules in New Bill" 2018). In the words of Gérard Collomb, French Interior Minister, this law was informed by "two guiding principles…France must welcome refugees, but it cannot welcome economic migrants" ("French Government Unveils Tougher Asylum Rules in New Bill" 2018). This law, which is being challenged by a number of lawmakers and activists, is one of the recent attempts of a state to limit the political power of migrants by enforcing a sharp distinction between forced and voluntary migration, even in situations when reasons for migration may not fit neatly into one or the other category.

Even though the Refugee Act of 1980 brought the United States' definition of refugee closer to that of the United Nations Protocol on the Status of Refugees, it failed to "eliminate the essentially political decision of determining who will be recognized as a refugee" (Alba and Nee 2005, 179). The priority for asylum claims was given to forced migrants who fled from political regimes that were either adversaries or that were not in alliance with the United States. For example, Cubans fleeing Castro's regime were recognized as refugees and benefited not only from the political asylum, but also from programs, such as the Cuban Refugee Program including access to colleges and small business grants, and the Cuban Adjustment Act of 1966[4] allowing eligible

[4] https://www.uscis.gov/greencard/caa.

Cuban nationals to apply for permanent residence in the United States, which were not available to other immigrants (Alba and Nee 2005, 164-65). The Department of State's history of refugee admissions by region from 1975 through 2018 illustrates how the country's political motivations related to national interest may have shaped the asylum policy in the United States ("Refugee Admissions by Region" 2018). Specifically, during the period of the Cold War, from 1975 through 1992, 84 percent from the total of 1,683,172 refugees came from the Former Soviet Union and Asia ("Refugee Admissions by Region" 2018). Among the Asian refugees, most were from Vietnam. More specifically, in 1975, the total number of refugees in the United States was 146,158, and eighty-six percent, or 125,000, of refugees came from Vietnam ("Refugee Admissions by Region" 2018; Haines 1989). In the period from 1975 through 1987, Vietnamese refugees constituted sixty-two percent of the total of 849,554 Asian refugees ("Refugee Admissions by Region" 2018; Haines 1989). In contrast, refugees from other regions that experienced wars and significant population displacement during the period of the Cold War were under-represented in the United States. Specifically, Latin American and Caribbean refugees constituted three percent, refugees from Africa two percent, and refugees from the Near East and South Asia five percent of the total of 1,683,172 refugees from 1975 through 1992 ("Refugee Admissions by Region" 2018). These striking regional imbalances in the U.S. government's decisions regarding refugee resettlement rights suggest that political, or national interest considerations, may have been given more priority than the commitment to provide safe haven to people displaced by wars.

Historically, the United States demonstrated reluctance to admitting Central American migrants legally, even during the 1980s when citizens of El Salvador, Nicaragua, and Guatemala were fleeing civil war violence in their home countries. This discrimination against refugees from Guatemala and El Salvador prompted the class action lawsuit *American Baptist Churches v.*

Thornburgh in 1985, which resulted in the settlement known as "ABC benefits" that apply to some Central Americans.[5] Many of those migrants in the 1980s settled temporarily in southern Mexico, and the majority did not qualify for protection as refugees, or political asylum for those who were already on the territory of the United States when they sought protection (García 2006, 87).[6] Migrants from Central America fleeing criminal violence continue to have a limited chance of receiving protections and being admitted to the United States legally. Even in the early 1990s when U.S. borders were opening for economic transactions as a result of the North American Free Trade (NAFTA) agreement, political leaders on both side of the political aisle intensified their efforts to police and monitor the border for immigration (Andreas 2009). Peter Andreas argues that the increase in the resources dedicated to immigration control from the 1990s onward was "less about deterring than about image crafting," presumably for the political purposes of attracting voters (2009, 9).

Despite the efforts to police the border, the northward migration continued. The number of undocumented migrants from Mexico rose steadily from 1970 through 1990, and at the end of the 1990s, the number of undocumented immigrants dropped, but the number of permanent residents and temporary workers rose (Massey and Sanchez 2010, 73). In 2014, in response to the rise in migration of unaccompanied minors fleeing crime-related violence in Central America, the United States government under President Barack Obama instituted the Central American Minors (CAM) program. However, after the change in political leadership in the United States in 2016, this program was halted under the administration of President Donald Trump ("In-Country Refugee/ Parole Processing for Minors in Honduras, El Salvador and Guatemala (Central American Minors

[5] https://www.uscis.gov/laws/legal-settlement-notices/american-baptist-churches-v-thornburgh-abc-settlement-agreement.

[6] In 1981, the United Nations High Commissioner for Refugees (UNHCR) criticized the United States for deporting Salvadorans and refusing to grant them asylum, (García 2006, 89).

– CAM)" 2018). Over the next years, additional restrictive and, from the perspective of immigrants, extraordinarily challenging policies were implemented. For instance, the Zero Tolerance Policy calls for arrest of any individual who engages in any criminal activity, including the illegal border crossing ("Fact Sheet: Zero Tolerance Immigration Prosecutions - Families" 2018). This policy of criminally prosecuting all migrants, however, led to the separation of children and parents – the practice that was criticized by the Human Rights Watch and other organizations concerned with migrants' human rights ("Q&A: Trump Administration's "Zero-Tolerance" Immigration Policy" 2018). As a result of these policies, based on the media estimates, there were around 12,800 children in custody of the U.S. immigration authorities (Dickerson 2018). The restrictive policies under the Trump administration also applied to refugees, as the number of refugees to be admitted in the United States was reduced both in 2017 and in 2018 ("Proposed Refugee Admissions for Fiscal Year 2018" 2018). These recent changes in policy were expected given that both immigration system reform and border control figured prominently in President Trump's agenda from the period of his election through the Presidential 2018 State of the Union Address (Bailey 2016; "Trump's First State of the Union Address: A Call for Unity That Wasn't Always Heard That Way" 2018). The examples above, thus, show that migrants, even in the cases when they need protection, may be stopped at state borders when they arrive in large numbers. States may respond in this manner, in part, in order to, in Wendy Brown's words, "spectacularize power" in times when their power is challenged by external or global forces (2010, 39). From the perspective of migrants, the closure of borders is evidence that political and/or economic motivations rather than humanistic concerns guide states' immigration and refugee policies.

I have argued in this article that the categories of refugees and immigrants are comparable analytical categories if viewed from the perspective of the migrants themselves. First, the clear

distinction between forced and voluntary migration may not adequately represent the actual reasons that compel individuals to flee. In reality, reasons for migration may include a mix of forced and voluntary factors. Second, the emphasis on the sharp distinction between forced and voluntary migrations may protect states, and the states' political power, more than the migrants who remain *de facto* stateless, even if their own states are not economically or politically failed states, because the act of migration places them in the precarious situation of being protected solely by international human rights, which are difficult to enforce legally given the sovereignty claims and political pressures for greater border protection. And, finally, the two categories are especially comparable as analytical categories of experience when examining the very migration journey and the processes of incorporation in the new countries and communities.

In arguing for the re-framing of these two analytical categories, this paper calls for recognizing that the continued enforcement of the distinction between refugees and immigrants gives more power to the receiving states than to migrants who remain unprotected, both in their home countries, due to adverse economic, political, and/or security concerns, and in the international arena. The argument for restricting immigration remains the issue of political significance from the perspective of the migration destination countries. For that reason, there is a need for a more nuanced scholarly approach to categorization of migrants and the acknowledgment that the uncritical use of the distinction between the categories of refugees and immigrants assumes that the dichotomy of forced versus voluntary migration is a reflection of the actual reasons, and that the lack of protection of migrants' rights by the receiving states is inevitable rather than a result, in large part, of the political pressures for restrictive immigration policies.

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