

‘Migrant’ or ‘Refugee’? Questioning the Discourses of Inclusion and Exclusion

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Abstract: *This article put forward a single argument, which is, the distinction between ‘migrant’ and ‘refugee’ is a very straightforward one and fail to count the complexity around the migration process. Combined with the pieces of literature and the life history of my brother, I question the rigid differentiation between ‘migrant’ and ‘refugee’ as these categorical definitions play a crucial role to include or exclude people from the rights and protection provided by the states. My main purpose in this article is to illustrate the fact that ‘migrants’ can also go through the experiences similar to the refugees depending on the contexts and the situation S/he exposed, and ‘refugee’ is not also a fixed category as it can change for the people in certain situation. To explain this position I provided the case of my younger brother who went through both experiences of being a ‘migrant’ and being a ‘refugee’. In the end, I argue for extensive ethnographic and empirical research engagement to reveal how these categorical definitions exclude people who do not fall under the existing legal framework for ‘refugee’ from the rights and protections offered by the states, hence failed to consider the complex process of migration and other issues, such as the serious right violation in the origin country.*

Keywords: *Migrant, Refugee, Categorical fetishism, Life-course approach.*

Introduction

The main objective of this article is to show the conceptual problem in regards to differentiating ‘migrant’ and ‘refugee’ as complete separate category. Thus, this article contributes to an emerging body of literature and research which question and challenge such strict categorization between ‘migrant’, and ‘refugee’ and argues that such categorization fails to shed light on the complex nature of migrants lived realities and its social consequences (e.g. Richmond, 1993; Malkki, 1995; Van Hear, 2009; Koser & Martin, 2011; Collyer & de Haas, 2012; Betts, 2013; Long, 2013, Zetter, 2015). In the field of state policy, international organizations like UNHCR, public and media discourses- the categories ‘migrant’ and ‘refugee’ is widely being used to separate people who move voluntarily to another country from their country

of origin for economic gain, better lives, family reunion etc. (e.g. UNHCR, 2018; 2020) and people who have to move in another country forcefully against their will to save themselves from the persecution or out of the fear of persecution respectively (Adelman, 1988; Handmaker & Mora, 2014; Long, 2015; Yarris & Castaneda, 2015; Crawley & Skleparis, 2018). This is problematic as such distinction between migrants and refugees often fail to consider the complexity of migration which might occur over the migration trajectories of individual's life course. Moreover, The definitional differences come in light to decide people who are worthy to get international protection and who are not. As a result of such categorization, most of the people often find themselves in a situation where their actual situation is not being taken into consideration and the complexity of migration process remain outside of the legal frameworks adopted by the countries and policymakers (Betts, 2013).

In this article, first of all, I will discuss the problems around the construction of such straightforward definition based on existing pieces of literature of social sciences to show that there are some grey areas which is not covered by the existing legal and policy framework, which makes it an artificial distinction. Secondly, I will present the case study of my brother which will show that a person can find himself in a situation of well-grounded fear for his life, livelihood, and safety in the trajectories of migration process which may not fall under the requirement of international law. Finally, I will argue for ethnographic engagement to reveal how these categorical definitions exclude people from the rights, who do not fall under the existing legal framework of refugee to receive the rights and protections, hence failed to consider the complex process of migration and other issues, such as the serious right violation in the origin country.

Methodology

This article is based on the analysis of biographical interviews and events of one person to question the categorical distinction between 'migrant', and 'refugees', who happen to be my brother. I choose his case as I know the tiny details of his migratory journey which started from Bangladesh to Romania, and then Romania to Greece, and finally from Greece to Italy. Beside me knowing his overall journey I also conducted his interview in several occasion over the Skype as he lives in Italy. I conducted this study in 2019 for over a month. Finally, I was engaged with several informal conversations with him when he came to Bangladesh in 2020 after almost fifteen years to know his experience and feelings which he had to go through over the course of his migratory journey. In short this is a life-history account which has been growing popularity in anthropology (Staples, 2015:61). The life-course approach focuses on life events and transitions of individuals and the ways in which these events define their life trajectories (Elder, 1985 as cited in Bailey & Mulder, 2017: 2694). Gardner shows how life-course approach is particularly significant to

understand how individual's life courses influence their choices to move between places rather than how migration and movement affect people's life experience. She argues for micro-level analysis by analysing individual lives and their biographies to have in-depth understanding of human migration (Gardner, 2009: 29). Such biographical stories show not only the capacity of individuals to act, but also shows the context in which those actions were shaped (Staples, 2015:61). A life-course approach to understand the complexity of migration trajectories, actions, decisions, and conditions a person might go through over the period of his/her migratory journey. Additionally, such approach is significant to understand the reasons for individual's migration in different stages of their life, experiences, consequences, and challenges for the migration regimes and protection systems. Therefore, I use my brother's life story to show how slippery the established concept of 'migrant' and 'refugee' could be depending on the complex situations a person finds him/herself over the course of his/her migratory journey. Additionally, I also presented ethnographic evidence from existing literatures which have already challenged such rigid conception of 'migrant' and 'refugee' and points to the unfair policies and laws for deciding who counts as refugee, hence worthy to receive protection and security, and who does not fall under the same category, and consequently are not worthy to receive any protection from the state and non-state actors.

Problems of strict categorization of 'migrant' and 'refugee'

On March 15, 2019, as a student of Migration and Diversity major at the International Institute of Social Studies (ISS) in the Netherlands, I had the opportunity to visit the UNHCR headquarter situated in Geneva as part of our study trip. We had a meeting with a senior desk officer of UNHCR named Francois Renaud. The purpose of that meeting was to know first-hand about the operations and activities of UNHCR across the world regarding the issues surrounding the refugee crisis in general and ask him questions related to our area of interest. In that meeting, Renaud started his speech by saying that the UNHCR as an organization is the interphase between refugees and states and UNHCR operates mainly through the Refugee Convention of 1951 and its Protocol Related to the Status of Refugee 1967. Not surprisingly Renaud echoed the very much same legal definition of a refugee stated in the article 1(1) of the 1951 refugee convention which tells us that a refugee is someone who is outside of his/her country of nationality due to a 'well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion' (UN Refugee Convention 1951). After that what he said was the very core of this categorical distinction and debate around 'migrant' and 'refugee'. While giving the definition of refugee which was pretty much same as the one stated in the Refugee Convention of 1951, he said, "For qualifying as a refugee he or she should be in a situation of being persecuted in their

respective country and must cross the border out of the justified fear of being persecuted” (Meeting with Renaud, 2019). He then continued, “Migrants and refugees are not the same, that is a misuse and abuse of the concept of the refugee. There is clear law regarding this” (Meeting with Renaud, 2019). His statement signals that UNHCR, the international organization which spearheads the claim of refugee rights do not want to mix ‘migrants’ and ‘refugees’ because they are not same. In this regard, Allen et al. states, “categorisation is central to efforts to govern migrants and refugees, whether through formal or informal means and channels. Not only do categories make some people visible while making others invisible, they also set standards and normalise practices” (Allen et al. 2018:217). After all, by the law refugees have the right to receive legal protection from states and non-state actors like UNHCR, while others are not entitled to have the same rights or legal protection.

This same attitude and definitions regarding who is a ‘migrant’ and who is a ‘refugee’ and thus who are worthy of receiving legal and political protection and who are not echoed during the second half of 2015 when so-called ‘migration crisis’ dominated in Europe’s media and political discourses. The Daily Mail wrote, “The tragic but brutal truth: They are not REAL refugees! Despite drowning tragedy, thousands of economic migrants are still trying to reach Europe” (Daily Mail, 6 February 2016 as cited in Crawley & Skleparis, 2018:48). On the other hand, many of those arriving across the Mediterranean have been dismissed by Europe’s political leaders as ‘economic migrants’ taking advantage of the situation in Syria to secure entry to the EU to work (ibid: 49). Such a rejectionist approach without a doubt built upon the fixed categorical distinction and definition of ‘migrants’ and ‘refugees’.

Unlike the policymakers, political leaders and the media, academics especially migration scholars saw this fixation of characteristics and experiences that determine whether a person falls under the category of ‘refugee’ or ‘migrant’ as problematic from the analytical, existential and ethical point of view (Castaneda et al, 2016). In the aftermath of World War II, the refugee-protection regime constituted the refugee as a legal category in international law, but in so doing it established a paradigm that could not account for the realities of persecution, environmental danger, and personal risk (ibid: 5). Also in the past decade there has been growing international recognition that many refugees and asylum seekers opt to move on from the countries in which they first sought asylum because of the economic restrictions faced in many countries - prohibitions on the right to work, limitations on movement away from the camps – that has led many individuals whose asylum claims are valid (and may even have been recognized by the receiving country) to pursue irregular secondary migration after being granted refugee status, in search of economic and sometimes even basic physical security (Long, 2015:3).

In this regard, Malkki (1995) stated that “people who are refugees can also find themselves quite quickly rising to a floating world either beyond or above politics, and beyond or above history- a world in which they are simply ‘victims’” (Malkki, 1995: 518). In such occasions once accepted as a refugee can become irregular migrant and lose their legal protection rights. Handmaker and Mora (2014) illustrated how this concept of irregular migration became a *‘policy mantra’* and how the content and implication of migration policies are oriented around this faulty conceptualization. They stated, “Emphasizing a distinction between certain privileged categories of migrants and others, experts reproduce state-created hierarchies or categories of ‘worthiness’ within the discourses on migration” (Handmaker & Mora, 2014: 265).

This straightforward categorical construction has been criticized recently, for example, Apostolova (2015) called it as a form of ‘categorical fetishism’ and warned the scholars and public academics not to be blind by such fetishism. Later Crawley and Skleparis (2018) picked the idea of ‘categorical fetishism’ and illustrated how the dominant categories, in reality, failed to consider the complex relationship between political, social and economic factors of migration or their differential impact on the individual over the time and space. To illustrate this complex relationship which is not covered by the legal frameworks due to the problematic distinction between ‘refugee’ and ‘migrant’, below I am presenting the case of my younger brother. I have interviewed him over the phone to know the details although I knew the most of it as me and my whole family was also actively engaged with his experience of uncertainty, pain, and sufferings which simply cannot be defined as so-called migrant’s experience.

The case of Malek²

My brother Malek grew up in a village named Joyag of Bangladesh with us. We are four brothers and one sister, and I was the eldest. Malek was not very ‘bright’ at school. My father retired from his job and started a business for maintaining the family. He did not succeed and within a couple of years, he lost his business. In 2006, one of his friends came to him and told him that he can send people to Romania. My father saw that as an opportunity to save the family and he decided to send Malek as I was ‘good’ at studying and had already started my university education. Malek was only 18 years of old back then. My father took a bank loan of 300,000 BDT. He gave the money to his friend and on a rainy day, Malek started his journey of life, a life of uncertainty, a life he couldn’t imagine what was going to happen. My parents were devastated; the rest of us were feeling unbearable pain to see him going invisible through the immigration gates of the airport. He was wiping his tear with the back of his hand while trying to smile. The one thing he did not know at that moment for sure that these tears were just the beginning of a lot more to come.

²Upon his request, I did not use real name.

Malek reached Romania on that day and after three days he informed us via a phone call that everything is okay. After that day we did not hear from him for six months. We were devastated. My father took the bank loan and the interest of that money every month has to be paid. I had to start a part-time job besides my study to support my father for paying the interest. One day my brother called from Romania me and was crying so loud that I thought something was seriously wrong. I asked him what the problem was; he did not want to tell me at first. But when I asked him repeatedly he told me that the factory he went to work are not paying them. The factory owners locked them in the factory; they did not have any right to move outside of the factory. After six months and only on Sundays, they were allowed to go outside for two hours, if anybody came even one minute late they would beat them and threatened them to send back to their country. Nobody wanted to go back as the economic situation was to some extent the same for everyone. They only gave fish or meat one day a week after the workers protested a lot. During the month of Ramadan, the quality and quantity of food were bad. Their working hours often used to exceed more than fourteen hours regularly. He was crying and telling me these things. He requested me not to tell these things to my parent. After three months later he called me again and informed me that he and his five friends fled the factory. I asked him what happened. He told me the workers stopped working demanding regular wage and weekend holidays. The owners of the factory physically assaulted one of the leaders of workers and called the police. They also threatened to deport them to their country. When things got chaotic my brother and his friend got scared of beating and deportation. They fled from the factory. One of his friends contacted a person who was a smuggler. He knew him from some time as he was also afraid of beating and deportation and planning to escape from this country. The smuggler told them to meet him at midnight in a park and arrange a certain amount of money. My brother was crying over the phone to me and repeatedly asking me to manage the money. I can still remember those words, "Brother save me, if I cannot give the money after I arrive they would kill me". I called my father and told him about the situations. He promptly started to call my relatives to lend money as he could not go to the bank. Fortunately one of my maternal uncles gave us 400,000 BDT. So, with the fear of assault from the factory owners, deportation, and fear for his life my brother started his journey again inside a lorry with another 60 people. After three days he reached Greece.

Malek stayed in Greece for six years. He was given a refugee card after two years of waiting. Initially, he tried to get a refugee card from the authority. In his words "I started to wait from early in the morning till evening in the cold without any food with many other people from different countries. Police used to come and select from African, Senegalese, Afghan and Pakistani people. They thought they were vulnerable in their country, they did not take me. After two months they came to me and asked me where I am from? I told them that I am from Bangladesh, I showed

them my passport. I did not know what was going to happen to me next. When they saw my passport they kicked me so hard in my back that I fell into the road. They said I cannot get a refugee card because there is no problem or war in my country. So, they did not care about me. Some people were sympathetic after seeing me get kicked; one of them told me to tear my passport and registers myself as a Pakistani with age under 18. I did that and after one year they took me in. That refugee card helped me to stay there, but again I was continuously harassed by the police. So many times they have arrested me and took me to the police station for no reason. I used to wait for two or three hours in the police station and then they used to call me, I would show them the refugee card. I had no freedom of movement and work. I lived in a constant fear to get arrested and assaulted. One day I saw one of my friends get beaten severely by the police in the street, I was shaking in fear. Then I decided to move again from Greece.” Malek then moved to Italy from Greece with the help of another smuggler. This time also we had to give him 250,000 BDT by borrowing money. The whole family was going through a vicious circle of debt. Malek then travelled within a container inside a ship with enormous fear and stress. Fortunately, In Italy, he met with a Bangladeshi person who helped him to get into the refugee programme for children in Italy. Now he lives in Italy.

Findings and Discussion: Intersecting the case of Malek

As we can see that my brother Malek started his journey to Romania as a so-called economic migrant. And in much popular and academic discourse this type of migrants viewed as economic opportunists, ‘voluntarily’ leaving their home country in search of a better life beyond national borders, they are viewed as having made a ‘choice’ to migrate and hence they are not worthy of social or political support (Yarris and Castaneda, 2015:65). But in Malek’s case, he was driven out of his home not by his will rather by the economic desperation of his family made him do it. This is also ‘forcibly’ displacement beside war and natural disaster yet still rooted in political subjectivity (ibid: 65). Later he had to flee from Romania in the face of assault, threats of deportation, excessive labour, minimum wages, lack of healthy food and limited right of movement. He was surviving in a way similar to the idea of ‘*homo sacer*’ or bare life put forwarded by Agamben (Agamben, 1998 as cited in Lechte & Newman, 2012:526). He was scared, desperate and risked his life to get out of that prison-like factory.

After reaching Greece he was kicked by the Greek Police because he was from Bangladesh and he stood in the line to claim refugee status. The Greek Police get their idea of kicking him from this categorical fetishism between ‘migrant’ and ‘refugee’. Because they thought Bangladesh is not engaged in any war and there is no fear of persecution for the regular people, so there is no question taking a Bangladeshi citizen as a refugee. Even after getting the refugee status by lying he could not move freely or work freely. He was a subject of assault and arrested

continuously in Greece. Due to that he had to move from Greece to Italy to escape this precariousness and insecurity. Malek's experience is similar to the Afghan refugees in Iran and Syrian refugees in Turkey, who are trying to get out from Iran and Turkey. Despite their legal status as refugees Afghans and Syrians encounter a range of difficulties including, limited employment opportunity, limited movement rights, restriction on residency right, inequality, discrimination, forced deportation and so on (Crawley and Skleparis, 2018; Allen et al. 2018). Like them Malek also risked his life crossing the Mediterranean Sea inside a container in order to move to Italy from Greece due to the lack of freedom of movement, livelihood, and assault and arrest by the Greece law enforcement agency. Migrants like Malek, who find themselves unable to access formal migration route due to visa policies and other restrictions in the face of uncertainty, insecurity, and precariousness, therefore, forced to chose a more dangerous route often with the aid of smugglers facing increased risk, danger, and violence (Mainwaring & Brigden, 2016: 246) without any protection before and after their precarious journey from state and non-state actors.

Malek's case also challenges the view- that people only move between two fixed places and thus ignores what happens 'in-between' both geographically and temporally, rather it shows that a series of different migration decision shaped and provoked by the changing situations in which a person finds him/herself (Crawley and Skleparis, 2018: 55). The categories 'refugee' and 'migrant' apply to Malek based on his various circumstances, which he went through at different time and place. In Romania, he was considered as a migrant. In Greece, he was an undocumented migrant and later considered as a refugee. Therefore, the fixity and static nature of these categories advocated by policy-makers are not true. There is nothing natural and given about these fixed categories, rather these are subject of constant change and renegotiation (Gonclaves, 2018). And most importantly the complex nature of Malek's migratory journeys and trajectories shows that in Europe as well as elsewhere the rigid nature of this arbitrary categorization related to who constitutes a "refugee"...leads not only to a gross violation of rights but to the systematic exclusion of large groups of people who would like to see themselves as "refugees" (Gupte and Mehta 2007:65). Malone (2015) rightly pointed out in this regard, that, the umbrella term migrant has evolved from its dictionary definitions into a tool that dehumanises and distances, a blunt pejorative, and migrant is a word that strip suffering people of voice. Malek's life-course also proves that the existing definitional difference between 'migrant' and 'refugee' is not enough to capture the complex migration process and trajectories and the various situations of individuals and groups associated with it, and how because of the fixed nature of these categories he went through sufferings and humiliation as a human being.

Concluding Remarks

The blind devotion to the fixed and linear characteristics and nature of people who move to one country to other countries is the result of the inadequate dualistic conceptualization of voluntary and involuntary choice associated with ‘migrant’ and ‘refugee’ respectively. The categories that define people on the move must be understood as unstable, contingent, and provisional processes (Drotbohm & Winters, 2020), and must be seen from the spatial and contextual experiences of people on the move. Migration scholars tried to come up with the “development of new concepts to make a better understanding of the complexities of migration (‘mixed flows’, ‘mixed motivations’, ‘transit migration’ etc.) and new categories to bring into the purview of the international protection regime trapped in the space between ‘refugee’ and ‘migrant’, such as, ‘people in distress’ (Goodwin Gill, 1986), ‘distress migrants’ (Collinson, 1999) and ‘survival migrants’ (Betts, 2013)”. But still, the dominant categories of ‘migrant’ and ‘refugee’ are playing a crucial role in the exclusion and inclusion of certain group and individuals over others. In this article by presenting and analysing an individual’s biographical events and narratives on his migration trajectories and complex nature of movement and experiences, I show that these narrow definitions of the stated categories are not simply enough to deal with the dynamic and multi-dimensional migration process of the individual and group, thus, these definitions are artificial, legally and politically constructed. There is a grey area between such a strict definition of ‘migrant’ and ‘refugees’ which should be identified rigorously. In queue with Yarris and Castaneda (2015), I also believe that ethnographic research in different locations is necessary to bring forward how the discursive practices of ‘deservingness’ include certain people and exclude others access to social and political right to offer a different way of reconsideration to move beyond the fixed binary categorization, such as, migrant and refugee or voluntary and involuntary migration.

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