

Editorial: Categorising Migrants: Standards, complexities, and politics

Claus K. Meyer and Sebastian Boll

Please cite this article as: C K Meyer and S Boll, 'Editorial: Categorising Migrants: Standards, complexities, and politics', *Anti-Trafficking Review*, issue 11, 2018, pp. 1–14, www.antitraffickingreview.org

In spring 2017, New York Times correspondent Patrick Kingsley went to Turkey to cover the lives of Syrian refugees.¹ In Istanbul, Kingsley met Abu Mohammed, a former surgeon's assistant from Syria, who between 2015 and 2016 had helped to facilitate the passage of refugees from his home country into Greece. After narrowly escaping death in his own failed attempt to reach Europe, Mohammed had earned some USD 800,000 with 'smuggling' activities. He himself spoke of a 'dirty business', but it had also been more than just a business—the refugees whom he had helped reach Europe included relatives and even his own son.

Kingsley also met 15-year-old Syrian Ismail Alanzi, a refugee working 'up to 11 hours a day, six days a week' on a farm in the east of Turkey—much more than the limit set by Turkish law for someone his age. With his father unable to find employment, however, the burden of supporting the family fell upon Ismail. He earned about TRY 800 (USD 225) per month for his toil, which was little more than half of the statutory minimum wage in the country.²

¹ P Kingsley, 'Syrians in Turkey: The human smuggler and the young refugee', *New York Times*, 24 March 2017, retrieved 14 September 2018, <https://www.nytimes.com/2017/03/24/world/europe/turkey-human-trafficking-refugee-crisis.html>.

² Republic of Turkey, Ministry of Labour and Social Security - Directorate General of Labour, *National Programme on the Elimination of Child Labour*, Ministry of Labour and Social Security - Directorate General of Labour, Ankara, 2017, p. 29; Republic of Turkey, Ministry of Labour and Social Security, *Net Minimum Wages by Years*, 2018, retrieved 14 September 2018, <http://www.csgb.gov.tr/en/Contents/Istatistikler/AsgariUcret>. For indicators of trafficking for labour exploitation, see United Nations Office on Drugs and Crime, *Human Trafficking Indicators*, UNODC, Vienna, 2009, http://www.unodc.org/pdf/HT_indicators_E_LOWRES.pdf.

Ismail also received permission for his family to set up a tent on the land of his employer as they struggled to find proper housing. Turkish law restricts refugees to residing in the province where they are registered, but the family had moved in search of work.

Refugees turning to smugglers; a refugee turned smuggler; a child who is an irregular migrant worker, but also a refugee and possibly even a trafficked person—categories as defined in international law blur before the complexities of contemporary migration. Yet, categorisations, and how these are applied, are of vital importance to people on the move as they may result in vastly different responses ranging from arrest and deportation to protection and other support. This Special Issue of the *Anti-Trafficking Review* deals with migratory categories, their use among authorities and humanitarian actors, and—most importantly—the impact they have on migrants themselves.³

Rising Numbers, Flawed Classifications

Migration has been described as ‘a mega-trend of our century’.⁴ Latest UN estimates indicate that the number of international migrants has grown by nearly 50 per cent since the start of the millennium, more than twice as fast as the world population, reaching a total of some 258 million in 2017.⁵ The

³ For other recent contributions to this debate, see for example: H Crawley and D Skleparis, ‘Refugees, Migrants, Neither, Both: Categorical fetishism and the politics of bounding in Europe’s “migration crisis”’, *Journal of Ethnic and Migration Studies*, vol. 44, no. 1, 2018, pp. 48–64; T Faist, ‘The Moral Polity of Forced Migration’, *Ethnic and Racial Studies*, vol. 41, no. 3, 2018, pp. 412–423.

⁴ Quote from ‘William Lacy Swing, Director General, International Organization for Migration at the September Summit and Signing of the IOM-UN Agreement, International Organization of Migration, 19 September 2016, p. 1, retrieved 13 September 2018, <https://www.iom.int/sites/default/files/about-iom/IOM-UN-Agreement-Sept19-2016.pdf>. António Guterres, then United Nations High Commissioner for Refugees, had already described migration as a ‘mega-trend’ in 2009; United Nations, ‘Five “Mega-Trends” [...] Make Contemporary Displacement Increasingly Complex, Third Committee Told’, Meetings coverage and press releases, *United Nations* (blog), 4 November 2009, retrieved 13 September 2018, <https://www.un.org/press/en/2009/gashc3964.doc.htm>.

⁵ United Nations, Department of Economic and Social Affairs, *Population Division, Trends in International Migrant Stock: The 2017 revision*, UN DESA, New York, December 2017, retrieved 13 September 2018, https://www.un.org/en/development/desa/population/migration/data/estimates2/data/UN_MigrantStockTotal_2017.xlsx; Department of Economic and Social Affairs, Population Division, *World Population Prospects: The 2017 revision*, vol. 1, *Comprehensive tables*, ST/ESA/SER.A/399, United Nations, New York, 2017, pp. xix, 2, https://population.un.org/wpp/Publications/Files/WPP2017_Volume-I_Comprehensive-Tables.pdf.

closely linked phenomenon of internal migration, which is not included in this figure, is even more significant.⁶ In recent years, the persecution of the Rohingya in Myanmar, civil wars in Syria and South Sudan, the economic crisis of Venezuela, among others, have caused surges in cross-border migratory flows, and pushed migration to the top of political agendas in various parts of the world. Further, rising awareness of climate change has also drawn attention to the nexus between the environment and migration.⁷ Indeed, the ten largest displacement events of 2016 were climate-related, eight of which occurred in Asia.⁸

The increasing scale and complexities of human mobility have exposed the shortcomings in the current international legal framework on migration. Relevant norms are fragmented and incomplete, with the very term ‘migrant’ remaining undefined. In the absence of comprehensive, integrated legislation, applicable standards provide for partial and overlapping categorisations of people on the move, often designed to afford protection to specific sub-groups. Sources relate to asylum, crime, human rights, humanitarianism, labour, or the sea, and many go back to the decades between 1950 and 1980—a period of significant global standard-setting in the wake of the Second World War.⁹

In response, the international community has been negotiating a strengthened cooperation framework to deal with human mobility for the past two years. In 2016, the UN General Assembly adopted the *New York Declaration for Refugees*

⁶ R Skeldon, *International Migration, Internal Migration, Mobility and Urbanization: Towards more integrated approaches*, United Nations, New York, 7-8 September 2017, retrieved 14 September 2018, <http://www.un.org/en/development/desa/population/events/pdf/expert/27/papers/II/paper-Skeldon-final.pdf>.

⁷ L Veronis, B Boyd, R Obokato and B Main, ‘Environmental Change and International Migration: A review’, in R A McLeman and F Gemenne (eds.), *Routledge Handbook of Environmental Displacement and Migration*, Routledge, Abingdon, Oxfordshire, 2018, pp. 42-70; V Mence and A Parrinder, ‘Environmentally Related International Migration: Policy challenges’, in M McAuliffe and K Koser (eds.), *A Long Way to Go: Irregular migration patterns, processes, drivers and decision-making*, ANU Press, Acton, Australia, 2017, pp. 317-342. First discussions of the migration-environment nexus date to the 1980s.

⁸ S Opitz Stapleton et al., *Climate change, migration and displacement: The need for a risk-informed and coherent approach*, ODI, London and UNDP, New York, November 2017, retrieved 20 September 2018, <https://www.odi.org/sites/odi.org.uk/files/resource-documents/11874.pdf>, p. 10.

⁹ See also *Global Compact for Safe, Orderly and Regular Migration* (Final Draft), retrieved 3 September, https://refugeesmigrants.un.org/sites/default/files/180711_final_draft_0.pdf, para. 2.

and *Migrants*, in which member states committed to developing two Global Compacts, one for each group (Annexes I and II of the Declaration).¹⁰

The *Global Compact on Refugees* (GCR) seeks to strengthen refugees' self-reliance, broaden access to third-country solutions and generate conditions in countries of origin conducive to return in safety and dignity, whilst also ensuring that the burden of receiving and assisting refugees be shared more equitably among states.¹¹ The final draft is expected to be adopted by the UN General Assembly in November 2018. The *Global Compact for Migration*¹² (GCM) is designed to cover 'all dimensions of international migration in a holistic and comprehensive manner',¹³ whilst maintaining that 'migrants and refugees are *distinct* groups governed by separate legal frameworks' (para. 4, emphasis added). The GCM aims to mitigate factors in home countries that compel people to move, reduce the risks and vulnerabilities faced by migrants and support conditions that allow them to contribute to sustainable development.¹⁴ The GCM will be formally adopted at a dedicated intergovernmental conference in December 2018.

The distinction made in the Compacts between migrants and refugees, stated in general terms, echoes a political discourse that in many countries is more specifically focused on controlling *irregular* migration—cross-border movement of people not authorised, and at times criminalised, by receiving states. The dominant narrative on irregular migration often posits a binary classification that is expressed in a variety of paired terms, contrasting victims with criminals,

¹⁰ United Nations, General Assembly, *Making Migration Work for All: Report of the Secretary-General*, United Nations, New York, 12 December 2017, para. 3, retrieved 13 September 2018, https://refugeesmigrants.un.org/sites/default/files/sg_report_en.pdf.

¹¹ UNHCR, *The Global Compact on Refugees: UNHCR quick guide*, retrieved 10 September 2018, <http://www.unhcr.org/5b6d574a7>.

¹² Whilst the complete name is *Global Compact for Safe, Orderly, and Regular Migration*, the framework is more commonly referred to as the *Global Compact for Migration*.

¹³ IOM, 'Our Work: Global Compact for Migration', retrieved 7 September 2018, <https://www.iom.int/global-compact-migration>.

¹⁴ *Global Compact for Migration*, retrieved 5 September 2018, <https://refugeesmigrants.un.org/migration-compact>.

or forced with voluntary or economic migration.¹⁵ Migrants are thus divided into those deserving particular protections and assistance, and others who are undeserving¹⁶ or even threatening, hence justifying defensive measures by states. In fact, the GCM has been criticised for placing too strong a focus on curbing cross-border movement and adopting a “‘root cause’ approach’ that casts ‘migration as a problem to be solved rather than a phenomenon natural to humanity’.¹⁷ Yet, reductionist classifications are incapable of doing justice to current migration flows and enter all too easily into a feedback loop of mutual reinforcement with negative attitudes towards migrants. The latter, in recent years, have manifested themselves in countries across the world in a variety of ways, including open xenophobia at societal and policy levels.¹⁸

¹⁵ See: S Plambech, ‘Between “Victims” and “Criminals”: Rescue, deportation, and everyday violence among Nigerian migrants’, *Social Politics*, vol. 21, no. 3, 2014, pp. 382–402, esp. pp. 384–385. On media coverage of migration more generally, see: M MacAuliffe, W Weeks and K Koser, ‘Media and Migration: Comparative analysis of print and online media reporting on migrants and migration in selected countries’, in M MacAuliffe and K Koser (eds.), *A Long Way to Go: Irregular migration patterns, processes, drivers and decision-making*, ANU Press, Acton, Australia, 2017, pp. 277–315. In a baseline study of 13 countries, MacAuliffe, Weeks and Koser find that reporting is ‘dynamic and quite sophisticated’ and most often uses a humanitarian rather than an economic, sociocultural or security frame. The authors warn against sweeping statements lamenting one-sided coverage. The study is based on 2014 data. It remains an open question to what extent the surge of migrants arriving in Europe in 2015–2016 led to a change in media coverage in the region; see: W Allen, S Blinder and R McNeil, ‘Media Reporting of Migrants and Migration’ in *World Migration Report 2018*, International Organization of Migration, Geneva, 2018, pp. 191–207, esp. pp. 194–195. The authors maintain that reporting is ‘largely negative’ (p. 205).

¹⁶ Crawley and Skleparis, pp. 49, 60. It is worth noting, though, that the GCM recognises the importance of the protection and promotion of migrants’ human rights and fundamental freedoms in various sections.

¹⁷ Mixed Migration Platform, *MMP Note on the Zero Draft of the ‘Global Compact for Safe, Orderly and Regular Migration’*, MMP, February 2018, p. 2, retrieved 13 September 2018, http://www.mixedmigration.org/wp-content/uploads/2018/07/48_mmp-note-on-gcm-zero-draft.pdf.

¹⁸ See, for example: T Scribner, ‘You Are Not Welcome Here Anymore: Restoring support for refugee resettlement in the age of ‘Trump’’, *Journal on Migration and Human Security*, vol. 5, no. 2, 2017, pp. 263–284; B A Vollmer, ‘The Continuing Shame of Europe: Discourses on migration policy in Germany and the UK’, *Migration Studies*, vol. 5, no. 1, 2017, pp. 49–64; S Gordon, ‘Xenophobia across the Class Divide: South African attitudes towards foreigners 2003–2012’, *Journal of Contemporary African Studies*, vol. 33, no. 4, 2015, pp. 494–509.

The increasingly complex and individualised patterns of migration not only defy any classificatory logic—any attempt to neatly separate migrants into mutually exclusive groups; the fluid nature of migratory experiences—and hence of the legal status applicable to people on the move—is also incompatible with static categorisations. The empirical complexities of migration expose the overlaps and interstices of the categories defined in international law, as the following examples related to human trafficking, migrant smuggling and asylum illustrate.

The concepts of consent and exploitation in the definition of human trafficking, as laid down in the UN Trafficking Protocol,¹⁹ are key to differentiating between human trafficking and migrant smuggling. The former may appear theoretically intuitive but proves elusive in practice. Indeed, the Protocol offers little guidance on how to define consent and, in fact, complicates matters further by noting that consent is nullified when brought about by ‘abuse of power or of a position of vulnerability’, two similarly obscure terms.²⁰ Moreover, conditions can change, and migrants who initially consented to a smuggling arrangement may subsequently find themselves exposed to varying degrees of coercion, abuse and exploitation—whether in transit or at destination, and be it at the hands of their smugglers or others.²¹ Further, the concept of exploitation—ultimately at the heart of all human trafficking—is not adequately defined either, as the Protocol only references certain extreme forms and no other source in international law provides much additional

¹⁹ UN General Assembly, *Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime*, 15 November 2000, (Trafficking Protocol), Art. 3 (a).

²⁰ Some efforts have been made to further delineate consent in the context of human trafficking. For example, see: UNODC, *Issue Paper: The Role of ‘Consent’ in the Trafficking in Persons Protocol*, Vienna, 2014, retrieved 16 September 2018, http://www.unodc.org/documents/human-trafficking/2014/UNODC_2014_Issue_Paper_Consent.pdf.

²¹ N Perkowski and V Squire, ‘The Anti-Policy of European Anti-Smuggling as a Site of Contestation in the Mediterranean Migration “Crisis”’, *Journal of Ethnic and Migration Studies*, 2018. On ransom, see: Y Goor, ‘Ransom Kidnapping and Human Trafficking: The case of the Sinai torture camps’, *Berkeley Journal of International Law*, vol. 36, no. 1, 2018, pp. 140, 143–150, 155–164. On the Mediterranean, see: P Monzini, N Abdel Aziz, and F Pastore, *The Changing Dynamics of Cross-Border Human Smuggling and Trafficking in the Mediterranean*, Istituto Affari Internazionali (IAI), Roma, 2015, pp. 42–46, retrieved 10 September 2018, http://www.iai.it/sites/default/files/newmed_monzini.pdf.

clarity.²² Such ambiguities render the distinction between human trafficking and migrant smuggling subject to a measure of arbitrariness and, as authorities determine the categories and treatment to be imposed upon migrants, allow for political agendas to shape outcomes. Increasingly restrictive migration policies and border control regimes, as put in place by many countries in recent years, suggest that current agendas are likely to have detrimental implications for the individuals concerned.

Asylum may also be linked with human trafficking and migrant smuggling. The United Nations High Commissioner for Refugees (UNHCR), in its *Guidelines on International Protection*, highlights that the exploitative experiences associated with human trafficking ‘constitute serious violations of human rights [and] will generally amount to persecution.’²³ At the same time, the particular conditions faced by asylum-seekers and refugees often create vulnerabilities conducive to abuse and exploitation, including at times human trafficking. For example, the International Organization for Migration (IOM) identified 78 Rohingya refugees at Cox’s Bazar, Bangladesh, as trafficked between October 2017 and July 2018, but expects the actual numbers to be much higher. It has also warned that thousands are vulnerable to such experiences, citing a lack of proper livelihood opportunities as a particular risk factor.²⁴ Experiences of human trafficking may thus contribute to legitimate asylum claims, and vice versa. Moreover, asylum, as per its definition in international law, can only be sought outside a person’s country of nationality. Given ever more rigid border control regimes in many countries, this means that asylum-seekers are frequently left with few choices but to revert to irregular migration channels, often facilitated by migrant smugglers, to access their right to protection under international law—a dilemma that the GCR has left largely unaddressed.

²² As with consent, some attempts have also been made to provide additional clarity around exploitation in the context of human trafficking. See for example: UNODC, *Issue Paper: The Concept of ‘Exploitation’ in the Trafficking in Persons Protocol*, Vienna, 2015, retrieved 16 September 2018, https://www.unodc.org/documents/congress/background-information/Human_Trafficking/UNODC_2015_Issue_Paper_Exploitation.pdf.

²³ UNHCR, *Guidelines on International Protection: The application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol relating to the Status of Refugees to victims of trafficking and persons at risk of being trafficked*, Geneva, 2006, retrieved 7 September 2018, <http://www.unhcr.org/publications/legal/443b626b2/guidelines-international-protection-7-application-article-1a2-1951-convention.html>.

²⁴ F MacGregor, ‘Thousands at Risk of Trafficking amid Rohingya Refugee Crisis’, IOM press release, 31 July 2018, retrieved 8 September 2018, <https://www.iom.int/news/thousands-risk-trafficking-amid-rohingya-refugee-crisis-iom>.

Since the early 2000s, humanitarian actors have advanced the concept of ‘mixed migration’ as a framework to capture the increasing complexities of migratory patterns, although a consensus on its definition has yet to emerge.²⁵ According to Sharpe, conceptualisations of ‘mixed migration’ can be divided into two main approaches: one focuses on the heterogeneity of migratory flows in terms of the different profiles and needs among people on the move, whereas the other goes further and also defines ‘mixed migration’ with respect to the diversity of people’s motivations for moving. Sharpe rejects the latter understanding, highlighting that it may exacerbate xenophobic views. Moreover, she argues that excluding motivation is consistent with the key principles of pertaining international law, which apply largely regardless of people’s reasons for migration.²⁶ Sharpe suggests that the concept of ‘mixed migration’ will have a greater theoretical and policy impact if its definition is centred on the heterogeneity of migratory flows alone. In emphasising protection needs rather than motives for movement, Sharpe’s discussion calls for more integrated approaches to providing assistance to migrants that are tailored to their individual circumstances, in line with various contributions to this Special Issue of the *Anti-Trafficking Review*.

Irregular Migrants, Refugees or Trafficked Persons?—This special issue

Against this backdrop, the United Nations Action for Cooperation against Trafficking in Persons (UN-ACT) and Mahidol University in Bangkok co-organised the International Seminar on Mixed Migration in Southeast and East Asia on 21–22 June 2017. The event sought to help strengthen research and teaching related to different manifestations of migration and migratory outcomes as few universities in the region²⁷ cover these phenomena in depth, which undermines the education of scholars and practitioners with pertinent expertise.

²⁵ M Sharpe, ‘Mixed Up: International law and the meaning(s) of “mixed migration”, *Refugee Survey Quarterly*, vol. 37, no. 1, March 2018, pp. 116–138.

²⁶ Sharpe’s analysis considers humanitarian law, human rights law, refugee law, transnational criminal law, and the law of the sea in this context.

²⁷ Mahidol University is one of only a few exceptions and maintains a research institute specialised in the field—the Mahidol Migration Center.

This Special Issue of the *Anti-Trafficking Review* builds on the conversation that began in Bangkok, providing it with a global platform. Contributors scrutinise the use and effects of migratory categories in light of the increasingly complex patterns of human mobility. The articles give voices to migrants in diverse contexts to explore how labels impact their lives. The settings examined comprise Italy, Indonesia and Malaysia, the Hong Kong Special Administrative Region of China, Peru, Mexico, and the United States.

Georgia Serughetti opens the Special Issue with a case study of Nigerian women asylum-seekers in Italy, many of whom are identified as potential victims of human trafficking. The paper highlights the flaws of separating migrants into distinct categories to determine their treatment. Drawing on feminist political philosophy and philosophy of law, Serughetti uses the concepts of ‘agency’ and ‘vulnerability’ to discuss the role of stereotyping in labelling practices. Vulnerability, she points out, is key to the gendered and racialised construction of the ‘deserving victim’ and is often conceived of as characterised by impotence and passivity. The article rejects this construction and argues instead that vulnerability is both an intrinsic human condition and an individual experience conditioned by a person’s position in the socio-economic order. Recognising the universal and systemic nature of vulnerability, Serughetti concludes, will help shift the focus of attention from people’s motives for moving to their protection needs.

The following four papers examine different labels applied to migrants and how these impact their treatment by various actors. Benny Juliawan analyses current migratory patterns connecting Indonesia and Malaysia against the historical background of human mobility between the two countries. The article examines how government efforts to control and shape this movement clash with traditional flows, leaving many migrants in conditions of irregularity. Juliawan follows a group of Indonesian migrant workers in Malaysia as they are arrested and deported to their home country. Drawing upon their stories, the article demonstrates how the Malaysian state sees irregular migrants as criminals while Indonesian authorities treat returnees as victims deserving protection. Juliawan argues that these shifting categorisations reflect political imperatives in the two countries rather than migrants’ experiences and narratives. He concludes that such state-centric responses fail to address the socio-economic realities underpinning migration between Indonesia and Malaysia, and will hence do little to change long-established patterns of human mobility.

Jade Anderson and Annie Li discuss the potential overlaps between asylum and human trafficking based on the experiences of migrant domestic workers in Hong Kong, China. Derived from case files and follow-up interviews of NGO clients, they show how a clear-cut separation between the two legal frameworks as widely practised by government and civil society actors in the city creates a protection gap, with possibly severe repercussions for migrants. Anderson and Li emphasise that recognising the intersections between both phenomena, and developing more integrated approaches in response, is fundamental to ensuring that individuals in precarious conditions are granted the full range of rights and assistance they are entitled to. As the article shows, such efforts are particularly relevant in Hong Kong given extremely limited protections afforded under either framework.

For their part, Cécile Blouin and Emily Button scrutinise the construction and application of migratory categories in Peru against the background of changing patterns of human mobility, especially the recent influx of Venezuelans. Based on legal analysis and interviews with key migration actors in the country, the article illustrates the negative repercussions of a fragmented approach to migration on the human rights of migrants themselves. Blouin and Button, therefore, argue for a reversion to the fundamental human rights of people on the move. Similar to Anderson and Li, they suggest that state and civil society actors approach categorisations and protection frameworks in a more holistic, integrated manner. Blouin and Button conclude that, at an operational level, such a holistic approach requires overcoming institutional boundaries and strengthening inter-sectorial cooperation on human mobility among all relevant stakeholders.

Next, Katherine Soltis and Rebecca Walters examine the repeated failure of US authorities to identify and protect survivors of human trafficking who enlisted the services of migrant smugglers to enter the US. Drawing on legal analysis and case files of Central American refugees, they argue that increasing restrictions for, and criminalisation of, some forms of migration into the US contribute to victims of human trafficking being misidentified as ‘illegal’ or ‘criminal aliens’, with their legitimate claims for protection dismissed. Soltis and Walters note that this conflation is in part due to misunderstandings of relevant legal frameworks as well as flawed assumptions about people’s lack of agency in cases of human trafficking. At the same time, they highlight that the problem also results from the dual mandates of law enforcement agencies tasked with both protecting trafficked persons and removing irregular migrants.

In the final thematic article, Gabriella Sanchez also focuses on the impact of intensified border controls, drawing attention to children engaged in migrant

smuggling from Mexico to the US. She points out that this phenomenon is increasingly depicted by anti-trafficking and child rights advocates as a form of child trafficking committed by organised crime syndicates, with the young people, their families and communities often portrayed as naïve and vulnerable or dysfunctional and dangerous. Sanchez rejects this narrative as it considers neither the perspectives of children themselves nor the socio-economic and political environments contributing to their involvement in smuggling. The young people interviewed by her do not describe themselves as victims and make informed decisions to help alleviate the hardship faced by their families. The article highlights that the children's choices and actions are embedded in a context of historically evolved, local smuggling practices. Sanchez concludes that narratives portraying young people exclusively as victims of criminals risk reinforcing security-oriented responses such as migration control, which in turn increase children's socio-economic vulnerabilities.

For the debate section, we invited contributors to defend or reject the proposition 'It is important and necessary to make clear distinctions between (irregular) migrants, refugees and trafficked persons'. Katharine Weatherhead surprised us by proposing a critique of the way the statement is framed. She scrutinises the bracketing of 'irregular', arguing that it draws attention to the term and adds ambiguity to its meaning. Weatherhead notes two possible interpretations—one that recognises two closely related albeit separate groups, migrants and irregular migrants, and another in which the brackets dictate a reading of the term 'migrants' as 'irregular migrants', thereby risking to perpetuate negative associations in public discourse with people on the move.

The next two authors—Marika McAdam and Pia Oberoi—stop short of rejecting the proposition, even though they share concerns regarding the use of categorisations. McAdam argues that labels must be applied responsibly to ensure that people who are placed into one category do not lose out on entitlements they may have under another. She warns against a destructive turf war informed by ill-advised political agendas that risk undermining the protection of people caught in-between. In conclusion, McAdam emphasises the significance of our inherent human rights and urges that, irrespective of the labels applied to people, we must all remain indistinguishable in this regard.

Pia Oberoi argues along similar lines, but embeds her response in the context of the Global Compacts on Refugees and for Migration. She warns that the assumptions underpinning the division into two discrete and independent agreements risk distorting our handling of today's complex patterns of migration and protection needs. Oberoi introduces the emerging concept of

‘migrants in vulnerable situations’, which refers to people on the move who are not in a position to effectively enjoy their human rights. In dealing with ‘migrants in vulnerable situations’, duty bearers are therefore under an obligation of heightened care. We must ensure, Oberoi concludes, that beyond the application of migratory categories every person on the move is granted the protection to which they are entitled based on their individual circumstances.

Finally, unlike McAdam and Oberoi, Sarah Elliot endorses the debate proposition. She acknowledges that there are support gaps for migrants, especially for those with irregular status. However, Elliot argues that it is still important to maintain distinctions between different categories of people on the move to safeguard the particular protections and freedoms that the international community decided to grant certain groups, such as refugees and victims of trafficking. The real challenge, according to Elliot, is to uphold such differences without a trade-off of rights to the disadvantage of migrants, who themselves are entitled to protections under international human rights law as well as other legislation that may apply to them as workers, children, stateless persons and beyond. She, therefore, reaches a similar overall conclusion as McAdam and Oberoi.

Human Rights Up Front

A consistent message across many of the contributions in this Special Issue is the call for a re-focus on existent rights, especially those to which all of us are entitled by virtue of our dignity as human beings. It may be hoped that, given their universal and inalienable nature, human rights are less exposed to political agendas and manipulation than other rights.²⁸ Further, in emphasising commonality rather than difference between people, they are potentially a powerful tool in efforts to overcome xenophobia and to secure better protection for those in need.

²⁸ Somewhat more sceptical: Faist, pp. 414–416, 421, who sees ‘a tension between the political–cultural rights in national states and human rights in the rule of law’ (p. 414). Moreover, according to Faist, human rights are only one possible rationale for the protection of forced migrants. In Turkey, Faist points out, other grounds are given for justifying the opening of the country to three million Syrian refugees.

In 2013, then UN Secretary-General Ban Ki-moon launched the Human Rights Up Front Initiative (HRUF) after an internal review panel diagnosed a ‘systematic failure’ of the UN to respond to serious violations of human rights and humanitarian law during the end phase of the Sri Lankan civil war.²⁹ The HRUF seeks to effect various changes in the UN including increased accountability and a cultural transformation leading staff to recognise human rights protection as a core responsibility.

Whilst the HRUF initiative is an important development, it also documents how human rights had fallen behind in a complex web of competing developmental priorities, even within a system developed to help protect and promote them. Safeguarding the human rights of migrants around the world requires a much broader, concerted effort underpinned by a renewed humanitarianism that is cultivated in civil society and extends into politics.

Building on these foundations, additional rights for several categories of people have been legislated at both national and international levels. As the analyses in this Special Issue demonstrate, it is imperative that each of these be promoted and protected without detriment to the application of other standards, thereby allowing migrants to gain access to the full range of safeguards they are entitled to under various protection frameworks. After all, an irregular migrant who was smuggled may also be a refugee and a trafficked person. This complexity in contemporary migratory flows requires investment in adequate, integrated screening mechanisms involving actors with competencies and mandates across all forms of mixed migration. It also makes it essential that protection needs be determined and met at an individual level, and be monitored over time as status-related vulnerabilities may contribute to experiences qualifying for additional protections.

Policy responses to people on the move must rise to the challenges posed by today’s patterns of mixed migration, resisting temptations of reductionist or static categorisations. As the contributions to this Special Issue show, rights—especially human rights—must be put up front in this endeavour.

²⁹ E Strauss, ‘The UN Secretary-General’s Human Rights Up Front Initiative and the Prevention of Genocide: Impact, potential, limitations’, *Genocide Studies and Prevention: An International Journal*, vol. 11, no. 3, 2018, pp. 48–59.

Claus K. Meyer is a lecturer at the Institute of Human Rights and Peace Studies at Mahidol University in Thailand. Meyer earned his Ph.D. from the European University Institute (Florence, Italy) with a comparative thesis on plantation slavery in South Carolina and manorialism in Brandenburg (Prussia). His interest now focuses on the empirical comparison of ‘modern-day slavery’ with historical slaveries. Email: claus.mey@mahidol.ac.th.

Sebastian Boll is the Regional Research Specialist at the United Nations Action for Cooperation against Trafficking in Persons (UN-ACT), a project of the United Nations Development Programme (UNDP) in the Greater Mekong Sub-region, where he oversees the research and learning portfolio. Mr. Boll has been based in different parts of Southeast Asia for the past 10 years, working on migration and exploitation. He holds degrees related to politics and international relations from the School of European Studies (The Hague, The Netherlands) and Aalborg University (Denmark). Email: Sebastian.boll@undp.org.