

own in-depth chapter to provide a wealth of interpretive guidance.

Like with many texts that purport to provide a thorough treatment, you really put the details to the test only when you are required to apply the law to the facts before you. I have recently had the chance to put two of the chapters to the test because of recent profound changes in Canadian refugee law.

The change is to an element of refugee law called cessation. This means that once you no longer need refugee protection, it will cease. The legal test for cessation is that one either acts to show one no longer needs protection or one's country has now changed in ways that make it safe to return. While the basic legal tests are the same, now these tests are being applied to people who have also acquired permanent resident status in Canada.

In effect, when you no longer need refugee status, you are deemed to no longer need permanent resident status either. Quite simply, this does not appear to occur in any other refugee signatory country. The norm was that once permanent status is granted, there was no need to revisit the need for refugee protection. No other permanent residents in Canada have to constantly account for the basis of the original basis of the grant of permanent residence, but now refugees do.

What at first appeared rational, becomes, upon examination, a shell game. The only way I could begin to sort this out was to look at the big picture—and along came the second edition. This issue is covered exhaustively in chapters 6 and 7; I read and re-read them.

Chapter 6 revealed that this is an unprecedented change. Chapter 7 revealed that the change itself is unprincipled. These chapters together provided the tools to give guidance and structure in my submissions to the necessary tribunals in Canada. Frankly, no one understands the how or the why of these changes—not the refugee tribunal, not the courts, not my colleagues. Lawyers for the government are forced to justify it all by saying it is the will of Parliament (rationale not apparently required).

What this exercise in legal interpretation demonstrated for me is that refugee law is in constant flux in its application and interpretation—despite long-standing core principles and more than sixty years of application throughout the world.

When an unanswered question arises, the essential principles must be revisited.

This text is as worthy a place to start with the tough questions as with the easy ones.

In 1989, during his second year at Osgoode Hall Law School, Douglas Cannon was given the following advice from one of his professors: "Law is hard work, stressful, rewarding, frustrating, and, if you are lucky, you will be well paid. Only one of those features will keep you from burning out in five to seven years." Douglas has now been practising, teaching, and learning about immigration and refugee law for more than twenty years in Vancouver—because it is rewarding. The author may be contacted at DCannon@elgincannon.com.

Survival Migration: Failed Governance and the Crisis of Displacement

Alexander Betts

Ithaca: Cornell University Press, 2013

Humanitarian Crises and Migration: Causes, Consequences and Responses

Edited by Susan F. Martin, Sanjula Weerasinghe, and Abbie Taylor

New York: Routledge, 2014

Crisis and Migration: Critical Perspectives

Edited by Anna Lindley

New York: Routledge, 2014

Introduction

On 12 and 13 October 2015, as the world's attention was focused on the refugee crisis unfolding on Europe's borders, a meeting was convened in Geneva to consider how the world should respond to the growing instances of cross-border displacement resulting from disasters and the effects of climate change. This latest meeting

of the Nansen Initiative heard compelling evidence of the scale of this form of displacement: 184 million people displaced by disaster per year between 2008 and 2014. That's one person every second. The meeting also produced some encouraging results: 111 states endorsed the recommendations on how to ensure protection for these displaced persons.

The Geneva meetings marked a potentially important step in global discussions on how to address gaps in the global response to the millions of people every year who are displaced by natural disasters, such as floods, earthquakes, and droughts. While these forms of displacement are not new, it is argued that they are becoming more frequent and significant as a result of the effects of climate change. While the Office of the United Nations High Commissioner for Refugees (UNHCR) has had a policy on responding to displacement in the context of natural disasters since 2008, it is clear that neither the mandate nor the scale of this form of displacement can be fully addressed within the global refugee regime. As the UNHCR struggles to respond to the needs of some 60 million displaced persons in the world today—the highest level since the end of the Second World War—some estimates place the number of people displaced as a result of climate change as closer to 250 million by 2050.

In response to the scale of the challenge, the significance of current protection gaps, and the limitations of addressing this issue within current institutional frameworks, the Nansen Initiative was launched by Switzerland and Norway in 2012. It is a state-led process to produce a consensus among states on the standards by which future responses should be guided. The result could be a new set of global norms that may have a lasting impact on the rights of the displaced for many years to come.

New Research on Crisis Migration

It is within the context of this global policy process that we can more fully appreciate the timeliness of three recent books by respected scholars in the field of refugee and forced migration studies. *Survival Migration* by Alexander Betts draws on six case studies to understand if, when, and how states “stretch” the spirit of the global refugee regime to offer protection to individuals who flee to their countries for reasons that do not meet the standards established by the 1951 Convention relating to the Status of Refugees. *Humanitarian Crises and Migration*, edited by Susan Martin, Sanjula Weerasinghe, and Abbie Taylor, includes seventeen chapters from prominent scholars that examine the range of contexts in which mobility and immobility are associated with humanitarian crises and the diversity of populations affected. *Crisis and Migration*, edited by Anna Lindley, draws on a range of compelling case studies to problematize the assumption that human mobility constitutes a crisis, arguing for the need to treat both “crisis” and “migration” as complex processes rather than singular events. While they are not the first works to critically engage with the relationship between phenomena such as climate change and forced migration, these three books provide an important foundation for future research on these issues and raise

challenging questions. Given the pace of policy discussions on these issues, it is important for the research community to engage with the questions raised by these recent books in a critical and meaningful way.

Survival Migration

Survival Migration makes at least two important contributions to these discussions. First, the book proposes the category of “survival migration,” defined as individuals who are “outside their country of origin because of an existential threat for which they have no access to a domestic remedy or resolution” (4–5). By considering the core purpose of refugee protection, and following a reflection of new drivers of displacement such as environmental change, food insecurity, and state fragility, the book highlights “the range of people who have a human rights–based entitlement not to be returned to their country of origin, irrespective of whether they are refugees and of whether that right derives from international refugee law or international human rights law” (25). The book then usefully engages with potential critiques of this new approach, such as the risks associated with the proliferation of labels, the emphasis on those who cross international borders, and the semantics of the term *survival*. The treatment of these concepts and questions within a single chapter makes for a compelling argument—both within the context of the book and within wider debates about the limits of established refugee definitions.

The more significant contribution of the book, however, is its engagement with the limits of the current contours of the global refugee regime and its ability to “stretch” to ensure protection for new categories of forced migrants. Through the rich and detailed case studies of the responses of South Africa, Botswana, Angola, Tanzania, Kenya, and Yemen to “survival migrants,” the book argues that regimes do not stretch to accommodate new categories of forced migrants because of the articulation of global norms. Instead, the book argues that regimes stretch, or do not stretch, largely as a result of national politics and the perceived interests of local elites. While we have known for some time that politics affects the quantity and quality of asylum afforded by states, *Survival Migration* moves this area of research forward by presenting a framework for identifying the range of domestic and international factors involved, thereby providing a basis for future comparative research on the implications of similar interests and processes in different states.

Implicit in Betts’s argument, however, is a sense that the current regime can adapt to new forms of displacement and that “if the processes that shape implementation can be understood, then they can be influenced” (176). This suggests that responses to new forms of migration can more usefully begin by understanding how inclusion and

adaptation have been possible in recent cases, and if similar preconditions can be encouraged elsewhere.

Humanitarian Crises and Migration

While the role of politics and interests in conditioning responses is echoed in *Humanitarian Crises and Migration*, the book's conclusions are less optimistic in the ability of current arrangements to adapt and the sufficiency of existing institutions. While the book outlines the range of norms and institutions that exist to respond to different forms of "crisis migration," the final chapter of the book concludes that "in some areas, existing governance structures adequately address the humanitarian challenge" while "in other areas, there are gaps that need to be filled" (363). Many of these gaps are to be found in the broader range of populations included in the analysis of the book, compared to *Survival Migration*. While "survival migrants" are those individuals who fled across an international border, Martin, Weerasinghe, and Taylor include in their analysis the needs of those who are displaced (both within states and across borders) as a result of crises, those who move in anticipation of a crisis, and populations who are trapped and are unable to move. This breadth of focus—on those who move both across borders and within countries, along with those who are not able to move—is analytically ambitious but effectively addressed by the first two chapters of the book.

The central focus of the book is to understand the relationship between migration and humanitarian crises, which the book defines as situations "in which there is a widespread threat to life, physical safety, health or basic subsistence that is beyond the coping capacity of individuals and communities in which they reside" (5). As the book then argues, this understanding challenges the forced-voluntary dichotomy that has been central to many of the policy and analytical efforts to characterize and classify instances of migration. In considering the applicability of this dichotomy to many recent instances of migration that have fallen outside existing frameworks, the book proposes the concept of "crisis migration" as a "deliberately broad" concept that seeks to engage with the "commonalities and differences in all movements across various crisis situations and the associated protection needs" of the populations concerned (11). In this way, the book describes "crisis migrants" as "all those who move and those who become trapped and are in need of relocation in the context of humanitarian crises" (12).

The book then proposes a framework for responding to the protection needs of related populations. At first, the framework seems overly ambitious, especially in light of Betts's characterization of the central role of interests in affording and denying protection. The rigour of the framework, however, becomes more apparent through the fifteen

subsequent chapters. Indeed, the core of the volume comprises rich and detailed chapters by recognized experts on instances and forms of displacement. Jane McAdam's chapter provides a strong foundation for the book through its consideration of the challenges and opportunities presented by evolutions in international law and policy on new forms of displacement in recent years. Elizabeth Ferris's chapter on Haiti illustrates the challenges associated with overlapping drivers of displacement and immobility through intersecting humanitarian crises. Anna Lindley's chapter on Somalia problematizes the popular account of climate change and displacement by highlighting the role of state capacity and political conflict in mitigating such forces. Chapters by Roger Zetter and James Morrissey and by Koko Warner and Tamer Afifi draw on the most current research on environmental change and displacement to consider the limits of our current understandings of causation and the efficacy of responses to both mitigate displacement and respect the rights of those who are displaced. Richard Black and Michael Collyer's chapter on "trapped" populations presents a compelling critique of the assumptions of causation and mobility that have triggered most recent responses. And these are the contributions of but six of the chapters. Much is to be learned from a close reading of all chapters and the contribution they make to the overall argument of the book. In this way, one of the few gaps in an otherwise comprehensive text is the absence of a concluding chapter that revisits the case studies and reinforces the volume's central argument through their contributions.

Ultimately, the book identifies three categories of individuals with different protection needs. The first category comprises "individuals whose governments are willing and able to provide protection" (19). While some forms of external support may be necessary, the challenge here largely relates to ensuring that international standards are upheld in domestic contexts. The second category includes "individuals in situations where governments are willing but unable to provide adequate protection" (19). In these instances, the challenge involves generating the international support and assistance necessary to implement programs to enable the state to protect its citizens, and developing a common set of international standards to identify what those standards should be. Much more challenging is the third category, when "governments are unwilling to provide protection to their citizens or non-nationals on their territory" (20). While the book highlights many of the normative and institutional tools available to responding to these more challenging situations—ranging from the work of the UN's Inter-Agency Standing Committee, the Responsibility to Protect, and, ultimately, the involvement of the UN Security Council—these situations remain the most problematic

because of the limited enforceability of these norms and the inconsistency of these institutions. Just as Betts highlights how the interests of local elites often determines the ability of a global regime to adapt in local contexts, the text highlights how greater agreement is required on how these global norms and institutions can and should be enacted in an effort to mobilize international action.

Crisis and Migration

The inherently political nature of these global norms and institutions, however, raises much broader questions about the distribution of power in the international system, and which actors are able to evoke existing norms and identify instances that warrant intervention, especially against the wishes of states that are the target of intervention. This is equally true in debates on the implementation of the norm of the Responsibility to Protect as it is in instances where states in the Global North may design and implement programs to contain forced migration in the Global South. Similar interests have arguably contributed to the fact that 86 per cent of the world's refugees are to be found in their regions of origin, and have motivated the kinds of restrictive responses to demands for entry currently unfolding in Europe. In such contexts, it becomes especially important to understand which actors have the legitimate authority to label situations as a "crisis" and implement particular responses.

As suggested by its title, *Crisis and Migration: Critical Perspectives* raises these questions and provides a set of analytical tools to more fully unpack the interests and motivations behind the deployment of certain labels and categorizations. The book challenges the assumption that instances of migration are inherently a crisis by taking "a critical look" at how crisis and migration are articulated "as lived experiences and as political constructs" (1). In this way the book mirrors critical thinking on the securitization of asylum by highlighting how the imprecise use of the term *crisis* permits a range of restrictive processes, many of which are justified as short-term responses to moments of crisis but become part of a more routine and regular pattern of behaviour by a range of actors. The explanation of this logic in the introductory chapter is especially helpful. The remainder of the book employs this critical approach to highlight the many assumptions, interests, and forces that have contributed to the construction of various "crises." Some of these interests have deep historical roots, such as colonial interests, while others are more contemporary, such as the downplaying of the situations in Somalia and Mexico by Northern states.

The volume then helpfully applies these lessons to a reconsideration of responses we have traditionally seen to identified instances of "crisis migration." Katy Long's

chapter draws on border closures between Turkey and northern Iraq (1991), Macedonia and Kosovo (1999), and Kenya and Somalia (2007–11) to identify the interests implicated in the characterization of these situations in a way that justified restrictive responses. As "products of politically manufactured crisis" (170), Long argues that these cases highlight how the interests of certain actors produced these experiences and how we need to more fully consider how international responses to these instances can "prompt or permit action and the ways in which such exceptional crises are legitimized" (170). Likewise, Tania Kaiser's examination of the experience of Sudanese Acholi refugees in Uganda challenges our understanding of the meaning of "crisis" as it is "understood and experienced by different social actors" (199). By tracing responses to prolonged displacement over fifteen years and the role of social networks in mediating and marshalling these responses, Kaiser's chapter challenges many assumptions about the displacement experience, highlighting the "possibility of transformational effects" (199) and urging future research to challenge current categorizations while working to bring the individual and shared experiences of the displaced more fully and rigorously into our analysis.

Overall, the book makes an invaluable contribution to the literature by illustrating the interests that have motivated a range of actors to deploy the terms and categories of "crisis" and "migration" in particular ways, at particular moments, for particular reasons. This conclusion should not only encourage us to ask more probing questions of the interests inherent in current debates on a global response to "new" forms of migration, but also encourage researchers themselves to be more critically self-aware of the assumptions inherent in the terms we use.

Foundations for Future Research

It is in this way that we can appreciate the distinct contributions of each text for future research on the causes, consequences, and possible responses to forms of displacement that are now gaining prominence on the international policy agenda. More specifically, they raise at least three questions for future research.

First, what are the challenges and benefits of broadening our understanding of new categories of those in need of international protection? Given the deep historical roots of many contemporary situations, as highlighted by Lindley's volume, can we delineate between "survival migration," "crisis migration," and those who feel compelled to move more generally as a result of structural inequalities and the forces of globalization and global inequalities? To what extent can we continue to challenge the distinction between those who are forced to flee and those who choose to move?

Second, how can a more detailed and nuanced understanding of the interests of actors at the global and local levels contribute to our understanding of the range of possible responses? All three works shed important light on the role that politics and interests play in conditioning responses. While this has been an important element of research on the functioning of the global refugee regime in recent years, our engagement with recent discussions on new forms and categories of displacement can be usefully informed by a critical understanding of the diverse interests of the wide range of actors involved. This may be especially important in the discussion of new categories of individuals deemed to be in need of international protection and the types of responses that are to be encouraged.

Third, and more fundamentally, these works help us ask important questions about the evolution and continued coherence of the global refugee regime. To what extent does the notion of a single global regime for refugees remain analytically coherent or politically relevant? Do recent discussions undermine the claims to legitimacy of the regime, formalized by states in the aftermath of the Second World War, or represent another effort by states to dilute the significance and legitimacy of this regime?

These are but three questions provoked by a reading of the works by Betts, Martin, Weerasinghe, and Taylor, and Lindley. These are fundamental questions to be asked of the discipline of refugee and forced migration studies, and questions that go to the heart of ongoing global policy discussions. Recently 111 states agreed to new principles on the protection of individuals displaced across borders as a result of natural disasters and the effects of climate change. While this may seem at first like an encouraging development, recent research should encourage and enable us to engage more fully and critically with deeper questions about what this can and should mean for the rights and well-being of the millions of people who may be affected.

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