



MOBILIZING GLOBAL KNOWLEDGE: REFUGEE RESEARCH IN AN AGE OF DISPLACEMENT

Edited by Susan McGrath and Julie E. E. Young

ISBN 978-1-77385-086-3

THIS BOOK IS AN OPEN ACCESS E-BOOK. It is an electronic version of a book that can be purchased in physical form through any bookseller or on-line retailer, or from our distributors. Please support this open access publication by requesting that your university purchase a print copy of this book, or by purchasing a copy yourself. If you have any questions, please contact us at ucpress@ucalgary.ca

Cover Art: The artwork on the cover of this book is not open access and falls under traditional copyright provisions; it cannot be reproduced in any way without written permission of the artists and their agents. The cover can be displayed as a complete cover image for the purposes of publicizing this work, but the artwork cannot be extracted from the context of the cover of this specific work without breaching the artist's copyright.

COPYRIGHT NOTICE: This open-access work is published under a Creative Commons licence. This means that you are free to copy, distribute, display or perform the work as long as you clearly attribute the work to its authors and publisher, that you do not use this work for any commercial gain in any form, and that you in no way alter, transform, or build on the work outside of its use in normal academic scholarship without our express permission. If you want to reuse or distribute the work, you must inform its new audience of the licence terms of this work. For more information, see details of the Creative Commons licence at: <http://creativecommons.org/licenses/by-nc-nd/4.0/>

UNDER THE CREATIVE COMMONS LICENCE YOU MAY:

- read and store this document free of charge;
- distribute it for personal use free of charge;
- print sections of the work for personal use;
- read or perform parts of the work in a context where no financial transactions take place.

UNDER THE CREATIVE COMMONS LICENCE YOU MAY NOT:

- gain financially from the work in any way;
- sell the work or seek monies in relation to the distribution of the work;
- use the work in any commercial activity of any kind;
- profit a third party indirectly via use or distribution of the work;
- distribute in or through a commercial body (with the exception of academic usage within educational institutions such as schools and universities);
- reproduce, distribute, or store the cover image outside of its function as a cover of this work;
- alter or build on the work outside of normal academic scholarship.



Acknowledgement: We acknowledge the wording around open access used by Australian publisher, **re.press**, and thank them for giving us permission to adapt their wording to our policy <http://www.re-press.org>

Rethinking Displacement: Transitional Justice and Forced Migration Studies

Nergis Canefe

Introduction

This article investigates a critical set of intersections between mass political violence, dispossession/displacement, transitional justice, politics of regime transformation, and human rights law. In the field of forced migration studies, displacement and dispossession-related restorative justice projects—and more specifically, issues such as right of return, compensation, and amelioration of state-induced ills for displaced peoples—are emerging as new areas of examination. Traditionally speaking, however, forced migration and transitional justice are two areas of scholarship attended by different academic communities. Similarly, often separate groups of activists and victims' advocates, scholars, jurists, policymakers, agencies, and donors address causes of concern and strategies pertaining to each area disparately. In the following pages, I assert that it is both possible and necessary to bring together the work done by these various actors and groups. In this vein, I highlight the benefits of conjoining these two approaches to dispossession, dismemberment from the national polity, and resultant experiences pertaining to displacement-induced human suffering. In order to point out future possibilities of this envisaged synergy, I

offer a critical discussion of select works on transitional justice as they relate to forced migration and vice versa. Here, it is essential to note that the suggestions and findings articulated in this chapter are in tandem with the insights offered by Loren B. Landau on the issue of collaborative research (see chapter 1), as well as the urgent call for paying closer attention to the links between chronic state criminality and forced migration that Paula Banerjee and Ranabir Samaddar make in this volume (see chapter 5). It would also be pertinent to suggest that the conversation led by Christina Clark-Kazak (see chapter 13) on cross-disciplinary dialogue and ethical commitments to working with human suffering fits well with the spirit of this particular quest for establishing synergies of knowledge production and knowledge dissemination.

The nexus of transitional justice and forced migration studies could be approached from multiple angles and perspectives: empirical and theoretical, analytical and normative, historical and contemporary, local, regional, and global. Here I urge that regardless of the angle taken, we must pay close attention to the historical fault lines pertaining to structural inequalities, imposed divisions, and violently secured borders, which reveal dynamics of power struggles between states and their own people. This point is particularly important regarding the neocolonialist and late-Orientalist tendencies that exist in the depiction of global refugee crises. The politics of studying historical and social transformations in the global south are such that forced migration movements create an aura of perpetual or at least chronic crises in the postcolonial and postimperial geographies of modern statehood. In this context, analyzing mass dispossession of political subjects in post-conflict settings runs the risk of becoming an end in and of itself. Indeed, forced migration studies have long suffered from an oversight caused by a determined concentration of scholarship on numbers and short-term survival strategies. As a result important aspects of dispossession—such as duties and responsibilities of states and non-state actors, politico-legal aspects of forced migration movements, interventions of civic bodies, international organizations, and normative changes in the wider field of human rights law as they relate to displacement, societal peace-making, and political justice—are often overlooked.

Methodological Interventions

The study of mass political violence created by states turning against their own peoples requires an interdisciplinary effort. Analyses of underlying causes of social disfranchisement, socioeconomic predicaments leading to marginalization and targeting of select groups, challenges pertaining to remembrance of violence, and restoration of the rights of the displaced all fall under the purview of this effort. These events and processes almost always take place in the context of transitional justice projects enacted in postcolonial/neocolonial landscapes. Essential to these kinds of endeavours is the establishment of connections between documentation of violence, deliberation on its causes, and research keen to understand patterns, as well as an overall awareness of the ethics of witnessing when academics engage with human suffering. To this end, we must first determine the reasons for the largely single-focus study of forced migration despite the fact that it could not be isolated from sociopolitical and economic factors and processes. This act of contextualization is essential to develop a counter-discourse on forced migration.

To this end, this chapter is divided into three sections. The first section canvasses theoretical exercises that identify patterns and unique approaches to forced migration that differ from dominant practices and debates on the subject. This is done in the specific context of linking transitional justice projects with forced migration in the global south. The second section engages with lessons learned from post-conflict restorative justice projects and their specificities in select regions as these relate to forced migration. It is often the powerful rather than weak postcolonial states that experience mass political violence related displacements. Of these, here I reflect on the post-conflict experiences of the displaced populations in select cases to underline the innate relationship between societal and political justice and to reiterate the detrimental effects of dispossession and forced movement for society at large. The last section presents a critical debate on the concept of mobility in its application to the forced migration and transitional justice studies nexus as a burgeoning field. In particular, I examine non-conventional approaches to forced migration, conundrums pertaining to statelessness, ethics of witnessing, and profitable intersections between qualitative and quantitative research. My observations support the need for developing in-depth knowledge of

the disparity, disjuncture, and at times abyss that exists between the instrumentalized and orderly realm of transitional justice studies as they are often practiced in the global north and the complicated and layered realities of post-conflict histories pertaining to forced migration in the global south (see chapter 5 for an examination of struggles over security and nationhood in India's Northeast).

Of the People, By the People, For the People? Sixty Shades of Dispossession

The “unwanted peoples,” refugees, exiled and displaced populations, stateless peoples, and other subjects of forced migration have always played a significant role in the economic, political, and social life of sovereign states (see chapter 5). Since 1945, millions of people have been subjected to partitions, forced population exchanges, purges, and cleansings as part of the nation-building processes in the postcolonial and later neocolonial world orders (Hansen 2003; Castles et al. 2013). However, the majority of the people who suffered and continue to suffer such fates are rarely captured by the legal definition of refuge/refugee/asylum (Goodwin-Gill 2014). Forced migration studies must broaden its scope and incorporate some of the foundational debates pertaining to postcolonial and neocolonial statecraft as well as practices denoted under the umbrella term transitional justice in order to make full sense of these trends of systematic dispossession.

In international law, a refugee—as enshrined in the 1951 Refugee Convention and subsequent protocols—is someone who “is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion.” What emerged at the global scale in terms of state-induced displacements is a much more complicated picture than what is captured by this codification. Statelessness, permanent limbo of internal displacement, dispossession via partition, unrecognized minority status, forcibly resettled returnees are also a regular part of this equation of building states via displacing peoples (Canefe 2017). This multi-faceted nature of displacement is revealed best from the vantage point of transitional justice studies. Meanwhile, developing an understanding of the causes and consequences of displacement, forced

migration, and statelessness—not to mention actually dealing with the challenges posed by these recurrent and cyclical phenomena—is often left on the margins of transitional justice scholarship as well. In other words, both fields suffer from dangerous short-sightedness concerning the structural causes of long-term human suffering related to internal, state-induced, or state-condoned conflict and related mass violence and forced movement of peoples. This lacuna is most curious when one considers the fact that according to UNHCR estimates, by 2016 there were a total of 65.6 million forcibly displaced people worldwide, of whom only 22.5 million were refugees and asylum seekers, including 5.3 million Palestinian refugees under UNWRA's mandate.¹ Figuratively speaking, the displaced make a permanent country in no man's land.

Here, I attempt to establish tangible links between lack of societal peace, structural causes of human suffering, recurrent patterns of political violence—all of which constitute the traditional subject matter of transitional justice—and forced migration in the global south. However, this issue does not concern only the postcolonial states being caught up in such a web of violent entanglements. It is also a matter directly involving international agencies, NGOs, and scholars of transitional justice and forced migration studies located in the global north where the big donors are based. This is key since the aforementioned actors fund and frame much of the resettlement or reconciliation efforts and thus give a particular direction to forced migration studies. Notably, in these joint endeavours international actors and organizations' emphasis is first and foremost placed on the maintenance of state boundaries and sovereign sanctity. Specifically, since the 1970s transitional justice policies have largely been associated with victims' advocacy movements and they rely on the use of legal mechanisms aimed at moving forward in the aftermath of mass societal and political violence (McEvoy and McConnachie 2013; Sharp 2014). This is commonly encouraged and funded by think tanks, institutions, and research hubs, and endorsed by independently funded civil society/sponsor organizations and research institutes, many of which are funded by the global north.

In a somewhat contrarian vein, in the following pages I question this confined definition pertaining to transitional justice and its often heavily prescriptive presumptions about sociopolitical and historical change from the point of view of the debates taking place in the global south through

the lens of forced migration, displacement, and related forms of human suffering. In order to evaluate the long-term political significance and deep-seated socio-ethical dimensions of forced migration movements, one has to look beyond the traditional transitional justice arsenal of policy measures and legal arrangements. In this regard, I posit that denial of the right of return; selective uses of amnesties; governmental and social orchestrations of political amnesia to ensure the forgetting of the experiences of traumatized and displaced groups; failures of legal and pseudo-legal accountability measures; and limitations of restorative justice schemes including compensation and redistribution programs all become strongly evident when examined from the vantage point of forced migration and displacement. Those who were forced to leave are often not wanted back, today or tomorrow. In this regard, conceptually guided comparative work allows for global pattern recognition in statecraft and maintenance of legitimacy in postcolonial and postimperial settings through displacement and dispossession. Lack of it, on the other hand, often locks us into regional troubleshooting exercises with short-term gains (Fletcher and Weinstein 2015).

While law is a tool for responding to violence and exposing abuses of power, law is also utilized to obfuscate and legitimate abuses of political authority. As such, it is puzzling that for many decades, scholarship concentrated mainly on the “corrective” aspects of legal and semi-legal practices associated with transitional justice measures and movements in the global south. This preference led to a widespread instrumentalization of our understanding of sociopolitical change in the aftermath of mass conflict and displacement (Vinjamuri and Snyder 2015; MacDonald 2017). In mainstream literature on forced migration, which is often event specific, rarely has enough attention been paid to the issue of creating new forms of justice capable of questioning the legitimacy of prior political or legal practices that led to both institutional and societal involvement in and subsequent denial of mass violence leading to the very events of displacement. There is also a major concern about the cooption of transitional justice projects by governments for political gain. Concerning reinterpretations of a traumatic past by a “new regime,” there are real politico-ethical confrontations that take place since what is at stake is imagining the future of the society as a whole while coming to terms with its past. Until recently, these concerns have largely been amiss in the scholarship

that habitually emanates from important research centres and international think tanks. Such institutions include the International Center for Transitional Justice (New York, USA), Peace Research Institute (Oslo, Norway), and special programs organized by MacArthur, Carnegie Endowment, and Ford Foundations, Hans Böckler Foundation in Germany, or Open Society Institute and Helsinki Citizens' Assembly chapters across Europe. Projects funded by these circles regularly concentrated on "solid criteria" such as legislative efforts and litigation processes to prove that a "transition to democracy" is underway in a given constituency.

In this chapter, my take on the issue of transition in post-conflict societies underlines the importance of relying on the expertise and work of scholars, activists, and legal practitioners located in the global south. These actors have decades-long experience in regional hubs of forced migrations, which in turn allows us to unpack problematic assumptions associated with standard approaches to transitional justice projects, institutions, and practices. It is of paramount importance that we focus on non-conventional measures and policies that will advance not just institutional but genuine political reconciliation, as well as a social acknowledgement of responsibility for mass atrocities and displacements. Such a hybrid approach could establish a much-needed platform of comparative work and exchange among the scholars situated in the global south and institutions and research centres in North America and Europe. Based on the experiences emanating from cases in the Middle East, Southeast Asia, Latin America, and Africa, it is time to pay closer attention to the implications of historical trends in the study, funding, and institutionalization of transitional justice projects and programs particularly as they relate to human displacement (Drumbl 2016; Rowen 2016). Only then could we start asking new questions and put the older, repetitive ones to rest.

The Transitional Justice Canon: Contextual Challenges

Societies in the global south that confronted the challenges of transitional justice schemes often have a postcolonial/postimperial background and have long been grappling with traditions and legacies of "deep states." Whether in Asia, Africa, the Middle East, or Latin America, many states owe their existence to repeated waves of forced migrations, displacements, and population exchanges in the form of partitions following declarations

of independence or ethnic cleansing and civil wars related to regional warfare (Chatty 2014; Samaddar 2016). Many also have a multiplicity of victims' groups whose traumas and losses are yet to be acknowledged through restorative justice measures. These cases provide the foundation for comparative work on global trends in post-conflict social transformations and the politics of justice in the aftermath of mass political violence. Thus they aid us in developing a new understanding of the connection between modern statehood and forced migration (see also chapter 5 on the linkages between state formation and the securitization of migration).

A transitional justice industry emerged in the 1990s, keen to embrace a "checklist" approach to acute crises in the global south. This trend in scholarship and policymaking, however, rarely resulted in increased attention to historical socioeconomic inequalities and root causes of mass political violence, displacement, and systemic abuses of power. As transitional justice projects struggle to deliver un-tempered truth, all-encompassing societal justice and reconciliation continues to prove elusive. Disproportionately hefty demands are placed upon transitional justice schemes to provide guarantees for long-term political peace. As a response, we witness the burgeoning of an alternative discourse from the global south where there is a marked shift in the definition of the very term justice (Uhlin et al. 2017; Waldorf 2018). In keeping with this call for rethinking justice in postcolonial and neocolonial contexts, critical practices and discourses in the field strive to pay respect to the social history of societies affected by mass political violence, internal warfare, crimes against humanity, and overall legacies concerning imbalanced state-society relations (Samaddar 2017). This kind of scholarship also aims to redefine the territory covered by the canonized legal-political language of economic and social rights. The relevance of such interventions is twofold: to gather historically specific information, genealogies, strategies, and interventions that characterize a region, and to reach overall conclusions based on long-term trajectories of how post-conflict societies deal with mass human suffering and political violence in a comparative and globally relevant politico-legal framework.

Many of the key features of this new politics of transitional justice become evident within the context of forced migration. Almost every case of "transitional justice" emanating from the global south includes a history of partitions, forced population exchanges, and civil strife leading

to mass displacements (Mitra et al. 2017). Hence scholars, policymakers, and citizens' groups engaged in transitional justice on the ground had to build up extensive knowledge and capacity to work with victims of forced migration through grassroots mobilization, ad hoc human rights advocacy programs, channelling of humanitarian assistance, and critical scholarly research, knowledge dissemination, political network building, and involvement in policy deliberations aiming for a dialogue for reparations. Transitional justice related work reflecting on the experiences of academics/activists in Latin America and India readily attests to the large arsenal of experience that challenges the boundaries of established canon on the subject (Shaw and Swatuk 1994; see also chapter 12 for discussion of networking around transitional justice in the Latin American context). Critical knowledge of these cases provides overall conclusions concerning how to address forced migration and mass displacement as a key component of socio-economic and political change. Such a juxtaposition of transitional justice and forced migration studies allows us to redraw boundaries of scholarly knowledge pertaining to human suffering induced by historical inequalities in postcolonial and neocolonial contexts.

While creating strict categories of when, to whom, and for what transitional justice projects are expected to apply, global institutions and funders construct and dictate models that focus on specific sets of actors for predetermined targeting of societal conflicts and political crimes. This often results in dangerously narrow interpretations of societal, political, and structural violence and somewhat artificial timeframes for change and restitution. It also excludes key actors, social groups, and classes in subsequent sociopolitical negotiations and selectively emphasizes criminal proceedings. The concomitant narrowing and depoliticization of transitional justice projects constitutes a prime reason for the habitual separation of transitional justice and forced migration studies. As such, there is a need to reformulate justice from the grassroots level rather than employing traditional, top-down institutional models in regions of the world heavily affected by long-term political violence. At times, seemingly unstructured movements lacking official recognition could be much more effective in developing ways of coping with past political and societal violence as well as addressing present-day inequalities. They present an immense potential that could be translated into programs of action with a clear vision and a new form of post-conflict politics. Scholars, communities, and activist

networks from the global south contend that such diverse inputs into transitional justice projects, especially with reference to displaced populations, are vital for achieving long-term sociopolitical change and peace. This approach would also deepen our understanding of mass political violence at a global scale to initiate genuine responses to human suffering.

Another key and often overlooked area of study is the relationship between transitional justice projects and socio-economic restructuring programs that aim to reverse systemic underdevelopment (Sharp 2016). While this subject occupies a central place in debates on the political economy of the global south, it is largely absent from the arsenal of topics covered by Western academia, barring a few notable exceptions (Duthie 2014). Development is formulated in a very particular way in the context of problems, concerns, and future trajectories pertaining to societies “in transition.” Often, NGO and INGO funded work emanating from the global north focuses mainly on the potential impact that transitional justice projects and policies may have on a state’s ability to compete for international assistance or to embark on economic reconstruction programs in the aftermath of a crisis. The particular language used in this setting suggests a link between development, finance market stability, and societal justice (Franzki and Olarte 2013). Despite recurrent calls for a more locally rooted and politically engaged approach to rebuilding “capacities,” internationally funded transitional justice projects and operations remain heavily influenced by this neoliberal mindset spiced with a tinge of neo-colonialism and a dash of old-fashioned Orientalism. By and large, their aim is to transform “war-torn societies” of the global south into derivative liberal democracies.

Last but not least, here I will advance the proposition that social movements and politics of everyday life should not be secondary in our understanding of what transitional justice stands for. They should be accorded a primary status. The instrumental approach to transitional justice focuses too much on purportedly objective sources of legitimacy, such as courts or state departments at the expense of events, movements, confrontations, and changes materializing at the local level and manifesting themselves in everyday life (Teitel 2015). As transitional justice became part of the new global liberal ethos of peace building in the late 1980s, it became linked with a broad, positivist, and largely elusive definition of peace itself. Such an application-oriented definition of peace does not

resonate with the needs of the populations directly affected by drawn out conflicts. The peace-building model of transitional justice aims primarily at rebuilding state institutions and only as an afterthought attends to the reconstruction of social relations (Jeffrey and Jakala 2015). The very state that became a battleground is made the anchor upon which the future of a whole social and political system is predicated, a weakness that we must fully address. We must redefine what transitional justice is for the communities that are meant to be transitioning from perpetual suffering and structurally sustained rights violations to a future where human dignity is paramount. If the past is the memory of our present, the future is its hope. In this regard, exclusive focus on the state, which failed to protect the vulnerable or perpetrated mass crimes against the very groups and classes later declared as victims, is a trap we must learn to avoid. This would be a breath of fresh air in both conceptual and political terms.

To summarize, it is true that there is a growing number of studies and research institutions devoted to transitional justice. However, it is rare to find strong and dedicated voices talking about issues and content that are not limited to politically sterilized conversations on the subject matter. Even less frequent are enterprises that directly address the issue of forced migration in the context of post-conflict peace building and sociopolitical change (Mihail 2010). And yet, any endeavour that wishes to effect change and transformation in the global south must address forced migration as part of the canopy of solutions envisaged. Addressing the links between transitional justice as a sociopolitical project, forced migration as a means of state building and maintenance, and conditions of postcoloniality is similarly paramount for forced migration studies (Turton 2003; Canefe 2017). We must push for a greater appreciation of the unevenness of mobility, drawing attention to the rigidity that many forced migrants experience in their daily lives and the premature closure of the option of return by the limited focus of transitional justice projects on those who remained inside the nation-state borders. Displacement could also allow for dissent and resistance to grow by mobilizing collective identities and supporting alternative discourses of political agency. By excluding these vital voices from transitional justice schemes, societies engage in a dangerous pretense that such communities never existed or left of their own accord.

Law, justice, and hope are genuinely intertwined. Critical debates redefining the scope and contents of transitional justice must therefore

weave together questions about the legitimacy of law, including refugee law and restorative change, hence speak of hope while engaging in assessments of the status quo. Similarly, debates on the past must assume the regenerative format of remembering and reintroducing memories of traumatic events as a bridge to our understanding of the present. Examples for this kind of endeavour could easily be drawn from Rwanda, Sri Lanka, and India (Kaushikee 2017; Longman 2017; Seoighe 2016). Without gazing into the future, and daring to imagine how things could be different, one cannot move beyond the weight of present circumstances of displacement and dispossession. Conflicts end, but dispossession does not until and unless it is acknowledged and remedied. Looking into the future requires political will and social engagement beyond any project that relies solely upon legalistic and institutional solutions. The Colombian peace process and the developments in the Great Lakes region and in South Africa constitute key examples revealing the making and remaking of states, nations, and even regions by means of forced migration. Forced migration creates unfinished business in terms of acknowledgment of the pain, suffering, and strife of displaced populations and the way they are forced to keep silent—sometimes for decades. Existing debates on both transitional justice and forced migration must be reframed around the inherent connection between these two fields of analysis, especially within the critical context of the global south.

In Lieu of a Conclusion: Mobility, Statehood, and Violence

Mobility is inherent to our understanding of both forced and voluntary migration. “Displacement”—whether it leads to movement of people across borders and their permanent resettlement or to internal, repetitive, temporary movements within a state’s borders—always involves the corporeal movement of people and the undoing of habitats, life worlds, and identities. In this regard, human mobility could both induce and take away aspirations, longings, and memories, and has a powerful impact on the future of affected communities, both those remaining behind and those that have left. Furthermore, displacement involves not only the mobility of people; it also brings domestic crises to regional and global audiences.

The presence of the dispossessed is a regular feature of the contemporary system of states. In the case of forced migration, effects of displacement are amplified by the collapse of livelihoods of people on the move, whose immediate rehabilitation becomes the priority for aid and development agencies. As such, mobility is defined as integral to the right to life by some, and yet as a burden for others.

Displacement is a process that could last many months or even years. During this process, different types of mobility emerge depending upon whether the displaced are located in urban areas or camps, whether they have easy access to the basic resources they need for survival, whether they are fearful of renewed violence, levels of environmental stress, and whether or not they expect or aspire to return home. Overall, human displacement cannot be fully understood in its political, cultural, economic, and technological complexities without looking at the dynamic and systemic nature of interlocking forms of mobility. The endeavour of addressing it also requires a solid ethical commitment in terms of not overriding its root causes, and not treating it as a cause itself rather than the symptom that it is. Despite the clear overlap between mobility and forced migration, however, relatively little work has combined these two bodies of research and thinking. While both forced migration and mobilities literatures are well established in their own right, there is a range of areas in which the two approaches would substantially benefit from cross-fertilization and a more fluid interchange in both theoretical and empirical terms (Urry 2000, 2003; Sheller and Urry 2006). Attending as much to moorings as to mobility and as much to fixity as to flow could be an apt beginning point in this regard (Hannam et al. 2006). Forced migration is a particular kind of mobility that involves total undoing of the possibility of remaining in one's habitus and thus fixity. A genuine engagement between theories of mobility and forced migration promises to provide a new window onto this complex relationship with space/place and security/freedom. Through studying situations in which mass movements start due to diminished chance of livelihood and survival, both fixity and flow assume novel meanings (Canzler et al. 2008).

In its traditional format, mobility studies tended to be consumed by the temptation to treat the forced migrant as a figure outside the global north. This Orientalist vision of the world divided the globe into advanced capitalist regions with predictable, peaceful mobilities and the

postcolonial and postimperial global south with unpredictable, chaotic mobilities triggered by violence, governance deficits, and abuse of state power. As an alternative, a critical, historically informed focus on forced migration could fruitfully connect mobilities research with debates on entangled and contested modernities. This would then allow us to embed theories of statehood, global political economy, regimes of accumulation, and restructuring of labour markets within the context of various forms of both imposed and forced mobility (Eisenstadt 2000; Preyer and Sussman 2015; see chapter 5 for an example of such an analysis). Such a critical gaze is particularly pertinent at a moment when the global balance of power is shifting with new political and environmental consequences, and when the vision of global flows and borderless horizons of supposedly endless opportunities is now taking hold in emerging regional economies such as those in India, China, Turkey, and Brazil. In many parts of the world, increased circulation of labour is uncritically seen as a promising sign of a global move forward to better lives, further development, and interconnectedness. The resultant romanticization of mobility through its association with freedom, liberation, and self-fulfillment is particularly detrimental to developing a global analysis of imposed and forced migration flows and population exchanges. Even critical thinkers such as Gilles Deleuze and Félix Guattari and Michel de Certeau equate mobility with power. This viewpoint is blind to the sociopolitical reality that mobilities are socially, economically, and legally differentiated and not all lead to better lives (Elliot and Urry 2010). In keeping with these reservations about decontextualized understandings of mobility, many of the ways in which movement is imposed upon populations indicate the use of mobility as a tool in subjugating and disciplining populations rather than delivering paradise. Mobility thus becomes a last resort and is to be associated with deep-seated insecurities rather than freedom. The lack of an endpoint or destination, the constant movement from one location to another, and the persistent uncertainty about the future that many forced migrants, environmentally displaced people, political refugees, and the *sans papiers* have to live through is indeed no cause for celebration.

In hindsight, during the post-Second World War era the refugee has not featured as prominently as the foreigner, the flâneur, or the stranger—other than in a few select bodies of work, such as Hannah Arendt's oeuvre (Diken 1998; Isin and Nyers 2014). It was never made into a pivotal figure

in understanding modernity, change, or even oppression. More recent accounts on refugees, exile, and dispossession still fail to take proper note of the reluctance of the refugee regarding their condition (Agamben 2000; Derrida 2001). This relative neglect of the refugee and the forced migrant is indicative of the inclination of writers, scholars, and intellectuals to favour the more singular and elite term “exile.” Given the widespread and systemic nature of forced migration, the preference of common metaphors and symbols used to represent displacement indicating individualized, and often elite, circumstances is indeed worrisome vis-à-vis the history of social sciences itself. As long as dislocation is expressed in singular rather than collective terms, and as an individual choice rather than as a result of sociopolitical circumstances and due to structural inequalities, we are bound to associate mobility with better lives, more choice, and a presumed use of agency (Kaplan 1996; Doughty and Murray 2016).

Forced migration is often regarded as puzzling since there is no migration without, at some point, a conscious and volitional choice to move, however constrained and imposed this choice might be (Turton 2003; Steinberg 2016). Under-theorization of communities and individuals whose numbers reach millions and for whom movement is an undesirable necessity as a result of factors outside their control, is a serious deficit affecting multiple fields of study. Processes of purification that have shaped modern Western imaginaries dictate that colonial and imperial logics of population control and demographic engineering through displacement of the subaltern subjects are normalized through the construction of a hiatus between now and then: the time of such chaos is supposedly over for the societies of the global north. In this sense, forced migration studies invites us to rethink the history of modernity in a way that recognizes the legacy of these double gestures of colonization and expulsion, incorporation and erasure, crises and status quo, et cetera. Without these entangled and yet silenced histories of colonialism, partition, and exploitation, state borders are perpetually reinforced as inalienable despite their innate porousness and indeterminacy (Appadurai 2006; Elden 2009). And yet, the systemic and dynamic character of global capitalism reveals itself as disorganized movements in the global south (Gregory and Pred 2007; Springer and Le Billion 2016). Systemic violence, the threat of persecution, and the fear of impending disasters routinely producing movements and moorings cannot be simplified as an internal problem of the societies in the

global south. The common understanding of war as a cataclysmic, one-off conflict between two parties in one place over a relatively short period of time is dangerously outdated in the face of longer periods of conflict engulfing diverse groups in multiple places and including multiple actors in addition to states (Kaldor 2001; Van Creveld 2009).

In this regard, conceiving the state as a fluid and highly adaptable entity (perhaps almost a shape-shifter) is a crucial step towards understanding contemporary global and regional regimes of regulation pertaining to migrants, refugees, asylum seekers, and *sans papiers*. Responses of the state to populations on the move involve quantification techniques that allow for their counting, codification, classification, and categorization. This is raw governmental power—producing and reproducing subjects as calculable units (Painter 2006). It is also an intensely political process since judgments are made about who can move, who gets counted, and who becomes part of the “unknown masses” on the move. The security sought by states through these techniques of containment and selection creates further insecurities. For the forced migrant, spatial and temporal mobility thus become co-constitutive of new forms of dispossession. Displaced persons are kept repetitively, gradually, seasonally, and/or locally mobile as a result of the dire necessities of survival. Mobility thus becomes a way of life rather than an exceptional event (Malkki 1996; Bauman 2001; Nyers 2003).

The historical and geographical variability of regimes of citizenship offers yet another potentially fruitful field to explore the synergy between forced migration studies and mobility. The fluid notion of membership rights varies according to the cultural context and sociopolitical climate in which it circulates, with profound consequences for migrants in terms of the rights and responsibilities they are entitled to (Dikeç et al. 2009). Furthermore, commonplace innovations in border controls such as points-based systems of immigration management, privatization of detention facilities, and the use of quasi-legal mechanisms such as safe third country rules and remote-control strategies of policing global mobilities raise the broader question of global policy transfers (Anderson 2010). Key to this issue is the degree to which policies replicate subversive techniques and disciplining measures as they travel, or become “self-fertilizing” based on the combination of policy perspectives adopted from different places (Prince 2010). In this context, as well, forced migration scholarship

throws into relief a vast array of challenging situations in which mobility, uncertainty, risk, and fear interact. Geographies created through these routes, encounters, retentions, and escapes are becoming increasingly volatile. Textures of ordinary lives in countries and regions where forced migration has become a central and persistent practice of social and political control shape identities in ways that cannot be confined to migration studies alone (Mountz 2015). This emergent ontology of exclusion surrounding the regulation of mobility by states and other institutional actors is highly relevant to discussions on the relationship between forced migration and transitional justice. It also calls into question the impact of asylum-sector research that effectively rewrites and reinterprets the narratives of displaced peoples because they often act, however unwittingly, as part of the broader governmental apparatus through which populations are subjected to control. We could go as far as arguing that helping to alleviate the worst humanitarian consequences of dispossession inadvertently leads to the marginalization of immigrant communities (Tickell and Peck 2003; May et al. 2007). This is a methodological as well as a political problem. In conclusion, there is great potential for the transitional justice and forced migration nexus to provide a platform for the production and dissemination of cross-cutting research and activism on topics such as: gaps in human rights law, norms, and standards pertaining to expelled and disposed populations; post-conflict processes as they relate to displaced peoples; global justice and peace movements including refugees and exiles who wish to return home; and our understanding of human mobility at the age of global capitalism in general. Bringing these two lenses together allows us to see forced migration like a sentence stopped in the middle, and encourages us to think of various endings to it rather than seeing refuge and resettlement as the ultimate destination.

Note

- 1 See UNHCR figures for 2017 at <http://www.unhcr.org/figures-at-a-glance.html> [accessed 9 Dec 2018].

References

- Agamben, Giorgio. 2000. *Means without End: Notes on Politics*. Minneapolis, MN: University of Minnesota Press.
- Anderson, Bridget. 2010. "Migration, Immigration Controls and the Fashioning of Precarious Workers." *Work, Employment and Society* 24, no. 2: 1–18.
- Appadurai, Arjun. 2006. *Fear of Small Numbers: An Essay on the Geography of Anger*. Durham: Duke University Press.
- Bauman, Zygmunt. 2001. *Community: Seeking Safety in an Insecure World*. Cambridge: Polity Press.
- Canefe, Nergis. 2017. "Migration as a Necessity: Contextualising the European Response to the Syrian Exodus." *Refugee Watch* 48.
- Canzler, Weert, Vincent Kaufmann, and Sven Kesselring. 2008. *Tracing Mobilities: Towards a Cosmopolitan Perspective*. London: Ashgate.
- Castles, Stephen, Hein De Haas, and Mark J. Miller. 2013. *The Age of Migration: International Population Movements in the Modern World*. Houndmills, Basingstoke, Hampshire: Palgrave Macmillan.
- Chatty, Dawn. 2014. "Anthropology and Forced Migration." In *The Oxford Handbook of Refugee and Forced Migration Studies*, edited by Elena Fiddian-Qasmiyeh, Gil Loescher, Katy Long, and Nando Sigona, 74–85. Oxford: Oxford University Press.
- Derrida, Jacques. 2001. *Cosmopolitanism and Forgiveness*. London: Routledge.
- Dikeç, Mustafa, Nigel Clark, and Clive Barnett. 2009. *Extending Hospitality: Giving Space, Taking Time*. Edinburgh: Edinburgh University Press.
- Diken, Bulent. 1998. *Strangers, Ambivalence and Social Theory*. Aldershot: Ashgate.
- Doughty, Karolina, and Lesley Murray. 2016. "Discourses of Mobility: Institutions, Everyday Lives and Embodiment." *Mobilities* 11, no. 2: 303–22.
- Drumbl, Mark A. 2016. "Transitional Justice Moments." *International Journal of Transitional Justice* 10, no. 2: 203–10.
- Duthie, Roger. 2014. "Transitional Justice, Development, and Economic Violence." In *Justice and Economic Violence in Transition*, edited by Dustin N. Sharp, 165–201. New York: Springer.
- Eisenstadt, Samuel N. 2000. "Multiple Modernities." *Daedalus* 129, no. 1: 1–29.
- Elden, Stuart. 2009. *Terror and Territory: The Spatial Extent of Sovereignty*. London: University of Minnesota Press.
- Elliott, Anthony, and John Urry. 2010. *Mobile Lives*. London: Routledge.
- Fletcher, Laurel E., and Harvey M. Weinstein. 2015. "Writing Transitional Justice: An Empirical

- Evaluation of Transitional Justice Scholarship in Academic Journals.” *Journal of Human Rights Practice* 7, no. 2: 177–98.
- Franzki, Hannah, and Maria Carolina Olarte. 2013. “Understanding the Political Economy of Transitional Justice.” In *Transitional Justice Theories*, edited by Susanne Buckley-Zistel, Teresa K. Beck, Christian Braun, and Friederike Mieth, 201–21. New York: Routledge.
- Goodwin-Gill, Guy S. 2014. “The International Law of Refugee Protection.” In *The Oxford Handbook of Refugee and Forced Migration Studies*, edited by Elena Fiddian-Qasmiyeh, Gil Loescher, Katy Long, and Nando Sigona, 36–47. Oxford: Oxford University Press.
- Gregory, Derek, and Allan Pred. 2007. *Violent Geographies: Fear, Terror, and Political Violence*. London: Routledge.
- Hannam, Kevin, Mimi Sheller, and John Urry. 2006. “Editorial: Mobilities, Immobilities and Moorings.” *Mobilities* 1, no. 1: 1–22.
- Hansen, Randall. 2003. “Migration to Europe since 1945: Its History and Its Lessons.” *Political Quarterly* 74, no. 1: 25–38.
- Insin, Engin F., and Peter Nyers. 2014. *Routledge Handbook of Global Citizenship Studies*. New York: Routledge.
- Jeffrey, Alexander S., and Michaelina Jakala. 2015. “Using Courts to Build States: The Competing Spaces of Citizenship in Transitional Justice Programmes.” *Political Geography* 47: 43–52.
- Kaldor, Mary. 2001. *New and Old Wars: Organised Violence in a Global Era*. London: Polity Press.
- Kaplan, Caren. 1996. *Questions of Travel: Postmodern Discourses of Displacement*. Durham, NC: Duke University Press.
- Kaushikee. 2017. “Justice and Reconciliation in the Aftermath of Mass Atrocities and Collective Violence: The Restorative Justice Lens.” In *Restorative Justice in India: Traditional Practice and Contemporary Applications*, edited by R. Thilagaraj and Jianhong Liu, 151–66. San Francisco: Springer.
- Longman, Timothy. 2017. *Memory and Justice in Post-Genocide Rwanda*. Cambridge: Cambridge University Press.
- MacDonald, Anna. 2017. “Transitional Justice and Political Economies of Survival in Post-conflict Northern Uganda.” *Development and Change* 48, no. 2: 286–311.
- Malkki, Liisa. 1996. “Speechless Emissaries: Refugees, Humanitarianism, and Dehistoricization.” *Cultural Anthropology* 11, no. 3: 377–404.
- May, Jon, Jane Wills, Kavita Datta, Yara Evans, Joanna Herbert, and Cathy McIlwaine. 2007. “Keeping London Working: Global Cities, the British State, and London’s New Migrant Division of Labour.” *Transactions of the Institute of British Geographers* 32, no. 2: 151–67.

- McEvoy, Kieran, and Kirsten McConnachie. 2013. "Victims and Transitional Justice: Voice, Agency and Blame." *Social & Legal Studies* 22, no. 4: 489–513.
- Mihai, Mihaela. 2010. "Transitional Justice and the Quest for Democracy: A Contribution to a Political Theory of Democratic Transformations." *Ratio Juris* 23, no. 2: 83–204.
- Mitra, Iman K., Ranabir Samaddar, and Samita Sen. 2017. *Accumulation in Post-Colonial Capitalism*. Singapore: Springer.
- Mountz, Alison. 2015. "Political Geography II: Islands and Archipelagos." *Progress in Human Geography* 39, no. 5: 636–46.
- Nyers, Peter. 2013. *Rethinking Refugees: Beyond State of Emergency*. New York: Routledge.
- . 2003. "Object Cosmopolitanism: The Politics of Protection in the Anti-Deportation Movement." *Third World Quarterly* 24, no. 6: 1069–93.
- Painter, Joe. 2006. "Prosaic Geographies of Stateness." *Political Geography* 25, no. 7: 752–74.
- Preyer, Gerhard, and Michael Sussmann. 2015. *Varieties of Multiple Modernities: New Research Design*. Leiden: Brill.
- Prince, Russell. 2010. "Policy Transfer as Policy Assemblage: Making Policy for the Creative Industries in New Zealand." *Environment and Planning A* 42, no. 1: 169–86.
- Rowen, Jamie R. 2016. "'We Don't Believe in Transitional Justice': Peace and the Politics of Legal Ideas in Colombia." *Law & Social Inquiry* 42, no. 3: 622–47.
- Samaddar, Ranabir. 2017. *The Politics of Dialogue: Living under the Geopolitical Histories of War and Peace*. New York: Routledge.
- . 2016. "Forced Migration Situations as Exceptions in History?" *International Journal of Migration and Border Studies* 2, no. 2: 99–118.
- Seoighe, Rachel. 2016. "Discourses of Victimization in Sri Lanka's Civil War: Collective Memory, Legitimacy and Agency." *Social & Legal Studies* 25, no. 3: 355–80.
- Sharp, Dustin N. 2014. "Emancipating Transitional Justice from the Bonds of the Paradigmatic Transition." *International Journal of Transitional Justice* 9, no. 1: 150–69.
- . 2016. "Transitional Justice and Liberal Post-Conflict Governance: Synergies and Symmetries, Frictions and Contradictions." PhD diss., Leiden University.
- Shaw, Timothy M., and Larry A. Swatuk. 1994. *The South at the End of the Twentieth Century: Rethinking the Political Economy of Foreign Policy in Africa, Asia, the Caribbean and Latin America*. Houndmills, Basingstoke, Hampshire: Palgrave Macmillan.
- Sheller, Mimi, and John Urry. 2006. "The New Mobilities Paradigm." *Environment and Planning A* 38, no. 2: 207–26.

- Springer, Simon, and Philippe Le Billon. 2016. "Violence and Space: An Introduction to the Geographies of Violence." *Political Geography* 52: 1–3.
- Steinberg, Jonny. 2016. "The Vertiginous Power of Decisions: Working through a Paradox about Forced Migration." *Public Culture* 28, no. 1: 139–60.
- Teitel, Ruti G. 2015. *Globalizing Transitional Justice: Contemporary Essays*. Oxford: Oxford University Press.
- Tickell, Adam, and Jamie Peck. 2003. "Making Global Rules: Globalization or Neoliberalization?" In *Remaking the Global Economy: Economic-Geographic Perspectives*, edited by Jamie Peck and Henry Wai-chung Yeung, 163–81. London: Sage.
- Turton, David. 2003. *Conceptualising Forced Migration*. Refugee Studies Centre Working Paper No. 12. Oxford: University of Oxford.
- Uhlin, Anders, Jewellord Nem Singh, Jean Grugel, and Lorenza B. Fontana. 2017. "Claiming Justice in the Global South." In *Demanding Justice in the Global South*, edited by Jean Grugel, Jewellord Nem Singh, Lorenza B. Fontana, and Anders Uhlin, 177–94. Houndmills, Basingstoke, Hampshire: Palgrave Macmillan.
- Urry, John. 2000. *Sociology beyond Societies*. London: Routledge.
- . 2003. *Global Complexities*. Oxford: Polity
- Van Creveld, Martin. 2009. *Transformation of War*. New York: Simon and Schuster.
- Vinjamuri, Leslie, and Jack Snyder. 2015. "Law and Politics in Transitional Justice." *Annual Review of Political Science* 18: 303–27.
- Waldorf, Lars. 2018. "Legal Empowerment and Horizontal Inequalities after Conflict." *Journal of Development Studies*. <https://doi.org/10.1080/00220388.2018.1451635>.

