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**Mapping Gender Violence Along the Balkan Route:
Humanitarian Assemblages, Securitization Policies, and
the Experiences of Women Refugees
and Migrants**

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ABSTRACT

Based on the lived experiences of migrants and refugees in Serbia, this paper argues that anti-trafficking and anti-smuggling humanitarian projects and securitization deals are serious sources of violence at the EU-Balkan borderlands. The ways migration management policies that emphasize anti-smuggling and anti-trafficking adversely affect women refugees and migrants highlights inconsistencies in human rights discourses within the refugee regime. The replacement of human rights with humanitarianism perpetuates a state of rightlessness for migrants and refugees, whether in the Balkans or elsewhere, and this complicates our understanding of where human rights violations in the context of migration actually occur.

Caught between the humanitarianization of migration management, international and state bureaucracies, and the borderlands between the EU and non-EU, migrants and refugees in Serbia live in a liminal legal zone that in itself subjects them to political, economic and social vulnerabilities that we might consider as the gendered violence of regulated rightlessness. Rather than locating the gender violence of migration with a foreign smuggler, as migration policies tend to do, ethnographic data from interviews the author conducted with migrants and refugees in Serbia 2019 reveals that the violence of migration along the Balkan Route can be located in three key areas: through state consent and humanitarian facilitation of human smuggling at the EU border; at the borders through pushbacks and detention; and in the everyday violence of encountering and navigating rightlessness—what the author has called the soft violence of state bureaucracy.

KEYWORDS: *migration, refugees, anti-trafficking, anti-smuggling, gender violence, humanitarianism, Serbia*

**Mapping Gender Violence Along the Balkan Route:
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Introduction

The police arrested me at the Belgrade airport and tried to deport me, but I explained to them [that I was seeking asylum]. They kept me in detention with 25 men for a week. We didn't have beds. Every morning, they fought with me to try to send me back. When I arrived, the police strip searched me, a gynecologist checked me, the police told me to take off all my clothes, my underpants. I said I was going to have a panic attack, and the doctor came to inject me with something. They came to investigate my body again. I was crying. They were curious about my body, I felt like an object. After a few hours, I found myself in detention with a lot of men. Those days were the worst of my life. Every day I asked the police to separate me in another cell. The door of the bathroom didn't lock. After 10 days, the police said that I could leave [Serbia] or go to jail, so I said okay, I'll go to prison. But the police officer started to beat me and forced me to sign papers that were in Cyrillic and took my fingerprints. They didn't want to tell me the procedure to seek asylum, or that the papers were from the asylum office. They just tried to push me back. They wanted to hide this information and force me to leave Serbia. This is extra dangerous because I left Iran illegally, so for sure I would go to jail if I went back. Eventually, the police officers got a letter from the [Asylum Protection Center] to release me to somewhere called Vranje. I repeated "Vranje" over and over again to myself, and eventually got a bus ticket. When I got to the refugee camp, they placed me in a small room with two men, again. The guard

said, “This is Europe, it’s normal.” But I know that it’s not normal. I knew it was a violation of my rights. I lived there for a month, in that room.¹

In the summer months of 2019, I lived in Belgrade, Serbia and worked at Atina, an NGO that provides various social services, psychological support, and temporary housing for migrant women who have experienced gender-based violence. I visited the refugee camps Bogovodja and Krnjaca several times a week and helped facilitate workshops there as I got to know their clients. I eventually interviewed many of them about their experiences crossing borders with smugglers and their encounters with violence while migrating. While the individuals who I interviewed kindly shared their stories about their smugglers with me, they were more compelled to discuss the trauma and frustration that they undergo as they attempt to navigate local laws, bureaucracies of “migration management” determined by international authorities, and the violence they encountered through interaction with humanitarian and state actors. Accordingly, my original research questions shifted: How do security deals affect migrants and refugees? How might the “soft violence” of navigating state bureaucracies be a kind of human rights violation? What happens when humanitarian organizations and state actors collaborate in order to attempt to address egregious forms of gender-based violence?

This paper, based on the lived experiences of migrants and refugees in Serbia, argues that anti-trafficking and anti-smuggling humanitarian projects and securitization deals are serious sources of violence at the EU-Balkan borderlands. The ways migration management policies that emphasize anti-smuggling and anti-trafficking adversely affect refugees and migrants highlight inconsistencies in human rights discourses within the refugee regime. The replacement of human rights with humanitarianism is perpetuating a state of rightlessness for migrants and refugees,

¹ Interview with Laela, Belgrade, Serbia. Laela is a trans woman who left Iran clandestinely. The names of all migrants, to whom I am indebted for this research, have been changed to protect their anonymity.

whether in the Balkans or elsewhere, and this complicates our understanding of where human rights violations in the context of migration actually occur.

Like the women and LGBTQ+ migrants and refugees I interviewed, I argue that we should not separate the physical experiential violence that many endure while crossing borders, whether by their smugglers or at the hands of border police or in detention, from the everyday, non-corporeal violence of living without the right to work, to housing, to education, to resettlement, or to a legal status. The gradual incorporation of humanitarianism within wider migration control apparatuses has allowed for humanitarian protection to prolong, and even replace, the possibility of accessing legal rights. Its precedence in the securitarian-focused migration management agenda means that humanitarianism itself becomes a locus of power and, as such, has a governmental logic of its own. The landscape of humanitarian assemblages intersects with the carceral framework of the refugee regime and, specifically in the case of Europe, border security deals. My research revealed that humanitarian and state actors even *collaborate* with smugglers, thus muddying the concept of “criminality” on which anti-trafficking legislation is based.

The unequal policy agreements between the EU and the countries at its external borders safeguards a uni-directionality of migration; this ensures that migrants and refugees in the Balkans are trapped. Without viable options to secure their own livelihoods in the Balkans, migrants and refugees are strongly incentivized to seek irregular modes of migration out of the Balkans. Caught between the humanitarianization of migration management, international and state bureaucracies, and the borderlands between the EU and non-EU, migrants and refugees in Serbia live in a liminal legal zone that in itself subjects them to political, economic, and social vulnerabilities that we might consider the gendered violence of regulated rightlessness.

To show how refugees trapped within the Balkan borders encounter various forms of violence, I will provide an overview of the refugee regime and track the way human rights has been gradually replaced by humanitarianism within migration management schemes at the same time that carceral tactics that accompany border deals have intensified. Then I use qualitative interview-based research I conducted in Serbia in the summer of 2019 to locate more accurately the three sites where human rights violations in the process of migration occur. Rather than locating the gender violence of migration with a foreign smuggler, as migration policies tend to do, ethnographic data from interviews I conducted with migrants and refugees in Serbia in 2019 reveals that the violence of migration along the Balkan Route can be located in three key areas: through state consent and humanitarian facilitation of human smuggling at the EU border; at the borders through pushbacks and detention; and in the everyday violence of encountering and navigating rightlessness--what I have called the soft violence of state bureaucracy.

The EU Border Crisis and Humanitarianism and Securitization in International Migration Management

In 2015, millions of individuals fleeing war, persecution, and economic injustice, made their way through the Middle East to attempt to reach Europe by way of the “Balkan Route” – the major channel through which the so-called “refugee crisis” spilled into Europe. In 2016, EU Member States began shutting their borders, refusing access to asylum for over a million Syrian refugees on their territories. As a direct result, refugees and migrants were stuck in Serbia, the last country that many reached before attempting to cross into the EU. At the time, Serbia’s asylum system was non-existent. Without any legal status, refugees and migrants were often left

without any choice but to employ smugglers in order to leave Serbia in search of economic and legal security in the EU, most irregularly entering Hungary or Croatia. While the number of refugees who are camping clandestinely or living in precarious conditions has decreased due to the authorities' strengthening of asylum reception centers, the absence of a functioning asylum legal process has left thousands of refugees and migrants struggling to secure their livelihoods in Serbia.

The 2015-2016 crisis of Europe's borders led to new international and national policies for managing migration at the levels of the UN and the EU. The concept of "migration management" itself is EU and UN international policy doublespeak denoting a host of concepts, regulatory frameworks, and themes, which most significantly involves allocating funds for repatriation of migrants to their countries of origin, controlling borders through heightened security or training police officers, education-based campaigns on the dangers of migration, and operating refugee camps at the EU's external borders.

The UN Global Compacts reveal the paradoxical interactions of criminal and human rights law. The Global Compact on Migration contains forty-five references to human rights, and both Compacts rest on the principles of the UN Charter, the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and other core international human rights treaties.² By additionally drawing on international criminal law, including the United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, as well as the Protocol against the Smuggling of Migrants by Land, Sea and Air, it is clear that the objectives

² Elspeth Guild, "The UN Global Compact for Safe, Orderly and Regular Migration: What Place for Human Rights?" *International Journal of Refugee Law* 30, no. 4 (2019): 661-663. <https://doi.org/10.1093/ijrl/eyy049>.

of the Global Compacts are not limited to protecting and promoting human rights in the field of international migration.

Efforts to criminalize migration are articulated as measures that can achieve human rights protections and save victims from exploitative conditions. Major policy documents such as the UN Global Compact on Safe, Orderly, and Regular Migration (GCM) and the Global Compact on Refugees (GCR) place combatting smuggling and human trafficking at the center of their policies. That carceral tactics are presented as providing the most effective means to defending the rights of refugees and migrants makes for a paradoxical relationship: criminalizing the means to movement is made into a humanitarian pursuit, whether through border security or immigration detention. In the Global Compact on Safe, Orderly, and Regular Migration, this tension is captured in paragraph 13: “We must save lives and keep migrants out of harm’s way,” and in paragraph 25 (c), the action to “prevent and counter smuggling of migrants so as to end impunity for smugglers and prevent irregular migration, while ensuring that counter-smuggling measures are in full respect for human rights.”³

The co-opting of the language of humanitarianism within the fight against irregular migration became institutionalized in the 2015 European Agenda on Migration. The first area for immediate action is “saving lives at sea,” which is proposed through tripling the budget for Frontex, the European Border and Coast Guard Agency, in order to coordinate border management. The arena for immediate action is “targeting criminal smuggling networks,” carried out through using surveillance technologies to target boats used by irregular migrants and to “request [their] removal.”⁴ This language is also reflected in the GCM: objectives 9 and 10 are

³ Global Compact on Refugees, UN Doc. A/73/12; Global Compact for Safe, Orderly and Regular Migration. UN Doc. A/RES/73/195, Para 13; para 25 (2018).

⁴ European Commission, “Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions: A European Agreement,”

“strengthen[ing] the transnational response to smuggling of migrants” and “prevent[ing], combat[ing], and eradicat[ing] trafficking in persons in the context of international migration.” Frontex is tasked with controlling the external limits of the Schengen Zone’s borders through coordinating surveillance efforts and “voluntary” returns, providing security equipment, developing and sharing information on migration, and training border guards to harmonize policing practices across Europe. However, Frontex enables and is complicit with human rights violations through its joint operations at Europe’s borders since it coordinates illegal border pushbacks, condones degrading and inhumane treatment, and forces expulsion, thus violating the international legal norm of *non-refoulement*.⁵ Despite this, Frontex has become the most significant partner of the EU in implementing border controls to manage migratory flows; the Agency’s budget has grown from €6.3 million in 2005 to over €90 million in 2013.⁶

The EU-Turkey Deal is another example of a major policy that merges criminal law with humanitarianism in the field of migration. Its stated purpose is to “break the business model of smugglers and to offer migrants an alternative to putting their lives at risk.” Yet the alternative model proposed—forced deportation—does not consider the agencies, desires, or human rights of the subjects at hand. Rather than laying out a plan for ensuring safety for migrants living in impermanent and often brutal conditions, it uses a precautionary framework to avoid accountability for burden-sharing, a core tenet of international refugee norms and laws since

(COM(2015) 240 final, Brussels 2015). https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/communication_on_the_european_agenda_on_migration_en.pdf.

⁵ Hugh Williamson, “Human Rights Watch letter to Frontex.” *Human Rights Watch* (2019). <https://www.hrw.org/news/2019/07/15/human-rights-watch-letter-frontex>; Melanie Fink, *Frontex and Human Rights: Responsibility in ‘Multi-Actor Situations’ under the ECHR and EU Public Liability Law* (Oxford: Oxford University Press, 2018).

⁶ Jutta Lauth Bacas, “Grey Zones of Illegality: Inhuman Conditions in Receiving Irregular Migrants in Greece,” in *The Anthropology of Security: Perspectives from the frontline of policing, counter-terrorism and border control*, eds. Mark Maguire, Catarina Frois and Nils Zurawski (London: Pluto Press, 2014).

1951. Beyond that, the Deal puts carceral concerns at the top of the EU's agenda. And yet, it accomplishes this under the guise of humanitarian protection.

The EU-Turkey Deal has analogs in the countries in the Western Balkans. The wider geopolitical context affects the conditions for refugees and migrants in Serbia because of the political dynamics at work between an economically abject state with a weak legislative framework, still recovering from the aftermath of war, and a powerful, wealthy, multi-national institution. As in its relationship with Turkey, the EU has allocated significant funds to the Serbian government on something of a *quid pro quo* basis: in exchange for reviving EU accession talks, Serbia is agreeing to temporarily hold the thousands of refugees who are blocked from entering the EU. While the EU has funded the Western Balkans' ability to cope with the refugee crisis, this support has come with strings attached.

Serbia, along with the other countries of the Western Balkans—North Macedonia, Croatia, Albania, Montenegro, and Bosnia & Herzegovina—is not a part of the Schengen Area, although Croatia is an EU Member State. Since the onset of the “refugee crisis,” the EU has provided funds for the Serbian government to allocate to the Ministry of Interior and the Commissariat to run the refugee camps.⁷ Since 2011, the EU has provided over €45.4 million to the Serbian Border Police Directorate of the Ministry of the Interior which funded a new car fleet, stationary and mobile video surveillance, “as well as other sophisticated equipment.”⁸ The equipment covers all the main borders posts in Serbia, and its use has allegedly resulted in successfully “detect[ing] numerous attempts of illegal border crossings, saving lives, and. . .

⁷ The Commissariat for Refugees and Migration was established by the Law on Refugees to manage all matters related to migration, including the asylum centers and refugee registration.

⁸ The Delegation of the EU to the Republic of Serbia, “EU Assistance to Border Police,” <https://europa.rs/eu-assistance-to-serbia/eu-and-serbia-15-years-of-partnership/eu-assistance-to-border-police/?lang=en>, (2019).

start[ing an] investigation on criminal groups behind the smuggling of people.”⁹ In 2018, the European Commission signed a contract for the project: “Continuation of support for increasing and improving capacities for managing the migrant crisis in Serbia—MADAD 2.” The EU, which is the largest donor in Serbia, allocated €16 million through MADAD 2 to continue financing the operating costs of refugee camps and reception centers for unaccompanied minors.

In 2019, the EU signed an agreement with Serbia on border management cooperation between Serbia and Frontex. This indefinite, bilateral agreement was established to combat illegal immigration primarily through returning migrants residing “illegally” in the EU back to Southeastern Europe. Evidently, Serbia’s role in “migration management” is useful to the EU; it can act as a partner to manage and securitize borders while maintaining the refugee camps in perpetuity without providing assistance or funds for any sustainable, long-term solutions.

This partnership works to the advantage of EU Member States, but the policies arguably make migration more unsafe. The current situation at the EU/Western Balkan borderlines is one in which migrants and refugees in Serbia are completely stuck. Trapped between the EU’s approach to migration management and Serbia’s flawed asylum system, nearly ten thousand refugees continue to live in one of several refugee camps across Serbia, mainly located near the Croatian and Hungarian borders. They do not have refugee status, access to work, or access to housing. Because the UNHCR has deemed Serbia a “safe country,” the international organization has stopped all resettlement operations and rarely grants refugee status to individuals living in refugee camps, some who have lived there since the beginning of the “crisis” over four years ago. Even for those who have been granted a temporary work visa, the employment opportunities in Serbia are incredibly limited, especially for those who do not speak Serbian.

⁹ Ibid.

Dis-Locating the Violence from the Smuggler to State Consent and Humanitarian Facilitation of Human Smuggling

The “refugee crisis” has produced new iterations of an “industry of punishment”¹⁰ with feminists, policymakers, religious organizations, and humanitarian advisors across the political spectrum advocating for harsher criminal and economic penalties for human trafficking. The Protocol to Prevent, Suppress, and Punish Trafficking in Persons Especially Women and Children is, at its core, not a human rights instrument but instead, a framework that legislates criminalization and serves as an apparatus for immigration control. In contrast, the Smuggling Protocol is transnational and outlines a duty to criminalize irregular border crossing. Together, the Trafficking and Smuggling protocols are conscripted into a “global project of mobility control.”¹¹ The notions of “force” and “coercion,” and the fantasy that they can be measured, produce moral justifications for criminalizing both victims and agents of “trafficking.”¹² These quantifiable indicators of measuring violence—what Sally Engle Merry describes as the “seductions of quantification”—are embedded within transnational spaces where human rights and criminal justice intersect.¹³ The U.S. Trafficking in Persons reports, published annually by the U.S. government, provide estimates of the number of trafficked victims globally along with numbers of prosecution and convictions of traffickers. The TiP reports also rank countries globally on their compliance with the U.S. norms on anti-trafficking. Underlying the TiP Report is the notion that trafficked persons only act under coercion, and that they are unaware of the

¹⁰ Elizabeth Bernstein, *Brokered Subjects: Sex, Trafficking, and the Politics of Freedom* (Chicago: The University of Chicago Press, 2018).

¹¹ Bridget Anderson, “Chapter 28: Trafficking,” in *The Oxford Handbook of Refugee and Forced Migration Studies*, edited by Gil Loescher, Nando Sigona, Katy Long, and Elena Fiddian-Qasimiyeh. (Oxford: Oxford University Press, 2014): 358.

¹² Anderson, 2014: 363.

¹³ Sally Engle Merry, *The Seductions of Quantification: Measuring Human Rights, Gender Violence, and Sex Trafficking* (Chicago: University of Chicago Press, 2016): 6.

potential risks they are taking. Yet various forms of economic and gender-based inequality, or restrictive immigration policies that encourage irregular forms of labor and movement, are never considered in TiP reports. These policies start from the premise of an implicit power dynamic only between the trafficker and the helpless victim. By locating the problem with the trafficker, without regard for the local circumstances that compel individuals to seek irregular forms of labor, the anti-trafficking regime individualizes the violence, thus distracting from the conditions for exploitation. While dominant narratives emphasize mass organized crime networks as the facilitators of what is called cross-border trafficking, the reality is that informal networks consisting of neighbors, relatives, or friends are often facilitators of migration.

Despite the significant role that anti-smuggling and anti-trafficking efforts play in international laws and policies, little is known about the smuggler-migrant relationship and how migrants come to interact with smugglers in the first place.

Previous research in various sites along the Balkan Route has revealed that Syrian refugee perceptions of smugglers diverge dramatically from assumptions in government policy. Whereas governments and intergovernmental authorities “predominantly treat [smugglers] as dangerous criminals enabling trafficking, the refugees themselves perceive them as guides, advisors, and allies.”¹⁴ According to Danilo Mandić (2017), 75% of interviewed refugees did *not* report experiences of trafficking; of the instances of “trafficking” that were reported, 7.9% of individuals reported forced labor and 26.8% reported deception at the hands of the smuggler (compared to 36.6% who reported deception at the hands of soldiers, police officers, or other state officials.).¹⁵ The dominant securitization approach, through anti-smuggling policies under

¹⁴ Danilo Mandić, “Trafficking and Syrian Refugee Smuggling: Evidence from the Balkan Route,” *Social Inclusion* 5 no. 2 (2017): 30.

¹⁵ *Ibid.*, 32.

the guise of humanitarian care, contributes to a transnational carceral governmentality.

Yet what is missing from common critiques of anti-trafficking legislation is an understanding of how gendered relations inform smuggler-client relationships or exploitative experiences of those irregularly migrating. Since anti-trafficking and anti-smuggling policies all underscore gender-based violence as the most fundamental and persistent form of violence providing grounds for criminalizing smuggling, through my research in Serbia, I sought to examine how women and LGBTQ+ migrants and refugees experience the relationships with their smugglers. How are these relationships experienced, taking into consideration differing gender identities? While the individuals I interviewed did not report very positive relationships with their smugglers, the physical and psychosocial violence they encountered at the hands of border police, refugee camp staff (the Commissariat), and even humanitarian workers was to them far more egregious.

Refugees and migrants are constantly participating in what Nicola Mai has called “agencing” practices that involve circumventing sovereign state controls, negotiating various social and power relations, and making decisions that respond to their social, political, and economic circumstances.¹⁶ Agencing involves evaluating risk and making decisions accordingly. As Saba Mahmood has argued, agency should be viewed as “a socioculturally situated capacity for action that is always created and enabled by specific relations of subordination.”¹⁷ Literature on migrant agency has explored how migrants contest traditional conceptions of citizenship and create new modes of political belonging.¹⁸ Other studies have approached agency from the lens

¹⁶ Nicola Mai, *Mobile Orientations: An Intimate Autoethnography of Migration, Sex Work, and Humanitarian Borders* (Chicago: University of Chicago Press, 2018).

¹⁷ Saba Mahmood, *Politics of Piety: The Islamic Revival and the Feminist Subject* (Princeton, NJ: Princeton University Press, 2005), 18.

¹⁸ Peter Nyers, “Abject Cosmopolitanism: The Politics of Protection in the Anti-Deportation Movement,” *Third World Quarterly* 24 no. 6 (2003): 1069-93.

of the everyday—how undocumented individuals participate in non-traditional social communities.¹⁹ Crucially, scholars have critiqued anti-trafficking measures as a method of suppressing the possibilities of agency of migrant women.²⁰ Examining migrant agency *during* the migration journey, rather than in the destination country, however, must take into consideration the various relationships that migrants engage to achieve their desired ends; this almost always necessitates hiring a smuggler. The dominant carceral framing of anti-smuggling policies rarely considers the necessity of navigating social relations and fluctuating political conditions that can mitigate a migrating individual's safety. Instead, these policies presume agentless victims in order to justify punitive measures of deportation or detention. Migrants are thus deemed *complicit* in criminality, rather than “innocent,” if they locate a smuggler.

How do migrant women's intimate experiences with their smuggler/guide compare to the way that these relationships are framed in policies that reduce this simply to trafficking? My ethnographic observations showed how state and humanitarian actors' participation in smuggling economies add a rarely discussed layer of subjugation upon “agencing” practices. This is not to diminish the exploitative encounters that many face as a result of relying on a smuggler to travel irregularly. Several of the individuals I interviewed reported instances of non-consensual behavior with their hired smuggler.²¹ And to be sure, the cost of smuggling is prohibitive. Ester, an Iranian migrant, for example, reported spending €31,000 for her and her family to get from Iran to Bulgaria and another €10,000 to reach Serbia. Hamdiya and her family paid €20,000 to

¹⁹ Nando Sigona, “‘I have too much baggage’: the impacts of legal status on the social worlds of irregular migrants,” *Social Anthropology* 20 no. 1 (2012): 50-65.

²⁰ Anderson, 2014; Andrijasevic 2010; Sharma 2005.

²¹ Ten migrants and refugees I interviewed reported incidents that pertained to the smuggler being unable to fulfill his promise of taking his client to her desired destination (usually western or northern Europe), and refusing to return her money.

reach Bulgaria from Afghanistan, then €8,000 to reach Serbia from Bulgaria.²² The experiences some migrants and refugees had of the hired smuggler failing to live up to his promise were debilitating, leaving them without the financial means to hire another smuggler to attempt again to cross the Serbian border irregularly.

While the clandestine nature of the business transactions certainly makes migrants vulnerable to exploitative relationships, I did not observe the non-consensual abusive power relations between migrant women and their smugglers described in anti-smuggling policies that focus on sex trafficking and gender-based violence. This rendering of trafficking/smuggling rejects migrant agency and assumes that women are more vulnerable than men to certain risks while migrating.²³ The decision to pursue irregular means of migration, and to employ a smuggler or guide, is intentional; the risk is necessary to achieve the possibility of a better life. Contrary to the way that EUROPOL presents the process of facilitating migration (through a criminal organization), most individuals met their smugglers through family or friends, social media, or informal gathering spaces like “Afghan Park” in Belgrade or at a refugee camp. Smugglers in migrant “hot spots,” in fact, are so ubiquitous that they offer their services in public spaces in broad daylight, seemingly with the consent of the police or humanitarian authorities.²⁴ Understanding *where* the violence of trafficking/smuggling is actually located, since most

²² All names have been changed to protect the anonymity of those who were interviewed.

²³ Out of thirteen individuals I interviewed, the only one who was identified as a victim of trafficking was an adult male. Trafficking is often assumed to entail coercive sexual labour, and thus became a rallying point for feminist legislators to enact anti-trafficking laws. Yet, the global circulation of capital has often made migrating for labour necessary, which remains at odds with stricter immigration controls. For more on the development and trajectories of discourses on human trafficking from varying feminist perspectives, please see Kamalo Kempadoo, Jyoti Sanghera, and Bandana Pattanick (eds). *Trafficking and Prostitution Reconsidered: New Perspectives on Migration, Sex Work, and Human Rights*. (New York: Routledge, 2005).

²⁴ EUROPOL. European Migrant Smuggling Centre – EMSC. <https://www.europol.europa.eu/about-europol/european-migrant-smuggling-centre-emsc>. Accessed January 10, 2020; Interviews with Hamdiya, Laela, Amina, Zaynab, and Farid. July-August 2019, Belgrade, Serbia. As Farid noted, “Everyone is a smuggler. You’re in the camp, and people talk. People have numbers. You ask around, and hear other peoples’ success stories. It’s really easy to find a smuggler’s number. They’re in the bus station, in the park. They’re so obvious.”

subjects have entered the relationship consensually, requires listening, as Wendy Hesford puts it, to “women’s testimonies for what they say about the complexities of women’s victimization, cultural location, and agency.”²⁵ In situating the violence of migration with the trafficker rather than the restrictive immigration practices that make it impossible to move legally and safely, anti-smuggling/trafficking efforts leave little room for agentive decision-making by migrants. The ideology of anti-smuggling and anti-trafficking renders most of the causes of displacement or migration as illegitimate. The loss of land or livelihoods, ecological destruction of home and infrastructure, or war are deemed as negligible violence compared to exploitation on the migrant route. The framing of women’s clandestine migration is thus envisioned as “crisis-producing instead of life-saving,” as these women unsettle the cartographic delineations of the sovereign state.²⁶ The framing of anti-trafficking as a security issue is a strategy that justifies detention, extradition, and deportation. Anti-trafficking operations occlude the power of border regimes and remove culpability for the violence experienced by female migrants, thus rooting the “pathological violence” in the hands of the smuggler/trafficker.²⁷

The reality is that the EU countries’ response to the “refugee crisis” with securitized border policies, tightened visa regimes, containment policies, and increased deportation efforts actively produces the possibilities of encountering violence along the migrant route. It also must be understood within the context of the relationship between the EU and Southeastern Europe as a social field and migration space riven with uneven power positions. In fact, the violence of migration is not generated solely from the smuggler; anti-trafficking frameworks ignore wider

²⁵ Wendy Hesford. *Spectacular Rhetorics: Human Rights Visions, Recognitions, Feminisms*. (Durham: Duke University Press, 2011), 95.

²⁶ Sharma, 2005: 90.

²⁷ Rema Hammami, “Global Governmentality and the VAW Agenda in Occupied Palestine,” in *Governance Feminism: Notes from the Field*, eds. Janet Halley, Prabha Kotiswaran, Rachel Rebouché, and Hila Shamir. (Minneapolis: University of Minnesota Press, 2019), 479-504.

sources of displacement or drivers of irregular employment. Anti-trafficking practices often function to police migration, specifically migrating women, by framing the pursuit of cross-border movement as criminal.²⁸ Appealing to a sense of humanitarian protection, the justification behind incarcerating alleged victims of trafficking is that *traffickers* are the greatest threat facing these women. The media uproar about trafficking rings and smugglers organizing the movement made it so that *prison*, ironically, could be deemed a form of protection. Yet even the Canadian Council for Refugees recognizes that “[p]eople smuggling, despite its evils, has also been life-giving. It has made it possible for significant numbers of people to flee persecution and reach a place of asylum when no government was willing or able to offer an escape route. It has allowed them to exercise their human right to seek and to enjoy in other countries asylum from persecution (Article 14, Universal Declaration of Human Rights)... Even some of the people who are trafficked, knowing the wrongs of their situation of bondage, may still prefer it to what they left behind, either for themselves or for what it enables them to do for family members. This of course does not in any way justify the abuses perpetrated by the traffickers. But it is relevant to any discussion about solutions to the problem of trafficking.”²⁹

The framing of violence within these policies disregards the agentive decisions that migrants make and the social relations that they must navigate. Ratna Kapur notes that “the legal project pursued in the context of cross-border movements is perhaps the most explicit example we have to date of how our good intentions, passions, and progressive swords may have turned

²⁸ Nandita Sharma (2005) examined four boats of Chinese migrants that arrived on Canada’s west coast in the late 1990s. 400 individuals were immediately incarcerated upon arrival, including all of the women and children, who were deemed victims of trafficking. See Nandita Sharma, “Anti-Trafficking Rhetoric and the Making of a Global Apartheid.” *NWSA Journal* 17 no. 3 (2005): 88-111.

²⁹ Canadian Council for Refugees. “Migrant Smuggling and Trafficking in Persons.” <https://ccrweb.ca/sites/ccrweb.ca/files/static-files/traffick.html>. (2000).

into boomerangs.”³⁰ One such boomerang is policies that articulate “humanitarian protection” or “victim assistance,” euphemistically concealing the goals of apprehending irregular migrants or repatriating migrants to their country of origin. In Serbia, the shift from securitization towards humanitarianism is an instrument to achieve accession to the EU. The coordination of migration policies is a prerequisite to proving Serbia’s reliability as an EU partner. It also enables participation of police and humanitarian actors within the smuggling and trafficking of individuals.

State Actors as Smugglers and Traffickers

*In Krnjaca, there were a lot of smugglers. They work with the Commissariat. They’re friends. At night, I saw them in their office. Barbeque, drinks, women sometimes. This stuff is really happening, but no one knows about it, because no one comes and checks. If [the EU] is giving money to someone, why don’t they go and see what they are doing with it? Go and see how they are behaving with the people. The camp will go a whole year without cleaning, and when they hear that someone is coming from Europe, they all jump and clean. Why? Because someone is coming and you have to look out for yourself.*³¹

Government corruption and nepotistic power plays shape the distribution of EU funds and the everyday functioning of the Serbian refugee regime. The Law on Refugees (2002) established the Commissariat for Refugees and Migration, the organization that regulates

³⁰ Ratna Kapur, “Cross-border Movements and the Law: Renegotiating the Boundaries of Difference,” in *Trafficking and Prostitution Reconsidered: New Perspectives on Migration, Sex Work, and Human Rights*, eds., Kalama Kempadoo, Bandana Pattanaik, and Jyoti Sanghera (Boulder: Paradigm Publishers, 2005), 26.

³¹ Interview with Farid, August 2020. Belgrade, Serbia.

administrative tasks related to the “care, return, and integration of refugees.”³² The Commissariat handles the registration of refugees and is responsible for managing and staffing the refugee camps. The governmental control of refugee camps, via the Commissariat, has made it so that human rights organizations’ ability to access the camps is contingent on governmental cooperation, ensuring that a limited, controlled number of non-state actors are allowed to enter them. As a researcher, I was only granted access to the refugee camps because I was affiliated with Atina as a “staff researcher.”

As a transit country, Serbia is also a jumping-off point for irregular migration. Not only do smugglers conduct their business in public in refugee camps, on social media, or in an urban gathering place like “Afghan Park,” but the Commissariat itself (as well as humanitarian actors) profits from the business of irregular migration.³³ Naturally, this complicates anti-smuggling and anti-trafficking policies that locate the violence of migration with exploitation at the hands of “foreign” criminal networks. Border closures are a profitable business for those seeking a piece of the action, whether non-state actors or those in the humanitarian-securitarian space; the only difference is that the latter are granted immunity for “criminal” acts due to their proximity to power. For example, in 2015, the Asylum Protection Centre charged the manager of the Commissariat at Krnjaca refugee camp with abuse of official capacity and abuse of smuggling and in 2016, the APC reported two managers at Bogovodja refugee camp related to indications of inhumane treatment and torture, including electric shock. For all three of these cases, witnesses gave testimonies, which led to the Commissioner for Refugees and Migration

³² Commissariat for Refugees and Migration, Republic of Serbia. “About Us.” http://www.kirs.gov.rs/wb-page.php?kat_id=176. Accessed January 12, 2020.

³³ I am grateful to lawyers from the Asylum Protection Center for walking me through various charges that they have attempted to pursue against the Commissariat, only for the cases to be closed and for the APC to face subsequent ostracization from the refugee camps. This information is not in public records because the proceedings were stopped. I am also grateful to the migrants who provided first-hand testimonies about the violence and intimidation that they encountered at the hands of the Commissariat and humanitarian actors.

replacing the Commissariat management at both refugee camps. The accused managers, however, absconded, and the proceedings were stopped. The witnesses were pressured to remain quiet. There were no final judgments, and there are no public reports on these proceedings.³⁴

Although the state might insist on silence at an institutional and public level, refugee and migrant testimony attests to the fact that the Commissariat engages in abuses of power through enacting physical and psychosocial violence upon refugee camp inhabitants. Their testimony reveals that smugglers conduct their business with the assistance of the police and the Commissariat. The APC has ongoing investigations into various accusations of forced labor and sex trafficking at the refugee camps. Residents and former residents of various refugee camps in Serbia have reported that the Commissariat uses refugee camp residents for forced sexual transactions. Individual testimonies revealed that the staff forcibly isolate women, and that women have been impregnated by Commissariat staff and subsequently forcibly underwent abortions organized by the staff.

These state-sanctioned violations of human rights are enabled because of the EU's failure to investigate allegations of abuse and, ultimately, the necessary role that Serbia plays as a border buffer zone. Institutional players, such as the Commissariat and actors from international organizations like the UNHCR, have created humanitarian assemblages that are ephemeral forms of social security that hold precedence over the legal process of granting asylum. Between funding from the UNHCR and the EU, Serbia was granted €250 million for humanitarian care in 2008 alone; whereas, in that year, the process for local integration was financed with only €56 million.³⁵ With such significant political and economic sway, it is little wonder that

³⁴ Interview with Rados Djurovic, Executive Director of the Asylum Protection Center. July 2019. Belgrade, Serbia.

³⁵ Commissariat for Refugees, "Situation and Needs of Refugee Population in the Republic of Serbia," December 2008, <http://www.kirs.gov.rs/media/uploads/Dokumenti-i-publikacije/Izvestaji/RefugeeNeedsAssessmentReportSerbia.pdf>.

humanitarianism is a locus of both state and international power. “Implementing partners” have become essential to carrying out regimes of border security and the murkiness between humanitarianism and securitization empowers those working within the refugee regime to engage in potentially exploitative practices and, indeed, collaborate with smugglers with impunity.

Trafficking has become a crucial analytic through which “global indicators” measure “violence against women,” yet this situation suggests that the dominant framing of trafficking does not adequately account for the variety of dangers that migrants face.³⁶ The logic behind international anti-trafficking efforts is that the exploitation that women experience at the hands of their traffickers or smugglers is the most *egregious* form of violence that they encounter, especially while participating in cross-border movement. Accordingly, the ideology of anti-trafficking discursively manufactures a need for mechanisms of state control through efforts such as invading transit centers and deporting or detaining suspicious figures.³⁷ The subsequent production of carceral surveillance thus invites humanitarian intervention, as the latter is deemed morally and legally serviceable in the name of “saving” trafficked women.

The operative discourse in the anti-smuggling and anti-trafficking policies that center migration management relies on what Dubravka Zarkov calls the “omnipotence of men and the absolute powerlessness of women.”³⁸ Yet the multitudinous nature of state and non-state actors

Commented [MLI]: This sentence seems to need rewriting.

³⁶ While living in Krnjaca refugee camp, Farid, a 34-year-old refugee applicant from Syria, was subjected to the threat of trafficking. Upon returning from the supermarket to the refugee camp one day, he was cornered by a vehicle. Two men, claiming that they were acquainted with the leadership of the refugee camp, intimidated Farid to bring them new clients to smuggle, and threatened his life if he didn't. Farid promised that he would; instead, he hid in his room in the refugee camp for three days and left when he got in touch with his lawyer. In spite of the fact that Farid has been recognized by the Belgrade Center for Human Rights as a victim of trafficking; in spite of the fact that he is a refugee from Syria, he has been stuck in Serbia since 2014.

³⁷ Merry, 2016, 6.

³⁸ Dubravka Zarkov, “Towards a New Theorizing of Women, Gender, and War,” in *Handbook of Gender and Women's Studies*, ed. Kathy Davis et al, (London: SAGE Publications Ltd., 2006), 17.

working to reap the benefits of a necessary and profitable service blurs the binary of these power relations.

Pushbacks and Detention at the Border

We crossed the [Hungarian] border. After 200 meters, the police came, three of them. One of them, he was talking to his friend coming from the other side, and he was telling him that he was the best dog hunter in the world. Like we are dogs, they are hunters.

They took us to some prison, and we stayed there for four days. We were always wearing handcuffs, and every six hours they give you a piece of bread. It's just to survive. After four days, they took us to some prison – it's not a camp, it's really prison. They are like containers, and you can see the army there. 24 hours, helicopters, with cars and guns and everything – dogs, cameras. They make you feel like you killed someone. One day, they called me for an interview. He told me, bring your phone with you. He was a very bad person. At the end of the interview, he takes my phone, he writes down all the numbers I have on my phone, he asks me about all the numbers, about all the pictures, about everything. The last thing he does is he opens your phone and takes the IP address. No idea why. Like, the Syrian government, which is the worst government in the world, didn't do that. We stayed there for 20 days, and they forced us to seek asylum there. And we did. But after fourteen days, we were deported. The Arabic translator came with an army with guns and they kicked us out.³⁹

Deportation is a critical site of the violence of migration. In the context of the European/non-EU borderlands, Nicholas de Genova and Nathalie Peutz (2010) describe

³⁹ Interview with Ester, August 2020. Belgrade, Serbia.

deportation as an internationally coordinated technique to expand the buffer zone of securitization. It demonstrates the power of the sovereign state to regulate the freedom of movement. In this quote from my interviews, Tareq is describing his experience, with Farid, in Hungarian detention, right as the Balkan Corridor was closing and Hungary began building its border wall. Suddenly, certain forms of migration that were, quite literally the day before, deemed legal were branded as “illegal.” The swiftness with which laws and policies change within the world of migration management ensures that the system remains illegible for those who are trying to navigate it. The bureaucratic loopholes and constant reforms become a form of psychosocial violence, hampering the migrant or refugee’s ability to making informed decisions. Indeed, deportation and extradition policies ensure that certain forms of human mobility are “illegal” in order to achieve “security, purportedly allaying (while in fact further inciting) socioeconomic *in*securities ‘at home’ within the ‘domestic’ spaces of nation-states.”⁴⁰ As a result of mass deportation schemes, temporary holding camps at the outskirts of the EU’s borders, whether refugee camps or detention centers, must continue to operate to normalize forced returns.

Of the thirteen individuals I interviewed, six of them experienced border pushbacks from either the Hungarian, Croatian, or Bosnian borders back into Serbia. Often, pushbacks and detention occur within the same experience; sometimes, migrants are detained in the country to which they are transiting and other times, detention occurs in Serbia. Some of the most degrading, aggressive forms of physical violence occurred while held in refugee detention. This included sexual assault, undernourishment, and sleep deprivation. Several individuals described

⁴⁰ Nicholas de Genova and Nathalie Peutz, “Introduction” in *The Deportation Regime: Sovereignty, Space, and the Freedom of Movement*, eds. Nicholas de Genova and Nathalie Peutz (Durham: Duke University Press, 2010), 4.

refugee detention as a “nightmare.” Critically, the European border regime manufactures a need for both humanitarian and securitarian actors to manage the circulation of transit. Yet the physical harm experienced in detention is inextricably linked to the quickly changing topography of agreements between states, border police, and international policies.

Policies that externalize EU borders toward poorer countries at the EU’s periphery have existed for over two decades.⁴¹ The concept of “externalization” necessitates an asymmetrical power relation that relies on surrounding EU states to protect the EU from unwanted migration. The Western Balkans are a contested territory of both ordering and exclusion; using this landscape as grounds for extraditing the “unwanted” in the EU is an ongoing technique of EU migration policies. In fact, UNHCR analyses reveal that the number of recent arrivals in Serbia as a result of collective expulsion is higher than the number of newly arrived migrants.⁴² Refugees and migrants who have never been in Serbia in the first place find themselves in Serbia as a result of having been pushed back from Croatia or Hungary.

In a handful of major policy documents, including the EU Council Directive defining the facilitation of unauthorized entry, transit, and residence, the European Agenda on Migration, and the European Agenda on Security, controlling migration flows toward the EU are specifically stated as priority outcomes.⁴³ The Consolidated Version of the Treaty of the Functioning of the European Union in 2008 developed the idea of an “area of freedom, security and justice”: a zone in which only EU citizens could move freely. The Treaty stated that Serbian citizens could be

⁴¹ Marta Stojić Mitrović and Ana Vilenica, “Enforcing and Disrupting Circular Movement in an EU Borderscape: Housingscaping in Serbia.” *Citizenship Studies* 23 no. 6 (2019): 540-558; Aspasia Papadopoulou-Kourkoulou. *Transit Migration: The Missing Link Between Emigration and Settlement*. (London: Palgrave Macmillan, 2018).

⁴² UNHCR. 2018. *UNHCR Serbia Update: 01-14 October 2018*. <https://data2.unhcr.org/en/documents/download/66323>.

⁴³ Council Directive 2002/90/EC of 28 November 2002 defining the facilitation of unauthorised entry, transit and residence; European Agenda on Migration. 2015. Brussels, 13.5.2015. COM(2015).

granted access to this “area” only if Serbia obliged itself to readmit all its citizens currently staying in the EU, as well as third party nationals without permission to stay in the EU.⁴⁴

Because Serbia’s accession to the EU is a top priority, the government must acquiesce to its demands and bear the impact of increased numbers of arrivals, despite lacking the economic or legislative infrastructure to accommodate them. The EU essentially succeeded in transferring the management of its borders to the administration of a non-EU state, all the while maintaining decision-making power over who is allowed to enter at the outskirts of the EU and who must be forced to leave.

The asymmetry of power relations is exemplified in the deal between Frontex and Serbia, which laid out that “members of the [Frontex] team shall enjoy immunity from the criminal jurisdiction of the Republic of Serbia in respect of the acts performed during and for the purpose of the exercise of the official functions in the course of the actions carried out in accordance with the operational plan.”⁴⁵ Article 7 (6) of the negotiations ensures that should any damage be caused through Frontex’s actions, “the Republic of Serbia shall be liable for any damage.”⁴⁶ The agreement states that members of the Frontex team are exempt from any form of taxation in Serbia on the salary paid to them—an especially troublesome point. As an economically depressed country with a high unemployment rate, Serbia has undertaken the burden of managing both new populations of individuals in search of economic stability and foreign officials who can exploit their positionality within the Western Balkans as a tax haven.

In order to manage the growing number of new arrivals, and to fulfill its promise of accepting

⁴⁴ Stojčić Mitrović and Vilenica, 2019, 9.

⁴⁵ Council of the European Union, “Status Agreement between the European Union and the Republic of Serbia on actions carried out by the European Border and Coast Guard Agency in the Republic of Serbia,” 15579/1/18 REV 1 (2019). <https://data.consilium.europa.eu/doc/document/ST-15579-2018-REV-1/en/pdf>.

⁴⁶ Ibid.

any foreigners forbidden from entering the EU, Serbia introduced the Law on Foreigners. This law contains a measure that defines a Shelter for Foreigners as a facility for accommodating foreign nationals who either have not been allowed entry into Serbia or against whom removal or return orders have been issued but cannot be enforced immediately and are thus imposed with detention under police watch.⁴⁷ Ordering accommodation in the Shelter for Foreigners can be considered detention considering the limitation of rights that asylum-seekers are granted in such circumstances, including limited contact with the outer world, the duration of measure, and the prohibition of leaving grounds at one's will. These provisions do not fulfill the constitutional and international guarantees to the right to freedom and safety. They outline no obligation to provide translations, no obligations of the decision-maker to periodically review the decision on migration, nor to present it to the asylum seeker. Yet this provision has upheld the maintenance of both refugee camps and detention centers. As I observed, sometimes the characteristics that demarcate these two physical spaces can seem blurry.

While Serbia has agreed to take measures to prevent migration toward the EU, there is less concern over how Serbia actually manages the thousands of individuals who are temporarily stuck in Serbia as a result of these policies. Unofficially, the Commissariat and border police officers are empowered to make life slowly unbearable for refugees, to prompt them to leave on their own accord. The abuse and negligence of refugees at the hands of state-funded staff is bundled within the soft violence of state bureaucracy, which I will return to in the following section. The slow, painful period of waiting to access legal rights becomes an enduring form of rights violations that produces traumatic experiences analogous to being held in prison.

⁴⁷ Law on Foreigners, Art. 3, 1.28 (2018). <http://www.mup.gov.rs/wps/wcm/connect/004ebee-e-f0a9-4116-9797-e24889136d03/Law+on+Foreigners.pdf?MOD=AJPERES&CVID=lg9jrZz&CVID=lg9jrZz#:~:text=A%20foreigner%20may%20enter%20into,the%20law%20or%20international%20treaty>.

The Soft Violence of State Bureaucracy and Humanitarian Regimes:

Regulating Rightlessness

Everything about life in refugee camps along the Balkan Route is temporary. Most migrants only come to stay for a few weeks, just to get some rest before playing “the game”—the phrase used by migrants and refugees to describe the risky process of crossing borders through irregular means, often by employing a smuggler—again. Everyone I spoke with had attempted to play “the game” several times, to no avail. They know that the chances of actually gaining a legal status in Serbia—the possibilities of making a full life for oneself and one’s family—are bleak.

One migrant from Iran, Ashraf, was caught by the Serbian police as she tried to switch passports in the Belgrade airport to board a plane to Amsterdam. Because she was caught committing a “crime,” she became an illegalized criminal. The authorities threatened to deport her, but, as one Serbian academic pointed out to me, Serbia does not actually have the money to carry out deportations.⁴⁸ Accordingly, the detention camp becomes a “device of immobilization”: an exclusionary space enforced by nation-states to stem migratory flows.⁴⁹ Andrijasevic (2010) argues that the detention of irregular migrants is not only a manifestation of state sovereignty but that detention and camps function to transform European space. Detention centers are not “dematerialized spaces of exception; rather, detention must be examined in relation to deportation.”⁵⁰ Detention and deportation are complementary forms of entrapment; the refugee camp is a humanitarian extension of this model. These are all localities of migration control that

⁴⁸ Marta Stojic Mitrovic, personal correspondence.

⁴⁹ Kallius, Annastiina, Daniel Monterescu and Prem Kumar Rajaram, “Immobilizing mobility: Border ethnography, illiberal democracy, and the politics of the ‘refugee crisis’ in Hungary.” *American Ethnologist* 43 no. 1 (2016): 25-37.

⁵⁰ Rutvica Andrijasevic, “From Exception to Excess: Detention and Deportations across the Mediterranean Space.” in *The Deportation Regime: Sovereignty, Space, and the Freedom of Movement*, eds. Nicholas de Genova and Nathalie Peutz. (Durham: Duke University Press, 2010), 149.

shape the transnational trajectories of migrants' journeys. Yet the "game" is a method by which migrants and refugees can attempt to re-appropriate the "state of exception" that defines these third spaces.

Unlike many other migrants and refugees I interviewed, Ashraf had taken a plane from Turkey to Serbia when she got trapped in the Balkans. She never played the game by foot. When she was caught in Serbia, her smuggler offered to find her someone to guide her across the Croatian border. At the time, she rejected the offer. When we spoke about this, a year had passed since she had arrived in Serbia and made that decision. She explained:

I was scared, I wasn't able to go to Croatia by myself. All these things had just happened – the second game was planned after I spent one month in prison, 50 days in camp, it was awful, I was not thinking straight. I was hurt by police officers. Since then, when I see officers, I shake. I'm not normal when I see them. Maybe if someone asked me now, I would go.

When I asked her whether she would consider going on the game again if she found someone she could trust, she answered:

I would consider it. You have to think if you want to accept the risk or not. If someone told me I could do it now, I would go because I have nothing to lose. If I got an asylum interview or a sponsor, of course I wouldn't go.

The increase and regularity of cross-border mobility is shifting the European border regime so that various actors need to normalize these circular migration practices. Managing borders, refugee camps, and detention centers becomes a lucrative business. Humanitarian actors fill the void of legal support at the level of the state, and there is a need for securitization policies to keep these sites of temporary "protection" in business. The relationship between detention and

deportation, thus, also becomes a site for making strange bedfellows out of humanitarianism and security apparatuses.

Six weeks ago, I decided to seek asylum in Serbia. The lawyer told me that the first interview will be in two to three weeks. Six weeks have passed, and the lawyer says she's on vacation. I haven't heard anything. Now I have to wait for the first interview. Staying in Serbia is like being in prison. In the next year my passport will be expired, and I will have no way to go anywhere without any visa or any passport. Serbia doesn't have any policies. There are people working here [in the humanitarian organizations], they behave very bad. A guy working in the camp helped me. He told me about the Belgrade Center for Human Rights, the United Nations. The first time I went to the United Nations with him, the woman told me that I should leave. There are 25 Somalian girls, and they were sexual slaves and they are more important and we cannot help you. She told me to go to the BCHR. So I went. A lawyer there told me, you can ask for asylum, and after five years, you can ask for a passport. The country should give you one by the law, but they never will. After that, I went home. Of course, I was so sad. I have no way out. I sent a letter to the United Nations in Serbia. The answer from the UN said they could not help me with foreign resettlement. After that I sent another email to the UN, and the answer after I think three months came for me. After that a guy called me and told me, we want to help you, but if you want to ask for refugee status, you're not alone. I said, I cannot ask for it in a country that [condones] sexual rape. And you [are forced to] sign all these papers that say I am okay with everything that happened. I told him about the rape, I explained to him everything. And he said, you should thank God that nothing more serious happened to you.

Ashraf, a twenty-year-old Iranian asylum seeker, has been living in Serbia for seventeen months. In this interview, she is describing to me the Sisyphean task of attempting to secure formal rights as a refugee. She develops a relationship with a Commissariat officer from the refugee camp who helps her leave the camp and lets her temporarily stay with him in Belgrade. She then goes to the UNHCR to advocate on her own behalf and make an appeal for her resettlement. They tell her that they had closed all resettlement operations for migrants and refugees in Serbia because Serbia is deemed a “safe third country;” this concept also underlies the justification for extradition policies in the EU, wherein migrants are illegally pushed back from the EU to Serbia, violating the principle in international refugee law of *non-refoulement*.⁵¹ She goes back to the UNHCR on three occasions, explaining that she had been sexually assaulted by a police officer and the Commissariat staff when she was held in refugee detention and was then raped by a lawyer when she briefly stayed in a hostel. The UNHCR staff tell her, in response, “You should be happy that no one fucked you worse.” She wrote her story to a dozen embassies, pleading for them to help her secure resettlement. The responses she received are that they cannot help her unless she physically arrives illegally on the country’s soil. She is given no option but to hire a smuggler and attempt to travel to Croatia or to seek asylum in Serbia, a process that she knows could take forever—and in a country that has allowed her to endure gross human rights violations.

The process of waiting to achieve rights is, as Sima Shakhshari puts it, a “time of life-as-death, when refugee applicants cannot work, don’t have access to healthcare, and are denied the freedom to move.”⁵² The “calamity of the rightless” is that there are no laws that govern their

⁵¹ Ivana Krstić and Marko Davinić. 2018. “Protection of Migrants from Extradition in Serbia due to Risk of Persecution.” *International Migration* 57 (2018): 163-176.

⁵² Sima Shakhshari, “The queer time of death: Temporality, geopolitics, and refugee rights.” *Sexualities* 17, no. 8 (2014): 1008.

lives at all—“not that they are oppressed but that nobody wants even to oppress them”.⁵³ Yet despite the frequent assertion that the refugee living in a camp is emblematic of “bare life,” migrants’ loss of political status from the liberal nation-state system does not render them “naked” of internationally administered bureaucracies.⁵⁴ On the contrary, stuck in the liminal state between “rightfulness and rightlessness” is a living condition *fused* with friction from various laws, policies, and institutional apparatuses that make gaining rights such an impossibility. The multi-layered, elusive process of applying for various visas, navigating abstract laws that are arbitrarily applied, and confronting various administrative obstacles based on sudden regulatory changes, often unevenly interpreted and applied depending on the whims of individual staff, make for unbearable living conditions. The endless processing zone wherein migrants and asylum seekers attempt to access “the future of freedom” exemplifies the limited emancipatory ends in the international refugee regime. Whereas refugees were once considered an issue of political rights, today their positioning has been “downgraded to humanitarian favors.”⁵⁵ As Shaksari observes, the “violence of rights” is not just “in the everyday experience of rightlessness in the cloak of rights,” but also in the waiting period of the temporary refugee processing zone. The process of securing rights becomes less about the juridical realities of the state than the various informalities of sovereign governance and the international actors who manage the multiple layers of the refugee regime. This all reveals a shift from the original intention behind the international refugee regime—to protect the human rights of those fleeing

⁵³ Ivana Krstić and Marko Davinić. “Protection of Migrants from Extradition in Serbia due to Risk of Persecution.” *International Migration* 57 no 1 (2018): 163-176.

⁵⁴ Nicholas de Genova has argued that the condition of bare life, drawing on Agamben’s conceptualization of the refugee camp as a “state of exception,” leaves migrant lives in the “barest essential condition... unformed, generic.” *The Deportation Regime: Sovereignty, Space, and the Freedom of Movement*, eds. Nicholas de Genova and Nathalie Peutz. (Durham: Duke University Press, 2010), 39.

⁵⁵ Kelly Oliver, *Carceral Humanitarianism: Logics of Refugee Detention* (Minneapolis: University of Minnesota Press, 2017).

persecution—toward an ontology of humanitarianism. I build my analysis from Foucault’s notion that “power is everywhere; not because it embraces everything, but because it comes from everywhere.”⁵⁶ The many anthropological critiques of humanitarianism align with my own observations as I attempt to locate the violence of migration within the refugee regime at the EU/Balkan borderlands.

In 2018, from January 1 until November 30, 7,651 persons expressed the intention to seek asylum in Serbia, but only 292 persons applied for asylum in that period. Of this group, the Asylum Office interviewed 151 people for the asylum procedure in this period. Twenty-four applications were upheld, thirty-eight were dismissed, twenty were rejected, and 126 were suspended. Of the twenty-four applications that were upheld, refugee status was granted in ten cases, and subsidiary protection was granted in fourteen cases.⁵⁷ The Law on Asylum states that foreigners must express the intention to seek asylum in Serbia in order to receive humanitarian assistance. The ratio of those who actually apply for asylum to those who state the intention to apply for asylum reveals that this provision is a formality that does not reflect the reality of the needs of migrants. Even with this provision, the Asylum Office is struggling to process asylum applications in a timely manner. Since the establishment of the national asylum system in 2008, the Asylum Office has granted refugee status to just fifty-four persons and subsidiary protection to seventy-four persons.

The high number of certificates issued for those expressing the intention to seek asylum end up being used to temporarily regulate the legal status of these persons and to account for their accommodation. The burden on the asylum system is heavy, as foreigners who do not

⁵⁶ Michel Foucault, *History of Sexuality, Vol. 1*. (Reissue Edition, 1980), 92-93.

⁵⁷ Belgrade Center for Human Rights, “Right to Asylum in the Republic of Serbia 2018.” (Belgrade: The Belgrade Center for Human Rights, 2018).

intend to seek asylum in Serbia are interpolated into the asylum system when they should be assisted on humanitarian grounds. There are currently no structures in place for foreigners to qualify for humanitarian assistance without expressing the intention of seeking asylum. If Ashraf wanted to be able to accept humanitarian assistance from Atina, she had to express the intention to seek asylum. Since she had experienced gender-based violence, Atina's mandate was to help her and provide temporary shelter for her in one of their "safe houses." As a result, Ashraf did express the intention to seek asylum to the Ministry of Interior, but then only found a lawyer and decided to actually pursue seeking asylum several months later when she felt despondent about her lack of choices for resettlement. Despite taking the appropriate measures to work within the national asylum system, she continues in a legal zone of liminality for an indefinite temporal period. Aleinkoff's and Zamore's analysis that refugees are "locked in and locked out: unable to return home, forbidden to move elsewhere, denied access to economic opportunities and social programs in hosting states" palpably applies to Ashraf's experience and that of so many others.⁵⁸ In 2018, Serbia adopted the Law on Asylum and Temporary Protection (LATP).

According to this new law, foreigners in Serbia may express their intention to seek asylum to authorized police from the Ministry of Interior. From that point, asylum applicants are registered and are referred to a refugee camp, to which they must report within 72 hours. The Ministry of Interior has claimed that police officers advise anyone who expresses the intention to seek asylum about their right to seek asylum, but the experiences of so many migrants and refugees indicate otherwise.⁵⁹

⁵⁸ T. Alexander Aleinikoff and Leah Zamore, "The Arc of Protection: Reforming the International Refugee Regime" (Stanford: Stanford University Press, 2019), 5.

⁵⁹ Several staff members of NGO Atina conveyed that the Commissariat has blocked human rights and asylum lawyers from entering refugee camps, which would prevent hopeful asylum seekers from reaching their deadlines. The Office for Asylum does not have many asylum hearings because so many individuals have been rejected before even beginning the application process.

The Foreigners Law, passed in October 2018, provides the possibility of regulating the “tolerated presence” of foreigners not seeking asylum—a term that has remained unclear in theory and in application. Both of these pieces of legislation were introduced to harmonize domestic law with EU asylum *acquis*. The EU harmonization “action plan” for Serbia emphasizes Chapters 23 and 24 of the European Union’s “negotiation framework” above all other legislative processes; Serbia must report to the European Commission twice a year on its updates regarding these two chapters. Chapter 23, “Judiciary and fundamental rights,” is aimed at constitutional reform and strengthening Serbia’s legislative processes. Chapter 24, “Justice, freedom and security,” is aimed to assimilate Serbia’s rules on border control, visa, external migration, and asylum, with those of the EU.⁶⁰ It also outlines the need for Serbia to cooperate on the “fight against organized crime and terrorism, and judicial, police and customs cooperation.”⁶¹ Essentially, the most significant area of concern for the EU in Serbia’s potential accession, and what will ultimately hinder Serbia from joining the EU at all in the near future, is its inability to tighten its security apparatuses in regards to immigration. Yet while the EU provides funding to Serbia to maintain its refugee camps, it does little in the way of supporting economic development or strengthening its judicial structures. As one Belgrade-based refugee rights activists charged, “Why is there so much emphasis on Articles 23 and 24 in EU harmonization policies when economic development is the more crucial underlying issue? Refugees don’t have the right to work, but Serbs often can’t find work themselves.”

⁶⁰ European Commission, “Serbia 2019 Report: 2019 Communication on EU Enlargement Policy.” Brussels, 29.5.2019. <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20190529-serbia-report.pdf>. (2019).

⁶¹ Ibid.

The securitization of migration policies within the EU and the externalization of these policies to non-EU states reify a political and social dynamic that normalizes instability in the non-EU counterparts to protect the “security” of the EU’s borders. Yet the European border regime is governed not just by security but also by humanitarianism. Through framing the issue of migration as one of humanitarianism rather than human rights, nation-states can outsource the work of managing and processing those who are branded as the “deportable alien.”⁶² As Michael Agier argues, “humanitarian intervention borders on policing. There is no care without control.”⁶³ Indeed, in Serbia, as I have shown, the ability to provide humanitarian protection to refugees is contingent on cooperation with the Serbian government. Through the MADAD 2 fund, EU financial support goes directly to the Serbian government which then disperses it to various non-governmental organizations. Accordingly, the government is afforded discretion in deciding where the money is distributed. These circumstances have enabled Serbian authorities to invent their own “civil society” organizations called GONGOs, or “Government-Organized Non- Governmental Organizations.”⁶⁴ Despite being established as civil society organizations, GONGOs typically lack transparency in their missions or projects. Their work has mainly functioned to discredit any organizations that criticizes the ruling party.

An environment of overall repression of civil society organizations and hostility toward public debate underlies the context in which an organization like Atina is able to carry out its own mission, which is to provide various kinds of legal, psychosocial, and medical assistance to

⁶² Nicholas de Genova and Nathalie Peutz, *The Deportation Regime*, 47.

⁶³ Michael Agier, *Managing the Undesireables: Refugee Camps and Humanitarian Government*. (Cambridge: Polity Press, 2011), 4.

⁶⁴ Filip Lukić, “GONGOs: A serious obstacle to public debate in EU integration in Serbia.” *European Western Balkans*. October 16, 2019. <https://europeanwesternbalkans.com/2019/10/16/gongos-a-serious-obstacle-to-public-debate-on-eu-integration-in-serbia/>.

victims of gender-based violence, with an emphasis on providing assistance for victims of human trafficking. As Atina has become interpolated within the humanitarian-securitarian landscape of migration management, it has adopted a governmental structure of its own, which requires that its “beneficiaries” adhere to if they want to receive assistance. Didier Fassin notes that the “humanitarian government can be defined as the administration of human collectives in the name of a higher moral principle that sees the preservation of life and the alleviation of suffering as the highest value of action.”⁶⁵ Miriam Ticktin, observing the “humanitarianization of policies,” has assessed humanitarian work as that which is both “enacted through the amoral imperative of compassion,” and yet “fills in for the failure of political rights discourses and practices.”⁶⁶

Indeed, Atina’s mission is to alleviate suffering and, to be sure, their work is completely necessary amid the *ad hoc* human rights system in Serbia. Yet their work is also caught in a process in which their humanitarian goals require appeasement of national and international political structures; this has become the normalized machinery that governs their work.⁶⁷

The landscape of humanitarian governance in Serbia must be contextualized within the economic situation. Since the breakup of Yugoslavia and the wars that ensued, Balkan countries have struggled to transition to a market-based economy. While EU and UN documents often attribute blame for the region’s economic impasse to ethnic divisions between Bosniak Muslims, Croats, and Serbs, scholars explain that the painful, slow process of economic development can be more directly traced to neoliberal reforms after the 1995 Dayton Peace Agreement.⁶⁸ The international community, including the UN Secretary, the EU, and the U.S., agreed that rapid

⁶⁵ Didier Fassin. 2007. “Humanitarianism: a nongovernmental government,” in *Nongovernmental Politics*, edited by Michel Feher, Gaëlle Krikorian, and Yates McGee. (New York: Zone Books): 151.

⁶⁶ Miriam Ticktin, *Casualties of Care: Immigration and the Politics of Humanitarianism in France* (Berkeley: University of California Press, 2011), 34.

⁶⁷ Michael Agier., *Managing the Undesireables: Refugee Camps and Humanitarian Government*, 6.

⁶⁸ Nicola Nixon, “The Ties that Bend: Social Capital in Bosnia and Herzegovina.” *National Human Development Report*. (UNDP, 2009). http://hdr.undp.org/sites/default/files/bosnia_nhdr_2009_en_0.pdf.

privatization of what were previously state-owned enterprises under socialist Yugoslavia would stimulate the dying economy and bring foreign investment, employment, and innovation.⁶⁹ But being implemented in the context of a weak legislative framework meant that foreign economic investment lacked transparency; political elites benefitted, and the process was obstructed by corruption. Former Yugoslav countries are still recovering from the aftermath of these failed economic policies. Unemployment is disproportionately high in the Western Balkans compared to the rest of Europe, and the wages are disproportionately low; in Serbia, the average annual salary as of March 2018 was 49,400 Serbian dinars, or €420.50.⁷⁰ Accordingly, new flows of funding from the EU to manage the “crisis” in Serbia came as an economic opportunity for profit.⁷¹ Many smaller organizations thus have become “implementing partners” of larger organizations like the UNHCR or the IOM in order to capitalize on new flows of funding from the EU. This has further entrenched the contradictory collaboration between humanitarian assemblages and bureaucratic international policies that center security deals.

While conducting my research in Belgrade, I was witness to and participated in many of Atina’s programs, from “peer support workshops” to “reintegration activities.” In preparation of World Anti-Trafficking Day, the women were asked to make bracelets as a fundraiser for Atina. Laela, who had been an art history professor in Iran, wanted to sell her own artworks, but the staff told her she was not allowed to. Ashraf, a precocious twenty-year-old, joked to me that the jewelry would be displayed in front of a melodramatic fictional display about battered women finding self-worth through making bracelets. She told one staff person, “How can I be expected

⁶⁹ Stepan Santrucek, “Failed Privatisation is to Blame for Bosnians’ Exodus,” *Balka Insight*, May 16, 2019. <https://balkaninsight.com/2019/05/16/failed-privatization-is-to-blame-for-bosnians-exodus/>.

⁷⁰ Republic of Serbia, “Statistical Release,” Number 130 – Year LXVIII, 25/05/2018. <https://publikacije.stat.gov.rs/G2018/PdfE/G20181130.pdf>. (2018).

⁷¹ Interview with NGO Atina staff, August 2020. Belgrade, Serbia.

to be put on display when I'm trying to take care of myself? I don't want to be paraded around UNHCR officials." The staff person's reply? "Maybe they won't be there." This increased Ashraf's exasperation, already drained by going to court and being forced to dehumanize her friends and family to legitimate her asylum claim.

Representations of the suffering female body are central in humanitarian campaigns, and they have always been situated within the context of imperial domination. Miriam Ticktin has noted that humanitarianism "sets up a distinction between innocence and guilt, leaving no space for the experiences of life. The quintessential humanitarian victims bear no responsibility for their suffering. Their innocence is what qualifies them for humanitarian compassion."⁷² Ashraf and Laela have been held as "criminals" in detention for having illegally entered Serbia, but now they must perform as innocent "victims" if they want to access humanitarian care or legal rights.

Atina's work is necessary because they are filling the gaps where mechanisms to seek legal rights should be located, and Atina staff have ensured that many of their clients get access to shelter when refugee camps have become unsafe. Yet their work is also a microcosm of wider issues in the world of humanitarianism, especially as it attends to gender-based issues; women are taught "self-empowerment" through making and selling bracelets, obliged to share their stories of "victimhood" with UNHCR officials, and participate in peer support workshops according to "best practices" suitable for victims of gender-based violence. Several of the women who I got to know over the course of my research were obligated to participate in these "best practices," which they considered one of the many humiliating aspects of their lives in Serbia. As such, these benign humanitarian practices could be considered elements of the violence of rightlessness, the soft violence of state bureaucracy.

⁷² Miriam Ticktin, "Thinking Beyond Humanitarian Borders." *Social Research: An International Quarterly* 83 no. 2 (2016): 257.

Innocence, as Ticktin points out, requires “passivity of their suffering”: there is no room for agentive decision-making, despite the fact that the precarity of migrating journeys in themselves require “agencing” and constant re-evaluation, negotiation, and judgement needed for self-preservation.⁷³ The gendered focus of Atina’s mission has specific implications for the ways in which survivors of sexual- and gender-based violence must present their worthiness.⁷⁴

One trans woman I interviewed encountered harrowing experiences in detention centers, refugee camps, and at the hands of humanitarian organizations. She outlined for me her experience with various humanitarian organizations that focus on gender-based violence in the refugee camp and in Belgrade:

It was horrible. It was hell. The organizations – Red Cross, Save the Children – they’d come and put on these workshops, they’d expect you to love it, to be grateful. You need some politeness to survive. I feel some are transphobic. I feel discrimination. But I was a good unique case for them. They used it. The doctor made a prescription for me and I brought it to [the humanitarian organization]. My social worker then took a look and said no, it’ll cost too much, but “we will do our best.” I hate that sentence. After a month, she said that I won’t get hormone therapy in Serbia. I got really upset and she told me not to yell, that she knows the hormones ‘affect my mood.’ This is food for my body. I need it to survive. The advice is to ‘come out’ more with my identity. But I did that

⁷³ Ticktin, “Thinking Beyond Humanitarian Borders,” 259.

⁷⁴ Nicola Mai’s ethnography of migrant sex workers across Europe contrasts the ways migrants view their own work and how humanitarian organizations pigeonhole them as “victims” by conflating trafficking with sex work. In order to get their rights recognized by humanitarian organizations and state governments, migrants often have to strategically perform their victimhood to “standardized discursive repertoires,” highlighting vulnerabilities that are sentimentalized within the global dominant discursive framing of “sexual humanitarianism.” This includes aligning with particular narratives of victimhood that involve self-ascribing sexual orientations, gendered behaviours, and experiences with individualized violence that compress the various ways that power functions through the choices that they have made. Please see Nicola Mai, *Mobile Orientations: An Intimate Autoethnography of Migration, Sex Work, and Humanitarian Borders* (Chicago: University of Chicago Press, 2018).

*already. I don't need to declare it anymore. I fought for it. I don't believe I belong to a third gender. They expect me to participate – I am visible enough. They're obviously feminists and so they don't really include me in who they are fighting for. I feel like a paradox. On one hand, there's the phobia, and on the other, they want me to perform pride.*⁷⁵

Wendy Brown has argued that while “human rights” were wielded as “an indisputable force of emancipation” in the context of the civil rights movement in the U.S., as they have become interpolated into neoliberal rubrics of international governmentality, they act as a “regulatory discourse.”⁷⁶ As Brown points out, “rights have no inherent political semiotic, no innate capacity either to advance or impede radical democratic ideals. Yet rights necessarily operate in and as an ahistorical, acultural, acontextual idiom: they claim distance from specific political contexts and historical vicissitudes, and they necessarily participate in a discourse of enduring universality rather than provisionality or partiality.”⁷⁷ What Lila Abu-Lughod calls the “transnational hegemony of rights” is emblematic in the governance of humanitarian organizations, which often determine the possibility of retaining political rights.⁷⁸ Even the most compassionate dimensions of humanitarian protections of women against gender-based violence produce their own soft violences. The lives of migrants and refugees, then, dependent on humanitarianism rather than legal human rights mechanisms, are *always* informed by social relations on both a micro and macro level. Migrants are not living “bare life.”⁷⁹ As the stories of

⁷⁵ Interview with Laela, July-August 2020. Belgrade, Serbia.

⁷⁶ Wendy Brown, *States of Injury: Power and Freedom in Late Modernity*. (Princeton: Princeton University Press, 1995), 98.

⁷⁷ Brown, 1995. 97.

⁷⁸ Lila Abu-Lughod, “Anthropology in the Territory of Rights,” (presentation, *Radcliffe-Brown Lecture in Social Anthropology*, The British Academy, 17 November 2011)

⁷⁹ Giorgio Agamben, *Homo Sacer: Sovereign Power and Bare Life*. (Stanford: Stanford University Press, 1995).

these individuals reveals, regimes of governance, whether humanitarian or state-centered, *saturate* the lives of asylum seekers and migrants.

Conclusion: Regulating Rightlessness?

Tens of thousands of refugees and migrants have continued to pass through Serbia every year since the “refugee crisis” began to fade from international media and public consciousness. Thousands are trapped within Serbia’s borders today. The synthesis of humanitarianism and security-focused migration management policies at the EU/non-EU borderlands has created a situation that feels unsustainable for those enmeshed within it. The international migration system, focused more on the protection of state sovereignty and determining the “worthiness” of migrating humans, is failing the original tenets of the Refugee Convention when it denies so many the “right to have rights.”⁸⁰ As new economic and ecological drivers of mobility unfold, the concept of who can be deemed a refugee will inevitably transform. Relying on humanitarian-run refugee camps, propped up border walls, and under-the-table transactions between border guards and smugglers creates an environment of exploitative relations for migrating humans. These technologies of power, supported by governments and international organizations, normalize the suspension of legality—but not just any legality. What has become normalized is that there are no possibilities for freedom for those who are otherized, racialized, and marginalized by the very structures of global governance that then assess their worthiness for protection. Until a radical undoing of the status quo emerges, tens of thousands of individuals will continue, as did the refugees and asylum seekers I met in Serbia, to put more faith in a clandestine “game” than the international refugee system.

⁸⁰ Hannah Arendt, “We Refugees,” in *The Jewish Writings*, ed. Jerome Kohn and Ron H. Feldman, (New York: Schocken Books, 1943), 264.

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