

Module E

Conceptual Issues in Forced Migration

Concept as an epistemological category and the function of problematising: This module will aim to discuss the process in which concepts have emerged in forced migration studies and have given birth to certain definite methods in pursuing studies in this field. In this note concepts and methods are treated as interlinked. Concepts are not de-linked from method/s because they (the former) emerge as this note wishes to demonstrate through a process of critique (the latter). Critique will be defined here as criticism of existing practices, policies, and discourses (which can be collectively called episteme) in a mode that relies on working on the margins or the threshold of existing ideas. Critique is thus problematising (turning the given into a problem as distinct from problem setting, a favourite past time in policy exercises) a given knowledge, and a step towards thematising (turning a practice into a theme). In this way critique gives rise to concepts. Concepts become ruling formulations in the particular field. But this does not mean there will be no clash of concepts. Indeed they can work against each other. However a concept is known by its family identity. Hence we speak of family of concepts. Studying concepts is thus inherently genealogical. Yet to discuss the historical evolution of a concept in a “presentist” framework is not enough. The purpose is to lay bare the “hidden” structure of the concept, its anatomy, the laws of its formation and function. The mode is always problematising the received theme through a critical procedure.

1. *Family of concepts:* Refugees, asylum, non-*refoulement*, protracted displacement, environmental refugees, statelessness, situations in limbo, regime of protection, protection agencies, refugee laws and conventions, borders, illegal immigration, irregular migration, voluntary and forced migration - and we can go on - belong to a family of concepts. They are like signs of a phenomenon moving together and making sense only in association with each other. Indeed after a point, they are empty signs almost exhausted of any further reference; but they are not empty because they point collectively to a particular power structure. Problematising these concepts and categories is a political task aimed at critiquing existing knowledge and power structure. In some cases problematising means showing the impossibility of certain claims, in this case of the ethical claims of protection. *Interrogating the abnormal:* Problematising may also mean discussing how the immigrant becomes the abnormal figure of our time, also how this figure represents insecurity in various forms. To get a sense of the relation between migration and

security a genealogical method of enquiry will aim to understand (a) the post-colonial nature of the phenomena of population flows today, (b) the protracted nature of displacement; (c) the mixed and massive nature of forced population movements; (d) borders, security, and borderland existence, and (e) migrant as the subject of the modern empire. Contemporary law, administrative practices, and mainstream economy consider the borderland existence of population groups, their flux as threat to security, which is built around the idea of stable population groups. A genealogical investigation of these issues will take us forward towards the post-colonial task of settling the still un-resolvable problematic in the science of ruling – settled governments and the unsettled populations of our time.

2. *The historical intelligibility of some contemporary studies:* Studies on aspects of welfare state and schemes suggest a different way of understanding modern governance in which the study of the nation is not at the centre of political understanding. Instead, of significance in such studies is the inadequately explored history of governing a mobile, unruly world of population flows. These works have given us a sense of the hidden histories of conflicts, of desperate survivals, and of networks new and old. Studies of hunger in the nineteenth century, of itinerant movements and preaching, transportations of coolies, spread of famines, shipping of children and adult girls, trafficking in sex and labour, and pieces of welfare legislation to cope with this great infamy tell us how actually we have arrived at our own time of subject formation. This is certainly different from conventional nation-centred histories. Working within this new strand of history-writing, labour historians have tried to recognise the political significance of labour migration in the late nineteenth and early twentieth century. Their works suggest a different way of writing the history of the nation-form in the last two centuries, where the extra-nationalist narrative of mobile labour constitutes a different universe. After all, the late nineteenth and early twentieth century was the period of several changing modes of labour process – the slave, the indentured, the contract, and finally the free. These modes historically never appeared as pure types, because much of the availability of labour depended on labour's mobility. In fact, it was largely on the condition of making labour mobile that globalisation would proceed at that time. Transit labour then too, as it does now, occupied a crucial place in capitalist production. The late nineteenth and early twentieth century was a period of globalisation when migration controls were put in place. It was in that age that control of mobile bodies began constituting one of the most critical aspects of governance. Likewise studies of gendered nature of migration tell us the emergence of some of the different forms of labour subjectivities marking our world today can be traced back to that time. A genealogical understanding will be thus helpful to problematise the present history of care. Care will appear as a function of power (and vice versa) in this demystified picture of of

refugee protection, indeed of the social factory as a whole.

5. Strategic mapping of critical work in this field (research, knowledge exchange, and dissemination): For a long time the research agenda of forced migration studies was dominated by the scholars and thinkers from the global North. Researchers of the global South were expected to work on case studies that would support the meta-narratives produced in the north. However, with the influx of a new group of scholars from the global South in the last two decades that picture changed substantially. This was possible because they brought in issues that completely changed the agenda of research in forced migration. They pointed out that categorization of forced migrants into rigid groups of refugees, IDPs, forced migrants, environmental migrants, and economic migrants is unhelpful to say the least. They also pointed out that forced migrants were always vulnerable people irrespective of whether the particular vulnerability came from poverty or political situation within a society, but that it always resulted in severe persecution. Death caused by genocide or hunger was equally reprehensible and most conflicts at the end were conflicts over resources. As a result of research done by these new age scholars avant guard centres grew up in hitherto unknown quarters in the post-colonial world. New issues such as mixed and massive flows, labour migration, statelessness, and several other issues began to be debated. The post-1989 political situation also contributed to these developments. Focus on terror brought to the forefront the critique of the role of global North in producing forced migrants in the South in the name of anti-terror operations. Pakistan and Iraq are burning instances of this. More and more research began to focus on vulnerable groups and their own narratives of living as forced migrants. Subjectivity of the victims thus became an important theme of research. There is also an accompanying shift from a focus purely on refugee laws. Critical juridical discourse is one of the outcomes of this shift. It was increasingly pointed out that in the end it should be remembered that research on forced migration is research on human beings who are severely discriminated and dis-empowered. Demands have also emerged that knowledge networks in this field should play the role of a bridge between research institutions of global North and global South to take up joint research, that there should be more emphasis on qualitative research and joint leadership of research projects. The challenge is how to escape policy driven research, because good research always produces policy critiques and policy implications.

6. Strategic displacement in this field: When around the mid-nineties forced migration studies began in Kolkata, researchers were of course aware of bonded labour, indentured labour, village to city migration of labour in forms of servitude, in short different forms in which the “forced” comes into play, but refugee studies had not till then been taken up as a separate field of research. Forced migration was, it appeared from the beginning, a much more holistic concept. Innocence

at times helps. Several critical investigations have now enabled us to see the inter connections between various forms of “force”. If we think of this little more deeply, you will see the reason for this change is our realisation that only with a *post-colonial sense* of history we can move on from the old, restricted, “northern” way of looking at things to the broader, more historical, political way of looking at the phenomenon of forced migration. A critical post-colonial approach is important. It enables critical post-colonial way of chronicling and analyzing various forms of forced migration, which now marks the writings of a number of scholars. These writings are informed by a strong sense of history, awareness of the distinct nature of post-colonial politics and society, and an appreciation of the migrant and the refugee appearing as the subject of history of our time that is marked by the return of the empire. These writings and reports are marked by collaborative research, critical post-coloniality, and a strong sense of the significance of the local in this globalizing time. In the course of all these we have been enabled to take a long view of citizenship and alien-hood, histories of hatred, reconciliation, friendships and enmities, the significance of camp as a liminal space of subjectivity and submission, of control and escape, despair and inefficacy of international norms, laws, and arrangements, and victims’ own voices about how and what could be done. All in all, one can say that forced migration studies has come out of the restrictive framework of refugee studies, and has evolved to embrace many other aspects of migration, and has now entered a critical post-colonial phase. This is a case of strategic displacement. Even though there is every chance of a new dogma being produced, the method has to be vigilant against such possibility. Its role is to impart criticality of approach, and it should be able to place migration in the grey zone of force/volition, subjectivity/conditions, human rights/humanitarianism, and all other binaries that at times lead us to a blind alley. We need a dialectical approach.

7. Partition as a critical marker in forced migration studies: It has been rightly said that the twentieth century will be remembered as a century of partitions. Partition leads to forced migration – refugee flows and flows of other types. Partition also makes the question of return crucial. Do partition refugees have right to return? If they have the right to return, then what is the period they will enjoy the right? Also, will there be certain conditions, in as much as we know that there may be forced return. Partition is the prism in which the stakes in the study of forced migration become sharper. But there is a danger also. Partition scholars and there are hundreds of scholars of partition today, take post-partition migration to be a unique process, and ignore the possibility that post-partition migration can be built on lines of historical continuity, and it is important to find out the continuities and discontinuities in the process. Do we study for instance the nature of forced migration in Europe in their century of religious wars, and compare that with

what happened in India when the great religious war broke out in the second half of the forties of the last century? Can we compare the subjectivity evoked in Brecht's *Mother Courage* and Manto's *Toba Tek Singh*? I believe we are still to appreciate the stakes in studying partition as a major marker in forced migration studies. Partition of the Ottoman Empire, of Germany, Palestine, and Korea in the last century, or the Indian partition or the partitions by default that happened in the last decade of the last century – these are only some of the major events to shape the story of forced migration. May be we have to master the art of writing event-centric history to bring out the depths of the phenomenon of forced migration. There are so many unnoticed events, which are neither as major nor as infamous as the Partition of 1947, but which create their histories of migration. These small histories will enrich our forced migration studies. There is of course the question, namely, whether the researcher's location of belonging to a partitioned country makes it possible for him/her to have a distinct view of forced migration. This is a significant question. Of course there is the fact that at least in India migration studies picked up after the mid-nineties of the last century when more and more scholars started studying forced migration when the historical fact of partition repeatedly came up along with the fact of fifty years of Indian independence. We can thus say: the citizen is the defence of the visibility of Constitution; the alien is the shadow, its prey. The citizen exists in the alien as the savage form. Citizen is articulate; the alien is inaudible, silent. Yet the more interesting question will be: What are the ways in which the alien overcomes the two obstacles of inaudibility and invisibility? To understand this life world of visibility and shadow forced migration studies will have to adopt the strategy of interrogating alterity. The same principle of interrogation will be valuable in studying actual conditions of statelessness in the post-colonial world.

8. *Critique of received binaries*: It has been observed that the proportion of refugees has gone down significantly in the last twenty years and that of different categories of the internally displaced people/population groups/persons (IDPs) gone up. Now the question for instance will be, is this not an oversimplified statement that somehow hides the mixed and massive flows of population worldwide? To begin of course we have to acknowledge the IDP issue has done enormous service to forced migration studies. By including the IDPs forced migration studies has widened in scope and has become more truthful to the world. We are now able to link issues of nation, sovereignty, economy, globalisation, social violence, environment, and developmental issues in a more meaningful way. We have become aware of displacement as the most critical issue of our time – and all these after we could connect and integrate the IDP issue and the phenomenon of forced migration. Recognition of the rights of the IDPs is the collective product of decades of struggles of population groups trying to survive. It is strange that very few big

names in refugee studies care to see displacement in a broad light or do any worthwhile research on IDP issues. Yet the point raised here is significant, because we witness today massive and mixed flows of people across and within countries, and these flows in the wake of globalisation should make us sit up and wonder how worth are the various categories of displaced population groups that we use in terms of analysis and policy response? The UNHCR in one of its recent notes has taken cognizance of this. Old protection strategies are failing. New strategies are needed to ensure the rights of victims of protracted state of displacement. Old forms of refugee status determination do not make much sense in this new situation. Old guarantees of asylum likewise do not make sense in the light of preventing strategies of States and Unions such as *fortress Europe*. Also, how does one distinguish between a classic refugee, a person escaping hunger and in search of work by any means and anyhow, and say, trafficked labour in servitude? Rights are indivisible. Yet the way forward may not be to do away with all the institutions and set up new ones, which will inevitably result in more centralization for controlling population movements. Probably a more dialogic relationship is necessary, also we have to struggle for minimizing - if we cannot do away altogether - the hold of security related thinking, provisions, and practices in matters of recognizing and protecting the rights of the victims of forced migration. Institutions have their vested interests, their domains. To try to reduce them is the need of the hour. To do so we have to begin with working out and formulating the consequences of the theoretical recognition that population flows are massive and mixed. The reality of these mixed and massive flows questions old polarities. They need to be recognized in their variety, plurality, and amorphous nature – and this is possible only when we have a more federal way of looking at things, not from an institutional-pyramid point of view from the top, but from the point of understanding how it works on the ground. We shall then be able to challenge the customary distinction between refugee studies and forced migration studies, and episodic violence and structural violence in terms of protection policies and institutions. We shall be able to ask, if constructing hierarchy of the victim is the appropriate way to frame protection policy. This way of analyzing through interrogation of received binaries is already evident in the ongoing studies on statelessness. These binaries such as refugee/IDP, episodic violence/structural violence, citizen/stateless, movement due to fear/movement due to economic imperative, international norms/national responsibility, human rights/humanitarianism – have been subjected to critical inquiry today. Such critical inquiry has to feature forced migration studies. This is possible only when we consider forced migration studies not as an isolated discipline or a subject, defined by some strange esoteric rules, but as a field marked by lines of power and flight paths of various subjectivities. To work with that awareness we require not only a sense of rights and

responsibilities, but some sort of political awareness of the way in which the migrant appears in our civilized societies as *abnormal*. To back to a point made earlier, interrogating the production of abnormality in the figure of the migrant has to be a research concern. All these are additionally relevant when we recognize the current time as one of the return of primitive accumulation when footloose labour becomes the ubiquitous figure of abnormality in the society of the settled and the propertied.

9. *Relevance of legal pluralism*: The UN Convention of Refugees has completed 60 years and UN Guiding Principles on Internal Displacement have also been in existence for more than 15 years. Yet the question is if they are adequate in the contemporary context of displacement of population, and if we must argue in favour of regional conventions and/or protocols to deal with the situation? We all know that the 1951 Convention is dated for all kinds of reasons. The cold war perspective is long over. The nature of forced migration has changed. New forms of servitude have appeared along with new vulnerabilities. The 1951 Convention also does not address the issue of burden sharing. But no one wants to open the can lest the worms should come out. Likewise the Guiding Principles emphasise only a particular context. It is too much rooted in a particular reading of the contexts of Africa, some parts of Latin America, and the Caucasus. It ignores developmental displacement, and places the issue in the framework of what is known as sovereignty as responsibility. While the Guiding Principles have done service to the cause of the displaced population groups, yet it has left open many occasions for abuse. Great Powers can intervene on the pretext of saving endangered population groups (recall Syria) while they may be the responsible one to a large extent for the unsettling scenario. Again while they may be responsible for economic catastrophes in many countries and regions, they can appear as saviours. On the top of that, while the origin of the Guiding Principles in the human rights principles is clear, its structure carries an old state of international law. In a sense the Guiding Principles has removed the focus from the issue of developmental displacement in today's world. However the modality of *guiding principles* is significant and has dialogic potentiality. It offers new insights into the process of law making. If we take 1951 Convention we can see the reason for its wide acceptance. It creates a legal person (of the refugee), a whole penumbra of institutions, an office, etc. without making any one – nation, government, big powers, individual – responsible for creating refugee-hood. It has been able to merge in a milieu of a fantasy the ethics of humanitarian protection and guarantee of rights of a right-less person, who the refugee is. Likewise, the Guiding Principles are not law, yet they have the appearance of some kind of moral injunction with at least the partial effectiveness of law. So countries may not have signed the Principles, they are only a resolution. Yet they appear as giving birth to some kind of law. How do

we retain this fantasy and proceed? Possibly, not only that we need to move on to the regional level as the most crucial level in framing the international, but that there too there will be the need to innovate the art of successful law making by combining the fantasy with injunction. The art of governmentality will never cease to be relevant. The important point here is how to produce the consent that is necessary for enacting what is termed as soft law. On one hand we have sovereignty as a still important factor in treaty making process, which is a crucial part of international law making, also we have great power concord and combined pressure to produce the law, on the other hand there is the effort to produce consent of the probable treaty parties. This is a process, which is getting more and more intriguing. How to produce consent for a treaty is a serious problem for the international that we speak of today. It may be that the more we decentralise the process the more we shall produce the consent necessary for law. After all we may not need grand and universal laws any more, or at least not to the extent to which we are led to believe. As if the world will break down if we do not have a single treaty, a single convention, a single office... And therefore what we need is possibly not books and books on soft law (because the soft may be more insidious, as we have seen this in the iniquitous application of the principle of intervention on humanitarian grounds), but more work on the process of producing the consensus at different levels and making that work. In that sense legal pluralism may be a significant area of work in this field.

10. *The concept of ethics of care and protection:* The ethical practices of care and protection to the extent they are there in the legal mechanisms for protection of the displaced persons are like a double edged sword. They strengthen the principles of humanitarianism, which we need in our individual and collectives lives. Yet when applied they tend to reduce the persons they seek to protect and care for to being objects of care and charity. Therefore in the refugee protection literature there is this debate on charity or rights. Also some people say that whatever protection people have got are not due to the principles of care and hospitality, but through struggle for rights. How is basic rightlessness removed? A philosopher may say, that while the principle of care and hospitality is unavoidable, yet we care only to the extent self-care allows. Thus there is always a limit to the care that these international legal mechanisms offer. At times a great power will bomb a country, create refugees, displace millions, and then the so-called international community will invoke the principles of care to rush in those bombed out countries, and within the limits set by the big power help the displaced. That is why people in war ravaged countries sometimes despise the humanitarian workers, many of whom are inspired with the noblest values, yet get represented as the ones who have come to supply artificial legs in the evening after their legs have been cut off in the morning on the order of a tyrant. Therefore it may be the case that

the process of infusing the legal and administrative mechanisms of protection of the displaced with the principles of care and protection is a contradictory one. And one has to therefore examine this process through an examination of the self-care involved in the big humanitarian enterprises we witness today. In this respect, we need to interrogate a concept such as humanitarianism. It may be an ideology that works like a machine. It may be based on sentiments, but we create institutions to give effect to those sentiments, and then we legitimise those institutions with an overarching ideology of care, which may gloss over the injustices of the entire process through which persons have been reduced to being objects of care and protection. And what sense shall we make of the fact, that in any case a large number of the displaced millions on earth, possibly the majority of the displaced persons, do not depend on these legal arrangements? Care operates in the lives of the millions in a different way. We can see this paradox then even in the legal and administrative mechanisms for the protection of the displaced. There is no one single arrangement of care, for instance in India. Care of the displaced due to violence is organised along one line, or set of lines, while care of the displaced due to developmental activities runs along another set, while again the care of the displaced due to natural disasters is organised in a different set of ways. There are similarities in these three cases, yet the principle of care operates in a differential way. Humanitarianism in the nineteenth century was for the destitute, the abnormal, and the poor in the colonies. Yet we cannot do away with the principle of care. The task possibly will be to organise the principle in a different way, to see how this operates in popular life, to entrust the people with the task of protector than making the mighty the protector of imperilled lives. Federalisation of care is important. Likewise important is the task of making dialogic the principles of care and protection. This requires the insertion of the principle of justice, which will bring back the issues of claims and rights. We thus cannot avoid the contradiction between care and rights; therefore a dialectical view is necessary. Can justice be compatible with the principle of care? Probably that is the main task in public morality today. Only a sense of justice can make us more caring. The evolution of the jurisprudence on disability rights as an instance shows how a sense of justice can lead to a more caring deliberation and approach.

11. *Conclusion:* (a) Through these points there is a running thread. It is the idea that there is no pure field of concepts. Concepts in forced migration studies are linked to several modes such as problematising, thematising, conceptualising, critique, genealogy, dialectical handling, quantifying, observing, narrating, analysing, and several others including ones that are deployed to de-construct a concept. In fact methods turn in time into concepts. Forced migration studies is a particular field with specific concepts and its own history. As a field of scientific research It has policy implications. It deals with human beings in vulnerable situations. It is a study in power. It

has quantitative dimensions. Also its concepts are embodiments of social relations. For all these reason, we always begin with concepts, never with pure descriptions. Even the purest of the descriptions has an underlying concept. Therefore concepts are like signs. They are also at times metaphors. Thus for instance, one of the questions presently marking forced migration studies is around the institution of border. Is *border a concept, a sign, or a concept-metaphor, or all these and therefore an analytical method?* (b) At a second level of analysis we may say that forced migration studies aims to understand forced migration, however incompletely, and uncover the contents within the forms of forced migration. But it has to still ask, why the contents have assumed their particular forms, that is to say, why the migrant is the abnormal subject, why border appears as ubiquitous, why forced migration has a pronounced gendered nature, why the power of the government requires the element of care, why the concept of human rights needs as its complement the ideology of humanitarianism, why camps exist as abnormal site, yet whose abnormality is only discrete, in other words, camps functioning only as one end of a series of forms of confinement and protection, and why the measurement of vulnerability as expressed in the phrase *forced migration* is expressed by duration and by the magnitude of the protection involved. These questions, or research queries, bear the unmistakable imprint of belonging to an age in which the process of displacement appears to have overwhelmed societies, and therefore the concepts and policies seem to appear as nature imposed necessity instead of societies and social systems producing migration being considered as *natural*. Hence the given knowledge of forced migration studies appears to treat all non-official, non-legal knowledge, particularly pre-existing non-official and non-legal knowledge, as belonging to nature, which is pre-scientific and pre-practical in this age. To understand displacement in the realm of understanding we need to introduce the issue of security, which functions as the silent other of the contradictory process of eviction, migration, and care. With the volume of forced migration increasing worldwide and with situations in Syria, Iraq, Afghanistan, sub-Saharan Africa, and other countries and regions, one can already notice the irrelevance of the international protection system in this field. There is a distinct possibility that with this massive increase the entire complex of the concepts in this field may break down. The irrelevance of the institutions, laws, and norms will reflect in the irrelevance and obsolescence of the categories.