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Book Review



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Abstract

THE POWER OF STORIES and storytelling is central to the refugee experience, both from a legal and social perspective. In the refugee claim context, seeking asylum after fleeing one's home country due to a well-founded fear of persecution requires, as Anthea Vogl explains, "that refugee applicants tell a good story—that is, one that predominantly conforms to the conventions of model narratives." This demand for narrative requires the refugee to draw on well-known genres and stories of how certain people act in the face of fear and persecution.

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Book Review

***Clamouring for Legal Protection:
What the Great Books Teach Us About
People Fleeing from Persecution***
by Robert F. Barsky¹

JULIA SCHABAS²

THE POWER OF STORIES and storytelling is central to the refugee experience, both from a legal and social perspective. In the refugee claim context, seeking asylum after fleeing one's home country due to a well-founded fear of persecution³ requires, as Anthea Vogl explains, "that refugee applicants tell a good story—that is, one that predominantly conforms to the conventions of model narratives."⁴ This demand for narrative requires the refugee to draw on well-known genres and stories of how certain people act in the face of fear and persecution.

On the flip side of narrative's role in the refugee context, the stories and plights of characters contained in Western canonical literature can be valuable sources for understanding and rethinking the laws and norms governing contemporary refugee experiences. This side of the conversation is taken up by Robert F. Barsky in his latest book, *Clamouring for Legal Protection: What the Great Books Teach Us About People Fleeing from Persecution* ("Clamouring for Legal Protection").⁵

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1. (Hart, 2021) [Barsky, *Clamouring for Legal Protection*].
 2. JD (2022), Osgoode Hall Law School.
 3. See *Convention Relating to the Status of Refugees*, 28 July 1951, 189 UNTS 137 art 1 (entered into force 22 April 1954).
 4. Anthea Vogl, "Telling Stories from Start to Finish: Exploring the Demand for Narrative in Refugee Testimony" (2013) 22 Griffith L Rev 63 at 64.
 5. *Supra* note 1.

Barsky argues that the classic literary works—or the “Great Books”—of the Western tradition and cultural imagination can “provide a common currency for our discussions by connecting contemporary refugees to people that many people know and love.”⁶ Drawing on literary works such as Homer’s *The Odyssey*, Mary Shelley’s *Frankenstein*, John Steinbeck’s *The Grapes of Wrath*, and Vladimir Nabokov’s *Lolita*, Barsky invites readers—lawyers, law students, literary scholars, and general readers interested in immigration law or canonical literature—to compare the experiences of contemporary refugees with well-known literary characters and heroes.⁷ This approach allows readers to see how “fiction might serve a complementary role of stimulating sympathy and empathy in regards to flight and the crossing of borders.”⁸

Barsky, a Canada Research Chair in Law, Narrative, and Border Crossing and jointly appointed as professor of humanities and law school faculty member at Vanderbilt University, focuses his work on the intersection of literature and the arts with migration studies and refugee law.⁹ His research looks specifically at challenging the ways in which draconian border restrictions and asylum claim processes harden (Western) people’s views of refugees. By finding points of commonality and combining “judicial and policy work with cultural and humanistic efforts,” his broader project aims to “foster a deeper understanding of how central human movement is to a safe and peaceful world.”¹⁰ Drawing on Marc Angenot’s notion of literature as existing *within* or as a supplement *to* the “social discourse” (that is, the prevailing norms and circulating ideas in society provided through popular journalism and political discourses),¹¹ *Clamouring for Legal Protection* is a critical addition to Barsky’s project of humanizing understandings of the refugee experience by calling upon literature to “subvert... the ordinary hierarchies of the world, including hierarchies of knowledge.”¹²

Clamouring for Legal Protection is divided into five chapters, each concerning a particular theme or focus on the parallels that may be drawn from the Great

6. *Ibid* at 2.

7. *Ibid* at i.

8. *Ibid* at 3.

9. Robert Barsky, “Curriculum Vitae,” online: *Professor Robert Barsky’s Vanderbilt Website* <my.vanderbilt.edu/robertbarsky/cv> [perma.cc/9297-FNGZ].

10. Robert Barsky, “About Me,” online: *Professor Robert Barsky’s Vanderbilt Website* <my.vanderbilt.edu/robertbarsky/about-me> [perma.cc/QW4W-5X68].

11. See “What Can Literature Do? From Literary Sociocriticism to a Critique of Social Discourse,” translated by Robert F Barsky (2004) 17 *Yale J Crit* 217. See also Barsky, *Clamouring for Legal Protection*, *supra* note 1 at 7.

12. *Ibid* at 8.

Books and contemporary refugee laws and experiences. Chapter one begins with a timely examination of the parallels between representations of pandemic and plagues in works like Albert Camus's *La Peste* and Giovanni Boccaccio's *Decameron* and the onset of the 2020 COVID-19 pandemic. Barsky highlights the impact of the COVID-19 pandemic on forced migrants, as well as the virus-like treatment of refugees in general by Western powers through the use of refugee detention centres and forced deportation.

Chapter two studies themes of navigating pathways through the help of intermediaries or guiders since, as Barsky argues, “[a]lmost everyone in flight, both in literary texts and in contemporary refugee flows, benefit from the assistance of intermediaries who, either officially or unofficially, intervene to provide information, sustenance, documents, contacts or material support.”¹³ In this chapter, Barsky makes particularly compelling parallels between contemporary human smugglers of Syrian refugees and the story of the Book of Exodus from the Bible’s Old Testament.¹⁴ In recent years, Barsky explains, human smugglers have come to fill a much-needed gap: Unlike many non-governmental organizations and United Nations bodies that have fundamentally failed to provide immediate transportation for refugees out of their home state, human smugglers have helped Syrian refugees escape and reach safe haven.¹⁵ Research has shown that some individuals involved in such enterprises see smuggling practices as their “duty” to help others,¹⁶ and a 2020 US District Court for the District of Arizona decision even found that a group of American women were driven by their religious beliefs to provide food and water to migrants that were illegally crossing the US border.¹⁷ Barsky contends that a similar sense of moral duty and benevolence can be located in God’s command to Moses to lead the Israelites out of enslavement in Egypt and to the promised land.

Chapter three looks at the presence of gatekeepers and the scaling of walls and other thresholds to a new country or existence. In the refugee context, entry to safe haven requires not only making a successful refugee claim under the

13. *Ibid* at 67.

14. *Ibid* at 73.

15. *Ibid* at 71-73.

16. *Ibid* at 72-73, citing Luigi Achilli, “The ‘Good’ Smuggler: The Ethics and Morals of Human Smuggling among Syrians” (2018) 67 ANNALS American Academy Political & Soc Science 77. This 2018 study conducted a number of interviews with individuals who were engaged in the smuggling of Syrian refugees.

17. Barsky, *Clamouring for Legal Protection*, *supra* note 1 at 73, citing *United States v Hoffman*, 436 F Supp (3d) 1272 (D Ariz 2020).

1951 *Convention Relating to the Status of Refugees*,¹⁸ in which refugee claimants, as Barsky explains, “need to learn about the host society, to comprehend its laws, and to shape a claim that might be acceptable to national authorities,” but also overcoming the social barriers that can impede integration in the new country.¹⁹ Barsky draws connections to works like John Milton’s *Paradise Lost*, Aeschylus’s drama *The Suppliants*, and Thomas Hardy’s *Jude the Obscure*. Most notably, Barsky draws a cogent comparison between the character of Joseph K. in Franz Kafka’s *The Trial* and asylum seekers trying to navigate the confusing and bureaucratic refugee claim process of host countries.²⁰ In *The Trial*, K. is charged with an unspecified crime that he has no knowledge of committing, and overnight becomes an outcast who must navigate labyrinthine bureaucracies in which no one will give him the answers that he needs to understand his predicament. Barsky effectively analogizes K.’s situation with that of refugee claimants who, while going through the process, and by virtue of their liminal status, are made to feel “at once inside and outside of normal life.”²¹

Chapter four concerns the confrontation of inhospitable spaces and hostile hosts, particularly against the backdrop of natural disasters, climate change, and barren environments. Barsky touches on the growing phenomenon of migrants being forced to leave their home countries on account of the worsening effects of climate change and draws parallels between this issue and a wide array of works, such as Shelley’s *Frankenstein*, Steinbeck’s *The Grapes of Wrath*, Herman Melville’s *Moby-Dick*, and William Golding’s *Lord of the Flies*.

Finally, chapter five looks at literary depictions of monsters and outsiders and the parallels that can be drawn with current political and social anti-refugee sentiments, primarily using examples of the Trump administration’s “Muslim Ban” and other militant border tactics.²² Barsky cites works such as Bram Stoker’s *Dracula* and Nabokov’s *Lolita* as informing and “confirm[ing] the fears of those who would close our border,” as both Dracula and Humbert are “diabolical, shapeshifting, bestial and hell-bent on committing the depraved, violent, and ‘un-Christian’ acts that [such individuals]...so fear.”²³

18. *Supra* note 3.

19. *Clamouring for Legal Protection*, *supra* note 1 at 123.

20. *Ibid* at 145-51.

21. *Ibid* at 148.

22. See US, Exec Order No 13769, *Protecting the Nation from Foreign Terrorist Entry into the United States*, 3 CFR 272 (2017). See also the Trump Administration’s efforts to build a wall along the border between the United States and Mexico. US, Exec Order No 13767, *Border Security and Immigration Enforcement Improvements*, 3 CFR 263 (2017).

23. *Ibid* at 247.

While *Clamouring for Legal Protection* is well structured in its thematic chapters and is accessibly written for its intended audiences, the book ultimately culminates in an accumulation of analogies and comparisons and not much more. While the parallels and connections made are thought-provoking and certainly work towards Barsky's goal of building and expanding readers' understanding of and empathy for refugee experiences, the book itself does not seem to add up to anything greater than the sum of its parts. At many points in his analysis, Barsky simply draws the connection between the literary text and real-world refugee experiences, law, or policy, and leaves the analysis there, with no further elaboration of what the parallel means or where to go next. For example, in chapter four, Barsky notes the parallel between the colonial ideologies present in Golding's *Lord of the Flies* and H.G. Wells's *The Island of Doctor Moreau* through the authors' representation of British characters' savagery and chaos when they are outside of their country, and anti-immigration officials' reasons for prohibiting entry of asylum seekers for fear that "foreigners will wreak havoc in the host country."²⁴ From there, Barsky only goes on to comment that a better approach would be to provide greater oversight or regulation of transnational corporations who exploit the resources of foreign countries.²⁵ While the links and connections between the two frameworks are, as Barsky admits in his concluding chapter, only to provide "the beginning of our discussions rather than the definitive word on the fascinating overlap between narratives, borders and the laws relating to both,"²⁶ the parallels and comparisons ultimately fall flat when no greater discussion is devoted to their significance or how, in fact, the source texts can be used to challenge certain sentiments and ideological approaches to refugee law and policy.

Additionally, greater caution could have been given to avoiding the risk of over-generalizing or universalizing the refugee experience. In his introduction, Barsky posits that literature has the ability to "humanise... its characters, in contrast to news stories, which often relegate outsiders to anonymity, referring to them as parts of the 'wave', the 'flow' or the 'influx' that has 'swarmed' or 'overwhelmed' our borders."²⁷ While it is unlikely that Barsky intended to leave the impression that all refugee experiences can be painted in broad brush strokes, the inherent danger of the project to "humanize" the refugee experience can, as Jonathan Darling points out, reduce the multi-faceted and complicated refugee experience

24. *Ibid* at 202-203.

25. *Ibid* at 203.

26. *Ibid* at 251.

27. *Ibid* at 16.

into a universalized category.²⁸ Darling contends that by recentring the refugee experience towards the notion of how refugees are “like the rest of us,” it responds to “the dehumanization of refugees...[by] foreground[ing] the individual and risks relying on a measure of sameness rather than difference” and ultimately “risk[s]...obscuring alternative accounts of how the human, as a political category, has been constructed within structures of power and privilege.”²⁹ In other words, rethinking the refugee experience through the Great Books as a way to invoke a greater sense of empathy in non-refugees does very little, as Darling argues, “to subvert the power relations underpinning...[border] regimes.”³⁰

Similarly, Barsky’s broader project to “humanize” the refugee and border crossing experience through the Great Books risks perpetuating conceptions of what an “ideal” refugee will look like. Simon Behrman suggests that refugee characters in classic cultural touchstones like the admirable Victor Laszlo in the 1942 film *Casablanca* “informed the international legal definition of the refugee,” the result being the “exclusion of most forced migrants from the protection of the international legal/bureaucratic order.”³¹ The problem, as Behrman explains, is “that the real experiences of most refugees simply do not conform to such an ideal-type.”³² While the Great Books are certainly helpful entry points to rethinking and analyzing contemporary refugee laws and policies in ways that look *beyond* the law, there must still be some recognition that not all refugee experiences are the same and that certain policies will not uniformly impact all asylum seekers. Put bluntly, not all refugees will carry the resilience or epic strength to fight against monsters and adverse forces as Odysseus, nor should they be expected to possess these qualities.

Overall, *Clamouring for Legal Protection* is a compelling starting point for thinking more deeply and intentionally about how the Great Books can provide valuable connections and pathways to better understand refugee experiences and how the laws and policies governing the refugee process could be better informed by these stories and texts. While the intersectional and unique experiences of refugees could have been given greater space and discussion, Barsky has ultimately produced a thought-provoking and well-executed collection of analogies between great works of literature and the contemporary refugee experience.

28. See Jonathan Darling, “The Cautious Politics of ‘Humanizing’ Refugee Research” (2021) 37 *Refuge* 56.

29. *Ibid.* at 58.

30. *Ibid.* at 59.

31. Simon Behrman, “Between Law and the Nation State: Novel Representations of the Refugee” (2016) 32 *Refuge* 38 at 47.

32. *Ibid.*