

Crossing: How we label and react to people on the move. By Rebecca Hamlin. Stanford University Press, 2021. 224 pp. \$25.00 paperback

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Few issues have been as controversial—both within the United States and globally—as policies toward migrants. The former U.S. president, Donald Trump, made harsh rhetoric and actions against immigrants a hallmark of his presidency, while anger over European Union migration and refugee policies fueled the successful Brexit campaign, and continues to be a source of tension within the European Union.

There are legal norms applicable to a nation's response to those who attempt to cross its borders. International law recognizes that sovereign nations may control their borders and exclude migrants, with the exception that refugees—individuals fleeing persecution or torture—should not be returned (the right of *nonrefoulement*).

It is this distinction between migrants and refugees, and the resulting differences in their legal rights and treatment, that Rebecca Hamlin takes on in *Crossing*. Her central thesis is that the “migrant/refugee binary” does more harm than good, allowing countries to use ever more harsh measures against “migrants,” while giving lip service to the principle of refugee protection, but observing it only in the breach. Hamlin asserts that contrary to common assumptions, many of those who would not meet the internationally accepted refugee definition are fleeing dire circumstances and are just as worthy of protection as the category of border crossers recognized as “refugees.” Her conclusion is that we should get rid of the binary, which justifies the disparate treatment of those who cross borders.

Hamlin builds her argument methodically, beginning by refuting the belief that the norm of providing refuge dates to the premodern era. It was the relatively more recent displacement of people, brought about by decolonization and ethno-nationalism, that gave birth to our contemporary refugee protection system. In addition, it was the European powers and the United States that held sway in the drafting of the seminal 1951 Refugee Convention, advocating successfully for a limited refugee definition which served their interests. The definition—a person with a “well-founded fear” of being persecuted “on account of race, religion, nationality, political opinion, or membership in a particular social group,” focused on individual civil and political rights, rather than addressing issues of mass displacement or statelessness. The 1951 Convention was further limited by applying only to events which occurred in Europe prior to 1951. These temporal and geographic restrictions were removed in the 1967 Refugee Protocol, but the well-founded fear definition remained without modification.

After explaining the origins of our contemporary refugee protection system, with its limited refugee definition, Hamlin details the deleterious impact of the migrant/refugee binary on a theoretical as well as practical level. Academic adherence to the binary has led “scholars to conceptualize people's motivations for border crossing as either forced or voluntary.” (p. 65) Within this framework, refugees are forced to flee their home countries and are worthy of protection, while migrants leave voluntarily, and can be subject to harsh deterrence policies. But the reality is that the reasons for leaving are not so clear cut, and the multi-causal factors for crossing borders—including climate change—are given short shrift by academics who abide by this binary frame.

Although she expresses appreciation for much of its work, Hamlin is a strong critic of the United Nations High Commissioner for Refugees (UNHCR). In her chapter devoted to UNHCR, she

provides a history of its evolving role, and the ways in which it has used its growing social media resources to perpetuate the migrant/refugee binary. It has done this, she argues, as part of its overarching strategy to survive as an agency and maintain some level of refugee protection. The “binary logic reassures publics in the Global North that they can support admitting and protecting refugees without having to support open borders or massively increased immigration.” (p. 74) They can “support refugees and still believe in national security, sovereignty, and the rule of law.” (p. 74).

Three chapters (5, 6, and 7) of *Crossing* critique the migrant/refugee binary by examining how it plays out in the Global South, the European Union, and the United States. The Global South, a term Hamlin uses to refer to “formally [sic] colonized peoples,” hosts 84% of the world’s refugees and includes “nine of the ten top host countries” for displaced persons (p. 93). At present, this includes large numbers of Venezuelans in Columbia and Peru, and Syrians in Turkey, Lebanon, and Jordan. Countries in the Global South had minimal influence in the development of the international refugee definition, feel that it has been “foisted upon them,” and is inadequate in situations of large-scale displacement to which they are responding (p. 115). So, although these countries host the migrant arrivals, and in some cases provide them with “benefits” such as permission to work or attend school, they have resisted calling them “refugees” because of the legal obligations which could arise from such a characterization and have often eschewed the migrant/refugee binary altogether by using terms such as “guests,” “foreigners,” or “brothers” (p. 110, 114).

In contrast, Europe and the United States adhere to the migrant/refugee binary, but refuse to recognize those attempting to arrive at their borders as true refugees, justifying deterrence and exclusion. At the height of Syrian arrivals in 2015–2016, it was Angela Merkel alone among E.U. leaders who committed to accepting Syrians—using the word “refugees” to describe them: “If Europe fails on the question of refugees, its close connection with universal civil rights will be destroyed” (p. 125). Many preferred to call them “migrants” justifying the thwarting of their arrival and the closing of borders.

The United States, despite proclaimed commitment to its international and domestic law obligations to protect those fleeing persecution, has evaded doing so by characterizing successive populations of asylum seekers as migrants, not refugees. Whether it was Haitians fleeing the repressive Duvalier regimes, or Salvadorans and Guatemalans escaping brutal civil war and genocide in the 1980s, or gang violence in the last decade, U.S. administrations from Reagan to the present have preferred to characterize the majority of them as economic migrants who rightfully could be excluded and expelled.

Hamlin argues that the characterization of two groups of individuals, whose situations and moral right to cross borders are wholly distinct, is a “legal fiction” which should be abandoned. This is a persuasive argument on its face. Who could argue with the self-evident fact that the reasons people cross borders are more complex, and do not neatly fall in two categories? Or that industrialized, wealthy nations have used the migrant/refugee binary to deny protection and increasingly militarize their borders?

But having said that, where Hamlin’s book falls short is in fully conceptualizing the consequences of abandoning the migrant/refugee binary and adopting the all-inclusive term of “border crossers.” Presently, we have no broadly ratified international treaties or commitments to protect border crossers, and as imperfect as it is, we do have international treaties and customary international human rights norms that apply to refugees and prohibit their return to persecution. By giving up the binary, and its accompanying legal framework, we concede the right to protection of those who can squeeze into the refugee definition, without having any protection commitment to the broader, non-binary category of border crossers.

As a long-term goal, elimination of the migrant/refugee binary is where we should be going. I would gladly advocate for the right of all human beings to cross borders when their survival and dignity are at risk due to human or natural causes. But we are far from obtaining international consensus on such a right. In the meantime, in the interest of protecting life and dignity, we can creatively and passionately fight for expanded protection for “refugees” and “migrants.”

And these fights are not just an exercise in tilting at windmills. Thirty years ago, there was little recognition that women and girls could qualify for refugee status on the basis of gender-based harms—a principle now broadly accepted. The same can be said regarding the acceptance of refugee claims based on sexual orientation. Many of us—myself included—continue the work to expand the international refugee definition so that it is applied in a way more in alignment with our evolving concept of human rights.

In that same vein, efforts continue to obtain protection for individuals who do not fit even within an expanded refugee definition, that is, those who would fall on the “migrant” side of the binary. These efforts have resulted in the creation of norms such as the E.U.’s “subsidiary protection” which can be granted to individuals who do not qualify as refugees, but who face a “real risk of suffering serious harm” upon return (Qualification Directive Art. 2(f)). Advocates have argued for the adoption of a similar norm in the United States.

Of course, I do not suggest that the expansion of the refugee definition, or the adoption of subsidiary protection, will go anywhere near far enough in achieving true justice for those who cross borders. But in my estimation, it is a pragmatic path forward, while the much longer-term struggle to eliminate the migrant/refugee binary takes place. Abandoning the migrant/refugee binary now, with nothing to take its place, is giving up the limited claim to protection that it currently provides.

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Identity capitalists: The powerful insiders who exploit diversity to maintain inequality. By Nancy Leong. Palo Alto: Stanford University Press, 2021. 240 pp. \$28.00 paperback

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A glance through the newspapers, at the television, or around campus confirms the ongoing significance of race, gender, and other identity characteristics. Whether doom scrolling information about the pandemic, celebrating pioneering judicial appointments, or protesting anti-Asian hate, our world and worldview are shaped by our personal identities, which in turn shape our environment.

Nancy Leong’s *Identity Capitalists* enters the scene to provide a fresh take on how individuals and institutions leverage identity for their own benefit. She introduces us to a novel theory, defines original terms, and provides dozens of examples to explain her thesis. This book provides both depth and breadth while managing to be intellectual as well as accessible. This combination of academic insight plus readability make it equally well suited to an undergraduate ethnic studies course, a graduate level sociological discussion of racial theory, or your neighborhood book club.

The book defines identity capitalism as “efforts by ingroup members to benefit from outgroup members” (p. 3) and asserts that the actions of identity capitalists are “all show and no substance” (p. 186). Though her theoretical construct may initially seem daunting, Professor Leong brings it to life through engaging illustrations drawn from personal experience, popular culture, and political events. Ultimately, you realize that you have known identity capitalists your whole life. Until now, you may not have had a name for them. But you have known people who do the right things for the wrong reasons. Or who act (and it is an act) to show how “woke” they are, not because they value action. We learn, chapter by chapter, how identity capitalists make choices based on who is watching and for their own gain.

Each chapter in Professor Leong’s timely book examines various contours of identity capitalism. She begins with the familiar example of “Fake Diversity.” We all have seen a university homepage or glossy brochure with pictures depicting a United Nations-style campus, despite actual low percentages of students of color. Applying a theory of identity capitalism to this scene helps us analyze the