

## INTRODUCTION

# Forced Migration and Modern Slavery: Unplanned Journeys of Exploitation and Survival

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In 2021, Tomoya Obokata, the UN Special Rapporteur on contemporary forms of slavery, including its causes and consequences, presented his report on the nexus between displacement and contemporary forms of slavery to the UN Human Rights Council.<sup>1</sup> His report highlighted a number of causal factors such as discrimination, having an uncertain migration status, and exposure to the informal labour market both inside and outside camp settings.

This special issue develops the key messages from the UN Rapporteur's report. It explores the relationship between forced migration, extreme exploitation and vulnerability to contemporary forms of slavery across six countries. While these geographies differ greatly, a unifying concept in this volume is the idea of the migrant journey as an experiential space in which vulnerabilities are structured, restructured, and often exacerbated by political forces, as illustrated in the politics of trafficking, asylum-seeking and the use of detention, and the governance of reception in host countries. While displaced people may be exposed to a wide range of slavery-type abuses, including forced labour, domestic servitude, forced marriage, and sexual slavery, this volume focuses in particular on the experience of forced migration, as the context in which abuses may occur.

Throughout this volume the authors present a disturbing global picture that records not only the legacies of bondage, and the concomitant gaps in the regulatory framework, but also how transit migration, including the process of seeking asylum in third countries, gives rise to a particular vulnerability context: the nexus between forced migration and contemporary forms of slavery. While there has been much research on the drivers of forced migration<sup>2</sup> and the conditions of asylum-seekers, as Patricia Hynes records, where the studies overlap, the emphasis

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<sup>1</sup> See: UN General Assembly, "Nexus between displacement and contemporary forms of slavery – Report of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences, A/HRC/48/58 (2021)". Human Rights Council, Forty-eighth session, 13 September–1 October 2021.

<sup>2</sup> For a recent review, see: Mathias Czaika and Constantin Reinprecht, "Migration Drivers: Why Do People Migrate?", in *Introduction to Migration Studies*, ed. P. Scholten (IMISCOE Research Series. Springer, Cham 2022). [https://doi.org/10.1007/978-3-030-92377-8\\_3](https://doi.org/10.1007/978-3-030-92377-8_3)

has been on policy responses at the expense of historically informed investigations<sup>3</sup> that record the influence of hegemonic legacies; political discourses which are often in conflict with each other.<sup>4</sup> This volume seeks to address this shortcoming. It includes regional experts who provide historically rich case studies on Australia, Libya, Nepal, Romania, Ukraine, and Venezuela, in which they expose some critical challenges for effective migration governance, and describe the limitations of international and domestic laws to protect forced migrants, including asylum-seekers, from conditions of extreme exploitation. In addition to the geographical breadth, this volume recognises important temporal modalities through its coverage of forced migration in states that have experienced conflict, or are the site of ongoing conflicts, or may be classified as recovering from conflict, and others which by contrast have enjoyed long periods of peace. This is an important consideration since conflict-induced migration may be just one illustration of forced migration, and indeed, the reasons why people are forced to flee may vary even en route, as their status changes in response to conditions in transit.

In spite of their geographical differences, there are, nonetheless, some common vectors for analysis across the countries featured in this volume. We suggest that the ways in which forced migration is experienced and connects to situations of extreme vulnerability, including contemporary slavery type situations, follow some well observed patterns. For analytical purposes, we propose that the vulnerability context which informs the nexus between forced migration and contemporary forms of slavery is marked by the following processes:

- 1) trafficking and/or survival migration, where individuals may be forced to move by parties or circumstances beyond their control, including organised criminal activity, and structural conditions, such as extreme poverty, political instability, and environmental risk factors such as climate change;
- 2) asylum-seeking journeys across third countries, where individuals on the move may be exposed to threats to their personal security including economic exploitation;
- 3) the practice of detention, where state and contracted non-state forces may hold asylum-seekers and other migrants, restricting their freedom of movement and leaving individuals at risk of organised exploitation, including forced labour, sexual exploitation and other abuses;
- 4) the governance of reception in host countries, where individuals may be exposed to threats to their personal security due to overcrowding and ineffective and inhumane practices.

These processes in turn raise other important definitional issues.

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<sup>3</sup> Patricia Hynes, "Exploring the Interface between Asylum, Human Trafficking and/or 'Modern Slavery' within a Hostile Environment in the UK", *Social Sciences* 11, no. 6 (2022): 246. <https://doi.org/10.3390/socsci11060246>

<sup>4</sup> Julia O'Connell Davidson, "Moving Children? Child Trafficking, Child Migration and Child Rights", *Critical Social Policy* 31 (2011): 454–77.

Trafficking is defined in domestic and international law: Article 3 (a) of the UN Trafficking Protocol defines it as “the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person.” Yet, questions of control may be beyond the sanction of law, for example where individuals are compelled to migrate from situations of poverty. This migration context informs our understanding of vulnerability. Here, we are keen to draw from the country studies to investigate practices and conditions which both help to explain how forced migration is experienced and shine a light on the ways in which vulnerabilities are shaped, including through migration. For example, Tomoya Obokata recalls how Yazidi women, displaced by the Islamic State were subject to forced marriage and sexual slavery. Roxana-Claudia Tompea describes the politics that give rise to coercive transnational sex work, which lures in Romanian women. Elsewhere other contributors to this volume consider both the direct and indirect effects of exploitation on migration choices that may engender new vulnerabilities, as illustrated in Matthew Maycock’s article on forced migration and masculinities in Nepal. Maycock exposes system-level practices in Nepal, where the legacies of the Kamaiya system that so dominated the Terai in Western Nepal continue to inform the experience of both out-migration, and new forms of exploitation. He argues that even 20 years after the abolition of the Kamaiya system, male labour migrants are compelled by social convention to embrace restrictive and unfree labour migration practices both in Nepal and in receiving states such as India.

The asylum system is another space where vulnerabilities are generated. While asylum is protected under international law, several states have introduced reservations to the Refugee Convention, and the ways in which states grant access to their asylum system varies widely. Moreover, in many parts of the world it is exceptionally difficult to satisfy the legal criteria for asylum, not least as traditional host states have sought to criminalise irregular entry to their territory. As Sasha Jespersen and Lucy Hovil describe in their article on Eritreans moving into Ethiopia and Sudan, the process of seeking asylum frequently entails navigating around legal, illegal, and unlawful processes, which give rise to additional governance gaps that expose individuals to considerable risk. To illustrate this point, they record instances of forced labour. Throughout this volume, we consider how these gaps appear, and the experiences of forced migrants when faced with these risks.

Related to the vulnerabilities created during the process of seeking asylum, is the increasing use of detention, including offshore centres and cooperative arrangements with third countries to process asylum claims, as found in Australia and the USA, where agreements were struck with Nauru and Papua New Guinea, and Mexico and Guatemala respectively. Detention is not simply a place of confinement, but as Vinu Verghis argues, a system which undermines the health and wellbeing of migrants, contrary to international human rights law. The logic of detention generates additional vulnerabilities, as asylum-seekers and others have found themselves further exploited in situations of detention, where they enjoy even less protection. In

the language of Giorgio Agamben, these are ‘states of exception’ which exist outside the law, where procedural guarantees are absent.<sup>5</sup>

Less studied, but of great concern, is the reception system in which forced migrants find themselves. While this includes offshore processing centres, for most, in-country centres and camps of many kinds dominate their experience of host states.<sup>6</sup> Personal accounts of life in these centres and camps have called attention to widespread abuse, including the recruitment of asylum-seekers and refugees for sexual exploitation by protection officers,<sup>7</sup> and their use in forced labour, including in host states.<sup>8</sup> There is also alarming evidence of host governments engaging in forced conscription, as found in Rwanda where Burundian refugees were coerced into the army,<sup>9</sup> and elsewhere in Africa.<sup>10</sup>

This four-part rubric is not linear and it is important to stress that vulnerabilities are found at multiple points in the migration journey, which may be multidirectional, multi-causal, and influenced by both system-level factors and individual decision-making. One critical indicator of vulnerability is change of status, which includes the loss of economic, social, occupational, marital, and citizen/immigration status. Such changes may occur at varying points throughout the displacement experience, either as a causal push factor, for example, as Arendt suggests, with the loss of citizenship and the removal of rights and freedoms,<sup>11</sup> or when outside the protection of a functioning state, which may give rise to conditions of statelessness.<sup>12</sup> One only needs to think of Syria and Libya, which formerly hosted thousands of migrants whose lives were then turned upside down following war and instability. They saw their status shift as they transitioned from labour migrants to people in need of international protection. Thousands became asylum-seekers overnight. These shifting statuses are explored by Lauren Jackson, who describes how migrants

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<sup>5</sup> See: Giorgio Agamben, *State of Exception* (Chicago: University of Chicago Press, 2005).

<sup>6</sup> Oliver Bakewell, “Encampment and Self-Settlement”, in *The Oxford Handbook of Refugee and Forced Migration Studies*, eds Elena Fiddian-Qasmieh et al. (Oxford Academic, 2014), <https://doi.org/10.1093/oxfordhb/9780199652433.013.0037>, accessed 17 Feb. 2023.

<sup>7</sup> Juliana Araujo, Fernanda Mattos de Souza, Raquel Proença, Mayara Lisboa Bastos, Anete Trajman, and Eduardo Faerstein, “Prevalence of Sexual Violence among Refugees: A Systematic Review”, *Rev Saude Publica* 53 (2019): 78. <https://doi.org/10.11606/s1518-8787.2019053001081>. PMID: 31553381; PMCID: PMC6752644.

<sup>8</sup> See: UNHCR, “People Seeking Asylum at Risk of Exploitation in the UK”, UNHCR (2022). Available at: <https://www.unhcr.org/uk/news/press/2022/8/62ea94464/people-seeking-asylum-at-risk-of-exploitation-in-the-uk.html> [accessed 17 February 2023].

<sup>9</sup> Michelle Nichols and Louis Charbonneau, “Burundi Rebels Say Trained by Rwandan Military - U.N. Experts”, Reuters. 4 February 2016. Available at: <https://www.reuters.com/article/us-burundi-rwanda-un-idUSKCN0VD04K> [Accessed 17 February 2023].

<sup>10</sup> See: Tomoya Obokata (2021), where he records that displaced children have been recruited into armed groups in the Central African Republic, the Democratic Republic of Congo, Mali, Mozambique, Nigeria and Somalia.

<sup>11</sup> Hannah Arendt, *The Origins of Totalitarianism* (Penguin UK 2017).

<sup>12</sup> See: Brad K. Blitz, “The State and the Stateless: The Legacy of Hannah Arendt Reconsidered”, in *Understanding Statelessness*, eds Tendayi Bloom, Katherine Tonkiss and Philip Cole (London: Routledge 2017).

were recruited into agriculture and construction in Libya where they were subject to extreme exploitation, and this account is prefaced by the distressing images of African migrants being sold in Libyan slave markets. In a different part of the world, Florencia Barbeito and Carolina Spiridigliozzi record how Venezuelan migrants in Colombia are exposed to new vulnerabilities, as their detachment from their home state and ensuing flight leaves them open to recruitment into the drugs trade, a situation also identified by Obokata in Colombia's neighbours, Ecuador and Peru.

One critical factor in the vulnerability framework described here is gender. We note that the history of displacement is replete with accounts of how the departure of men from the home context saw the weakening of traditional male-dominated social capital networks, which all too often left women insecure and at risk of violence and coercion, as for example in Afghanistan today where not only is forced marriage on the rise, but so is the sale of children for food.<sup>13</sup> Equally, as Obokata notes in this volume, displaced Syrians in Egypt and Rohingya in South Asia, have been vulnerable to forced marriage in host situations. For unaccompanied female migrants, and mothers accompanying children, the journey alone is also a source of great insecurity, as recorded in the testimonies of Afghan and Middle Eastern migrants transiting the Balkans in the hope of reaching Western Europe.<sup>14</sup> Roxana-Claudia Tompea draws upon similar themes in her study of sexual exploitation among Romanian female migrants, which details the political economy of sex trafficking that is facilitated by poor law enforcement and an underdeveloped rights regime. Similarly, Obokata recalls how Syrian refugee children in Lebanon, many of whom are irregularly present, have been exploited in agricultural production in the Bekaa Valley.

Yet, the creation of vulnerability is due not simply to weak governance in rights violating states, but also to the involvement of external parties. As Lauren Jackson argues, the EU not only tolerates human rights violations occurring in Libya as a result of EU policies, but proactively enables these abuses to occur. There is a long and telling history here. Elsewhere others have recorded how legal structures and law enforcement systems were dissolved, as Gaddafi decentralised state institutions and then re-concentrated power and authority in southern tribal groups, all under the watch of Italy. The introduction of immigration policies to attract both skilled and unskilled workers fed into a wider programme of geopolitics where migrants were seen as indicative of support for pan-Arabism and pan-Africanism, or conversely in the case of asylum-seekers, as infiltrators. Over many years, Italy and the EU also sought to benefit from the

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<sup>13</sup> Ángel Sastre, "Selling a Child for Food: 'Several Suitors Showed Up and I Tried to Choose the Youngest'," *El Pais* (6 July 2022). Available at: <https://english.elpais.com/international/2022-07-06/selling-a-child-for-food-several-suitors-showed-up-and-i-tried-to-choose-the-youngest.html#:~:text=Arranging%20marriages%20with%20underage%20girls,at%20least%2015%20years%20old> [Accessed 17 February 2023].

<sup>14</sup> See: Caterina La Cascia, Giulia Cossu, Jutta Lindert, Anita Holzinger, Thurayya Zreik, Antonio Ventriglio and Dinesh Bhugra, "Migrant Women: Experiences from the Mediterranean Region", *Clin. Pract. Epidemiol. Ment. Health* 16 (Suppl-1) (2020):101-108. <https://doi.org/10.2174/1745017902016010101>. PMID: 33029187; PMCID: PMC7536719.

establishment of a vast detention complex in post-Gaddafi Libya. They provided funds, supported training, and lent legitimacy to the successor regime in the name of protecting Europe's southern border. While Europe was involved before and after the removal of Gaddafi and division of the country, the closure of state borders created conditions for exploitation, trafficking, bonded labour, and contemporary forms of slavery, especially as former migrant labourers were removed from their jobs, and denied lawful access to state resources.

The distinctive feature of this volume is the emphasis on forced migration. While migration features extensively in studies on contemporary forms of slavery, these phenomena are distinct and need further clarification. Chantal Thomas, for example, describes immigration controls as an 'adjacent issue', which remains 'the single most formal and legally permitted basis for discrimination and coercion' that gives rise to extreme economic exploitation.<sup>15</sup> Others similarly charge that the conditions which encourage trafficking are structural, and hence the emphasis on individual forced migrants who are deprived of their agency misses a broader point. Scholars including Julia O'Connell Davidson argue that the way major legal instruments such as the Trafficking Victims Protection Act of 2000 in the US, as well as the Modern Slavery Act of 2015 in the UK, define trafficking and modern slavery fails to capture the realities, abuses and needs which in turn affects the definitions we use. They maintain that, in the case of sex work for example, economic coercion as a result of extreme poverty offers greater explanation than physical coercion. In this context, women and other sex workers are making choices, and so may not be considered 'forced migrants'. Rather, O'Connell Davidson suggests, it is important to ~~consider~~ consider the underlying structural and socio-economic factors when examining the junction of work, freedom, and expressions of forced migration, including trafficking.

While acknowledging that forced migrants may also exercise a degree of agency – they may make choices at various points over the course of their journey, and even once they reach third countries – we also recognise that their choices are constrained by external forces. Perhaps nowhere is this more acute than in the case of Australia's offshore asylum processing system, as recorded in Vinu Verghis' article. Yet, we should note that even where the state has less direct control over the fate of refugees and asylum seekers, the lack of effective governance does not excuse states from their international responsibilities. Modern slavery abuses cannot simply be attributed to poor migration governance. As Philippa Webb and Rosana Garcianda argue, states too are responsible, including for the recruitment of individuals into systems of forced labour.<sup>16</sup>

In a similar vein, this volume challenges the argument that both forced migration and contemporary forms of slavery are the result of opportunism. One frequent explanation, popularised by US and EU officials and the governments of host states both on the frontier and

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<sup>15</sup> Chantal Thomas, "Immigration Controls and 'Modern-Day Slavery'", in *Revisiting the Law and Governance of Trafficking, Forced Labor and Modern Slavery*, ed. P. Kotiswaran (Cambridge Studies in Law and Society, pp. 212-237). (Cambridge: Cambridge University Press, 2017). <http://doi.org/10.1017/9781316675809.008>.

<sup>16</sup> Philippa Webb and Rosana Garciandia, "State Responsibility for Modern Slavery: Uncovering and Bridging the Gap". *International & Comparative Law Quarterly*, 68(3) (2019): 539-571. <https://doi.org/10.1017/S0020589319000277>.

in final destination states, maintains that desperate migrants are attracted by ‘pull factors’, above all economic opportunity, which makes them ripe for exploitation by smugglers and traffickers.<sup>17</sup>

A related and unproven charge is that enabling people to transit to host states, for example by providing search and rescue missions,<sup>18</sup> or failing to close informal settlements, puts migrants at risk of traffickers. This logic is deeply problematic. First, it assumes that the experience of forced migration is rational, especially in explanations for transnational flows towards host states. Yet, this account is at odds with a growing body of empirical research on the persistence of intervening ‘push factors’, and the realisation that many migrants do not in fact plan their outcomes. Second, this logic fails to consider how smuggling and trafficking may take place across the migratory experience, not simply where people seek to board ships or lorries in the hope of reaching destination states.

Third, the threat of abuse is not limited to encampment – though this is a site of great vulnerability – but also results from the policy and politics of dispersal in both transit and host states. As we see from the appalling tragedy of the Manston reception centre in the UK, where asylum seekers found themselves in an overcrowded and disease-ridden holding site, the issue is not simply the bounded camp environment but the absence of state protection in general.<sup>19</sup> Further, attempts to resolve the problems at Manston led to practices where refugees and asylum-seekers were transported to other locations, and even dumped in city centres in winter, with nowhere to stay, and without proper clothing.<sup>20</sup>

This volume presents a collection of articles which challenge the above assumptions, to describe how forced migrants may be drawn into slavery-like situations in transit and host states. The volume begins with a preface by Tomoya Obokata, UN Special Rapporteur on contemporary forms of slavery which describes how displaced people may be vulnerable to contemporary forms of slavery due to personal, situational and structural factors. In addition to illustrating how displaced individuals and communities may be at risk of forced labour, domestic servitude, forced marriage and sexual slavery, he calls attention to the dangers facing displaced children, including the words forms of child labour. While acknowledging reform among some states, he provides several recommendations to enhance durable solutions both to end the situation of displacement, and the conditions which give rise to extreme economic exploitation. As he

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<sup>17</sup> See: Leila Hadj Abdou, “‘Push or pull’? Framing Immigration in Times of Crisis in the European Union and the United States”, *Journal of European Integration*, 42:5 (2020): 643-658, <https://doi.org/10.1080/07036337.2020.1792468>.

<sup>18</sup> Eugenio Cusumano and Matteo Villa, “Sea Rescue NGOs: A Pull Factor of Irregular Migration?”, *Policy Briefs*, 2019/22, Migration Policy Centre (2022). Available at: <http://hdl.handle.net/1814/65024> [Accessed 17 February 2023].

<sup>19</sup> See: Clare Moseley, “Manston Scandal is a Disgrace that Could have been Easily Avoided”, Open Democracy. 31 October 2022. Available at: <https://www.opendemocracy.net/en/manston-immigration-processing-kent-overcrowding-scandal/> [Accessed 17 February 2023].

<sup>20</sup> Amelia Gentleman, “Home Office Leaves Asylum Seekers from Manston Stranded in Central London”, *The Guardian* (2022). Available at: <https://www.theguardian.com/politics/2022/nov/02/home-office-leaves-asylum-seekers-from-manston-stranded-in-central-london> [Accessed 17 February 2023].

concludes, ‘access to livelihoods is essential for the prevention of and the response to protection concerns, including contemporary forms of slavery.’

Obokata’s report is followed by some geographically focused articles, which revisit the legacies of bondage, and examine how they inform our understanding of contemporary exploitation. Matthew Maycock employs a gender-based analysis of masculinity to consider the symbolic and material significance of contract and labour migration in Nepal, 20 years after the abolition of the Kamaiya system. The focus on migration for this group of young male former bonded labourers who were previously unable to migrate, facilitates analysis of the ways in which migration between Nepal and India enables new performances of masculinity. Ultimately, this paper argues that such exploitative labour migration, however precarious, has become an important marker of freedom for the Kamaiya.

Gaps in the regulatory framework are exposed through an analysis of the political economy of sex trafficking and what Roxana-Claudia Tompea describes as ‘forced prostitution’. She considers how push factors prevail over ineffective law enforcement and a lack of investigative will, to undermine the protection of vulnerable women. Further, she argues that existing laws at both the national and EU level tend to be corrective, and only address the supply side, rather than the economic forces which draw women into systems of organised criminal activity. Hence, she argues that the Romanian authorities should refocus their efforts on tackling the recruiters and agents that enable these women’s illegality. Her argument recalls Andrew Crane’s thesis that modern slavery should be categorised as an organised criminal activity, integral to the supply chain, and is better described as a management practice.<sup>21</sup>

The experience of transit migrants and the potential for abuse are explored by Lauren Jackson in her article on the EU’s externalisation policies in the case of Libya. She examines how the use of international agreements has created a permissive space in which human rights abuses, including contemporary slavery offences, have taken place. The article points to the exceptional space where migrants fleeing war, poverty and instability find themselves contained. In a related vein, but different geographical context, Florencia Barbeito and Carolina Spiridigliozzi consider the situation of displaced Venezuelans in Colombia to examine how social, economic and political forces create complex transnational processes which enable human exploitation networks. The complexities of asylum-seeking and mixed migration flows across East Africa are explored by Sasha Jespersen and Lucy Hovil in the context of Eritreans in Ethiopia and Sudan, many of whom feel compelled to move on for safety yet remain in situ. This notion of exceptionalism is further described in Vinu Verghis’s account of the Pacific model, as pioneered by Australia where neighbouring states were contracted to manage and contain asylum-seekers.

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<sup>21</sup> Andrew Crane, “Modern Slavery as a Management Practice: Exploring the Conditions and Capabilities for Human Exploitation.” *The Academy of Management Review*, 38, no. 1 (2013): pp. 49–69. JSTOR, <http://www.jstor.org/stable/23416302> [Accessed 17 February 2023].

Finally this edition concludes with another look at the power of legacy. In an innovative article on the current war in Ukraine, Alexandra Lewis and Brad Blitz examine continuities between Russian, Soviet and post-Soviet systems of exploitation. They introduce the idea of the ‘Ru.Lag’ as a space where large-scale deportations by Russian state forces fit into a broader programme of oppression. They suggest new modes of abuse which build on historical practices, where forced relocation and deportation, both as a form of punishment for dissidents and as a means to generate forced labour, now characterise Putin’s war on Ukraine in which contemporary slavery abuses abound.

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