



Introduction. The Spirit of International Solidarity, the Right to Asylum, and the Response to Displacement

Jodie Boyd¹ · Savitri Taylor¹

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The articles presented in this special section of *Human Rights Review* were initially developed as contributions to a symposium convened in February 2019.¹ At that time, our focus on the “spirit of international solidarity, the right to asylum and the response to displacement” was determined in the shadow of the continuing repercussions and responses to the so-called crisis of refugee and irregular migrant movements to Europe during 2015–2016. In this specific context, the intention of the symposium was to open the concept of international solidarity to interdisciplinary examination. At that particular moment in time, the challenges presented by the large-scale movement of refugees in Europe and throughout the world appeared to promise new engagements with international solidarity as a principle in international and human rights law and as a basis for humanitarian action on the part of states, nongovernmental organisations (NGOs) and of transnational and grassroots civil society organisations and movements.

Writing pre-COVID-19, Ulrike Zschache noted “the so-called refugee crisis, thus, seems to have opened up a ‘window of opportunity’ ... for the mobilisation of new actors, ideas and practices in the area of organised transnational civil solidarity on behalf of refugees and asylum seekers” (Zschache 2021, pp. 92–93). These movements of what Milne (2020) has called “a new kind of social intervention with innovative new forms of organisation and effect” set out to fill the gaps left by the withdrawal and abrogation by states of their obligations to protect asylum seekers. Indeed, these new forms have grown alongside the tide of populist politics that, in recent years, has stepped up anti-refugee and migrant rhetoric and enacted policies “restricting responsibilities to the national level and suspending moral and political obligations towards those not belonging to the [nation]” (Feischmidt, 2020, p. 443). Similarly, the 2018 Global Compact on Refugees (GCR) and Global Compact for

¹ The symposium, *The Spirit of International Solidarity, the Right to Asylum, and the Response to Displacement – An Interdisciplinary Symposium* was held at La Trobe University, 14–15 February 2019, Melbourne, Australia, as part of the ARC Discovery Project *Protecting non-citizens: An Australian legal and political history, 1945–89* (DP160101434).

✉ Savitri Taylor
S.Taylor@latrobe.edu.au

¹ Law School, La Trobe University, Melbourne, Australia

Safe, Orderly and Regular Migration (GCM), while not legally binding on states, appeared to represent a positive attempt to (re)mobilise the idea of international solidarity in international law-making. The GCR signalled a political will to work towards the improvement of international protections for refugees, committing signatory governments to the “strengthening and enhancing [of] mechanisms to protect people on the move” (Kaldor Centre, 2019) and to foster greater responsibility-sharing among states for significant refugee movements. The GCM, as Gottardo and Rego explain in their special section article, “acknowledge[s] the reality that migrants’ experiences are fluid” by treating “all migrants as bearers of human rights regardless of status”. Further, both compacts seemed to embrace a broader understanding of international solidarity beyond the evidently problematic state-centric understanding to include civil society, NGOs, migrants, refugees, business organisations and sub-national governments and authorities.

At the time of the symposium in early 2019, this suggestion of a renewal of the “spirit” of international solidarity kindled a cautious optimism of a possible slow unwinding of the politics of exclusion, deterrence and dehumanisation that, since the early 1990s, characterised many state responses to flows of refugees and migrants. The papers presented in this special section were initiated in this context in response to an inquiry into the utility for the realisation of human rights of the lessons and possibilities of present, recent and historical attempts at putting international solidarity into practice, whether successful or unsuccessful. In the intervening months, however, the arrival of the global COVID-19 pandemic prompted an abrupt turning away from international solidarity and towards the further criminalisation of civil society acts of solidarity with refugees, including the rescue of refugees in distress at sea (Mainwaring & DeBono, 2021; Trilling, 2020). As Mazzola (2020) pointed out “Countries are closing in on themselves, as internal and external border controls are rapidly intensifying”. Speaking in October 2020, the Assistant High Commissioner for International Protection, Gillian Triggs, observed that in response to COVID-19, “168 countries fully or partially closed their borders, with around 90 making no exception for those seeking asylum”. Triggs noted also the direct negation by some states of long-standing conventions of the international protection regime, confirming that some “have pushed asylum seekers, including children, back to their countries of origin” (Triggs, 2020).

While “the COVID-19 pandemic has profoundly tested global commitment to protecting refugees and forcibly displaced people” (Triggs, 2020), statements at the “virtual” opening of the General Assembly’s annual general debate identified the emergence of international solidarity as a pragmatic necessity in the new reality created by the ongoing pandemic. The UN General Secretary declared that “in an interconnected world, solidarity is self-interest. If we fail to grasp that fact, everyone loses” (UNGA, 2020).

Despite the grim and frequently precarious conditions confronting such large numbers of refugees and migrants, the effective shutting down of the civic space in which civil society expressions of international solidarity operated, and states’ opportunistic resort to public health securitization as a means to stop the arrival of new refugees and migrants (Mazzola, 2020), the concept has emerged as a principal basis on which the future, post-COVID-19 international community can

reset and rebuild global relationships. The General Assembly was reminded that even as COVID-19 threatens the world, it has also inspired “global solidarity” in the formation of partnerships ensuring “equitable access to medical equipment and supplies and many social support systems”. Additionally, the global response to the pandemic “has demonstrated the heights that can be attained when working in the spirit of friendship and solidarity”. Affirming this message, Triggs stated that the global response “offered evidence for optimism and revealed new tools and solutions in tackling future global challenges”. “There will”, she said, “be no going back” (Triggs, 2020).

Presciently, the papers published in this special section took as their starting point an idea of international solidarity as a construct expanded beyond the nation state and as a tool in the hands of civil society actors, capable of mobilising in international solidarity outside of and across nation states, on behalf of, or with, or even against asylum seekers and migrants. Furthermore, reflecting the diversity of actors in the emergent forms of international solidarity, the articles in this issue are also drawn from distinctly different disciplinary and practice-based perspectives. In the first article, Carolina Gottardo and Nishadh Rego draw on their unique perspectives as advocates for migrants’ rights within a faith-based “stakeholder” organisation that took part in the processes that developed the GCM.

Their paper offers a detailed explication of their argument that the GCM’s “whole-of-society” approach is not so much a de-centring of the nation state from international migration governance, but an opportunity to develop a genuine architecture of international solidarity within the existing frameworks of agreed principles. Gottardo and Rego argue that international solidarity is advanced within the framework offered by the GCM by enabling new civil society actors to engage in new ways with traditional state and international bodies to achieve improvements in the lives of migrants. Effectively, the GCM’s consensual and cooperative platforms for engagement offer civil society actors and agencies, such as that represented by Gottardo and Rego, an opportunity to intervene meaningfully at national and international levels of governance (Hyndman & Reynolds, 2020, p. 66).

Kate Ogg’s article takes on a different perspective regarding the role of international solidarity in the broader context of refugee law. She considers how the way international solidarity is understood in relation to Palestinian refugees might inform a “humanised” understanding of the state-centric construct that is employed in debates about non-Palestinian refugees. The meaning of international solidarity in the context of Palestinian refugees can be expressed as the demonstration of international support for Palestinians and the political objectives of Palestinian movements by individuals and groups. Ogg argues that international solidarity for Palestinian people is driven not by states but by grass-roots organisations in contrast to an avowedly “apolitical” notion of international solidarity that underpins the understanding of the concept in refugee law. Like Gottardo and Rego, Ogg accepts that the notion of international solidarity expressed as a form of burden-sharing among states and for the benefit of the host state should expand to incorporate a role for individuals, advocate groups and NGOs who act in support of and for the benefit of persons in need of protection and assistance.

Jordana Silverstein's article raises quite distinct questions about the conceptualisation and definition of international solidarity as expressed through discourses of policymakers working in the Australian political context from the 1970s to the present. Silverstein uses archival material and oral history interviews to interrogate the idea of international solidarity as a deeply felt form of emotional connection capable of binding people together in a spirit of interdependency. In distinction to recent assertions that "solidarity is self-interest" (UNGA 2020), Silverstein mediates her discussion of solidarity through the principle of "the best interests of the child", representing this as the creation of a relationship between children and the persons in authority and with the institutions that will make determinations of a child's best interests on their behalf.

Silverstein shows a pattern of states, in particular the Australian state, downgrading the best interests of children in favour of security. In response, she calls for a radical re-thinking of international solidarity as a "political version of love" (Kaye/Kantrowitz, 2007). Such a concept, she suggests, could lead to a renewed spirit of international solidarity which refuses state practices that instantiate a securitised state above the best interests of the child. This conception of an "affective solidarity" (Hemmings 2012) is offered as a framework of principles that can be brought to international law from frameworks that exist outside of international law and conventions.

Silverstein's call for a radical re-imagining of solidarity is reminiscent of Arnsperger and Varoufakis (2003) definition of solidarity as a position of generosity or "other regarding" (2003, p. 158). Contradicting this perspective, Obiora Okafor,² the present Independent Expert on Human Rights and International Solidarity, identifies a form of international solidarity that is not defined by generosity or a sense of deep connection or empathy. In his reflection on the future of international solidarity, which rounds off the special section, Okafor refers to the emergence of what he has labelled as the "abusive deployment of solidarity" by states and others. He discusses how nationalist groups on the far-right have organised around the "cause" of "defending" Europe from the so-called invasion of asylum seekers. They present a narrative of their attacks on asylum seekers and their movement to repel the landing of asylum seekers by sea as an expression of a racialized European solidarity (Ambrosini, 2020; Mazzola, 2020).

Like Silverstein, Okafor calls for a reimagining of international solidarity itself. He argues that it must be reimagined and reconceptualised as "human rights-based international solidarity" to contain and refute the use of the concept as a framework deployed against those seeking protection. Okafor argues further that this call to reimagine solidarity must embrace a refusal of historical exceptionalism and recognise that refugee flows are a stable phenomenon rather than a "crisis". He suggests that the "problem" or "crisis" is not the arrival of asylum seekers in Europe but the resort to restrictive and punitive policies which focus

² Obiora Okafor's article was intended for inclusion in this Special Section. It was, however, published in a separate issue, Volume 22, Issue 1, 2021 and is available at <https://doi-org.ez.library.latrobe.edu.au/10.1007/s12142-020-00587-w>.

on reducing the numbers of people arriving, rather than reducing the suffering of displaced people or addressing the root causes of that displacement.

The papers in this special section point ultimately to the question of how we have defined and redefined the concept of international solidarity. Traditionally, the deployment of international solidarity has been understood as a relationship of burden-sharing between those states who afford asylum seekers in their territory the protections due to them under international law, and those states able to assist in the material and economic costs of this protection. The withdrawal of states from these obligations has, however, opened space for the concept of international solidarity to be reimagined and re-created as an idea and as a platform for new forms and movements of international solidarity beyond the limits of the state. Mass movements of asylum seekers have been met with the mass movements of civil society actors motivated to fill the gap left behind by states, in various expressions of solidarity from which, to paraphrase Gillian Triggs, there will be no turning back.

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