

MigraStory S1E1: Introductory Episode
-Transcript-

“There is an idealised perception of what an asylum seeker looks like, and the legal criteria for refugees often correspond with that ‘ideal’” writes Noo Saro-Wiwa (2016, 130) in an essay published in the anthology *A Country of Refuge* in 2016. I would say, not only do the legal criteria correspond with that idealised perception, but they also force this perception on stories yet to be told.

Welcome; you are listening to *MigraStory*, the podcast connecting *Law, Narratives, and Refugees*. I am Dr. Katrin Althans from the University of Duisburg-Essen and I am your host. In this podcast, I welcome a variety of guests working in the context of refugee studies and asylum from various academic disciplines.

In this introductory episode, I give an insight into the main issues of my research project, *Narratives of Flight and Migration in Law and Literature*. Funded by the German Research Council, this project looks into the entanglements of international refugee law and narratives, as well as how these are unravelled in literature. This episode, I will review the different ways narratives undermine the objectivity and neutrality of the law, as well as how refugees are being created by the narrative authority and history of the 1951 Refugee Convention.

-Intro music playing-

The most important legal text for my project is the Geneva Refugee Convention of 1951 together with its 1967 Protocol. Unlike international legal scholars, I am only interested in the very first article of the Convention, the one in which we find the definition of the refugee:

"For the purposes of the present Convention, the term 'refugee' shall apply to any person who:

(1) ...

(2) owing to wellfounded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country;..."

What we find here are a number of requirements that have to be fulfilled to be granted refugee status – and they all are part of a story, even though we might not at first recognize that story, as it is hidden behind the overly legalese of this article.

The text of the 1951 Refugee Convention exerts a narrative authority over refugee narratives. By this I mean that the legal text of the Convention provides the template for a story every refugee story must adhere to in order to be successful. This leaves no room for individual experiences – and also not for different storytelling techniques. This is something narrative literature can play with, as it does not face these constraints.

-music playing-

Even though Article 1 of the Refugee Convention is the very narrow legal definition of the refugee which I am working with, I still have to bear in mind that there are other disciplines and discourses using the term in different ways. They all have had and still have some influence on the creation of the wording of Article 1 and the ongoing interpretation at the hands of national judges. This is one of the kind of narratives we find in the law: both the drafters of the original Convention text, that is, the Ad-Hoc Committee on Statelessness

and Related Problems, and today's bureaucrats and judges concerned with interpreting the Convention, do not operate in a storyless vacuum. People are shaped by what they have been told, narratives big and small. Peter Brooks, a leading scholar in the field of law and narrative, refers to them as "stock stories," a set of "unexamined cultural beliefs" (2006, 11). He also speaks of an "*unacknowledged narrativity* of the law" (2002, 6), that is, the law does not want to recognize its own entanglement in narrative structures and narratives in general. The machinery of the law does not want take a closer look at this entanglement; instead, it hides behind the claim to objectivity and neutrality. Storytelling, however, has always been crucial to the legal process. Court procedures and trials are, at their core, people telling a story.

-music playing-

So, sob stories in court about how the parking ticket was unfair are micronarratives, ie storytelling on a very personal level. The law is full of macro-narratives too. These are narratives which have come a long way and hold sway over entire concepts, such as that of humanitarian intervention. In between, we also find meso-narratives which work not quite at the personal level, nor do they have the historical and conceptual reach of macro-narratives – any jurisprudential theory may be considered a meso-narrative, or the totality of untold stories in the law, which goes beyond the purely personal.

All of those different stories are relevant in the context of refugee law and literature: there are the personal stories told in the asylum determination process, the legal theories of positivism and human rights on the middle ground, and the grand historical narratives that have shaped our understanding of international law and who is a refugee. These different levels are interconnected – each has

influence on the others and, vice versa, is being influenced by them. In the context of my project, this means that the text of the Refugee Convention is influenced by the macro-narrative of refugees throughout history and in turn influences the personal narratives told by the individual refugee. Its interpretation, which is also an important factor when it comes to asylum determination processes, varies depending on the interpretive approach to international law, one of the meso-narratives.

-music playing-

To understand the narrative nature of the 1951 Refugee Convention, we need to acquaint ourselves with the history of the Convention.

The Refugee Convention is the product of Western governments which, due to their still ongoing colonial rule, at the time of drafting the text and voting for it to be adopted by the UN, represented almost the entire world except the Eastern bloc. It comes as no surprise that the text itself also reflects Eurocentric ideas of who is a refugee – and those ideas are shaped by European experiences. If you look up the word refugee in the Oxford English Dictionary, you find as the oldest entry a biography of Sir Philip Sidney, Elizabethan courtier, author, and statesman in the service of the Protestant cause. In this biography, the author, Greville, uses the term “refugee” for Dutch protestants fleeing persecution at the hands of the Duke of Alba, the representative of Spanish rule in the Netherlands from 1567 to 1573. The French term “refugiés” was first used around the same time, according to the Grand Robert de la Langue Française, and that would match St. Bartholemew’s Day massacre in 1572. Later on, both the English “refugee” and the French “refugiés” were in use to denote French Huguenots fleeing France after the Edict of Fontainebleau. This is the very basis for

defining refugees in terms of being persecuted “for reasons of religion” that you find in the Refugee Convention.

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Up until the 20th century it was always very particular groups which at a very particular point in history were considered refugees – Dutch protestants, French Huguenots, or, later, in the 19th century, political dissidents from the Austro-Hungarian or Zarist empires. And it was these two groups, religious and political refugees, which shaped the picture of who was a refugee: it was individual people who were persecuted for either religious reasons or political opinions. Importantly, these people were considered a valuable asset for the country to which they fled.

After World War II, when the United Nations drafted the wording of the Geneva Refugee Convention, they were guided by the ideologies of the Cold War. Refugees were male individuals (for, I ask you, who else could be politically active?) who were fleeing communist countries to the West “owing to wellfounded fear of being persecuted for reasons of ... political opinion.” It was a mixture of Cold-War Ideology and the experiences of European history which dictated such an understanding of refugees; the Convention refugee is thus the product of a Eurocentric narrative which reflects a certain world view – one of the reasons, for example, why a number of countries in the Asia-Pacific region has to this day ratified neither the 1951 Convention nor the 1967 Protocol. And that world view is that of a Europe which universalizes its own experiences and history. And because the template still reflects this European idea(l), it is still being perpetuated.

Check out our detailed explanation of this, as well as a much larger timeline, on our scrollytelling website “Narrating Refugees in Law

and Literature” – just click on the link in the description (<https://arcg.is/OjaXG>)!

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So to recap: My project looks for stories and narratives in both law and literature. I am asking questions like “What are the origins of this particular legal text?” or “To what extent do those narrative origins influence today’s interpretation of this text?” Such questions are concerned with the macro- and meso-level narratives, but I am also interested in how the micro-level narratives are shaped by the narrative authority of the legal text. This is where literature and narratology, the art of analysing narratives and their properties, comes in.

When listening to stories, we have certain expectations as to how a story is about to unfold. Like the stock stories in law, those expectations are shaped by our very own cultural backgrounds and beliefs – and by the literary genres we are familiar with. Stories need to play by those generic rules and need to follow the basic structure we have come to accept as standard – but what if our narrative standards do not match the standards of others? What if people do not tell linear, but rather cyclical stories? What if traumatic experiences do not allow the narrator to fill all the gaps in a story? Are their stories therefore less valuable, their experiences less sincere? These are some of the questions the law is not prepared to ask, but which are reflected in literature.

Literature may take up different storytelling traditions, put them centre stage, without constraints and limitations. Literature may play with narrative expectations and lull readers into believing their expectations are confirmed – only to shatter this belief with a twist in the end. Literature may be subversive while it pretends to uphold

the status quo. And literature may use various narrative strategies to ultimately show the fragility of our understanding of what a story should look like.

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One such strategy, for example, is the unreliability of the narrator. The reader may be tricked into believing the story of the narrator only to later learn it was a mere fabrication. “The true story of” as told by themselves should always sound an alarm! Literature is free to contrast a smooth story told by a first-person narrator with fragments of a story told topsy-turvy by an impersonal narrator. By doing so, a text exposes how easily we fall for the illusion that narrative consistency equals authenticity and truth. Readers struggle to accept any deviations from the coherent sequence of events we expect, one that has no breaks, let alone gaps.

Literature thus also tells us a lot about the law, especially when it comes to refugee stories. Through the representation of refugee stories in different ways, literature shows that the 1951 Refugee Convention is a narrative template forced upon refugee stories. In order to be accepted as a refugee, people tell the stories that are expected of them. It is not their individual experience which matters; their individual story may result in a fragmented story due to traumatic experiences or may not start at what we would consider “the” beginning due to different storytelling traditions. Instead, their stories must be altered and bent to echo the narratives and storytelling techniques of a centuries-old European tradition.

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One example for such a trauma narrative is the short story “Lucky” by Kathryn Heyman. Kathryn Heyman is an Australian author and her story “Lucky” was published in a collection entitled *A Country too Far: Writings on Asylum Seekers*. For this anthology, the editors Rosie Scott and Tom Keneally, two well-known Australian authors, and you might know Tom Keneally from *Schindler's Arc*, collected a variety of different texts dealing with contemporary, past, and future refugee experiences from a number of different perspectives.

In “Lucky,” Kathryn Heyman fictionalizes a stereotypical refugee story, from how people became refugees, then fled their country on dilapidated death boats and later in air-tight trucks, to their asylum interviews by officials. The story itself is set in an unspecified time and place, but the scene is that of the asylum interview with flashbacks to the refugee’s story.

The story jumps right into the middle of things, something that is characteristic of short stories:

"She says to me: ‘Tell me everything. Tell me what happened.’ When I am silent, staring down at my feet, staring at the strange stain on the grey floor, she says, ‘I can’t help you if you don’t tell me.’ Shifting my feet, I angle my toes away from the brown-haired, brown-skinned women in front of me. She sighs. I sigh. What are we to do? I don’t want to tell her everything. I don’t want to tell her anything. We wait for a time, she staring at me, me watching the stain at my feet. Opposite the table, the woman sighs again and then pulls her chair back, scraping it against the hard floor. When she leaves the room, I press my hands into the table, flattening my palms against the table. It’s a trick I used to teach my students, to help them focus. This is what I want to say to her: I did not ask for this to happen. I did not make it happen.

But I say nothing. I stare at my feet some more. It takes a long time before the door opens again."

This is the first paragraph of the story, and we already learn that we are in an interview situation and that a story is expected of the first-person narrator. We also learn about the narrator's profession, she's a teacher, thus the common prejudice that refugees are poor and uneducated is rejected from the start. We also learn a lot about the storytelling situation itself: "Tell me everything," says the interviewing woman, "I don't want to tell her anything," says the refugee in her mind. The reader is in a very privileged position, though, and gets to know the refugee's story in the following paragraphs. What is withheld in the (fictionalized) interview situation is being voiced in literature.

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This issue of not telling is constantly repeated in the inner monologue of the refugee, as when she asks the reader "Do I need to say all of this?" or when, during the interview situation, she muses "I have no need to speak pleasantly anymore, I have no need to protect anyone, to speak either truth or lies." Here, the reader is also made aware of the fact that first-person narrators are notoriously unreliable!

The narrator finishes the story with "And we all got out of the truck and came here. And that's it. That's my story." Short stories, however, do not work like this, they do not slowly build up tension which then at some point culminates. They follow a different pattern, one that usually includes a surprise ending. Therefore, "And that's it. That's my story" is all but the story, even though the narrator repeats that a little later: "I say, 'There is nothing else.

That's the end of the story.'" "They opened the doors of the truck. And they found me. And that's all."

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Throughout the story there are references to Dusty, the narrator's dog, who is also coming on this unsafe journey. Actually, Dusty is the only name ever spelled out in full in the story. And it is the events surrounding Dusty which make the whole story a trauma story and which make for the surprise ending. Dusty, the narrator tells us, is making sounds in the inside of the truck, sounds which may attract border police or other people to the refugees. Despite the narrator's efforts, Dusty cannot be soothed:

"Beside me, a man's voice hissed, 'Shut it up, shut it up,' and I said, 'Ssssh, sssh,' as quiet as I could, as much to the man as to Dusty. But it didn't stop her, didn't make it quiet enough and it didn't stop him either. Right in my ear, so close that I could feel the movement of the air through my ear, he whispered, 'Shut the fucking thing up.' Outside the truck we could hear the rumble of voices, the footsteps coming closer, hands banging against the metal truck walls. I know I was shaking; I know Dusty could feel it. I couldn't see the man beside me, but I could feel the shift of movement as he leaned closer and pressed his hand over Dusty's mouth, trying to keep her quiet. I didn't stop him. I didn't stop him. Against the floor of the crate, we could feel the vibrations of the rear truck door as it slid open; we could hear it too, and I could feel the man with his hand against Dusty's face. It worked, she quietened down, she did, and we all held ourselves in and hoped. ... I lifted Dusty to my face, brought her close to nuzzle her, and I could feel, straight away, the lack of movement, the lack of breath. Pressing my nose to her mouth, I listened, I listened, but there was nothing. Against her heart, no beat, no pulse."

The reader learns a very detailed story, but it is not altogether clear what, in the world of the story, the interviewer learns of the details. Although the reader is tricked into believing that they are being told the “true story” and that this true story is withheld from the interviewer, we learn that at least parts of the story is in fact told to the interviewer: “She says, ‘We need to write all this down. We need to keep the records.’”

The way the short story approaches the situation in the end, when the interviewer is again pushing the narrator to give them details concerning Dusty and Dusty’s death, is at once an example of trauma narratives and of refugee agency:

“She says again, ‘There was no dog in the truck, was there? When you came to us, when they brought you here, still screaming, it was not for a dog, was it? Now tell us who died in that truck.’

I say, ‘It was nobody. Nobody.’

I will not give them her name. They can take my passport and my lover and my country and my name. But they cannot take my grief and use it to make their records neat. I will not give them that.”

Trauma works in a way that we simply cannot remember what actually happened, this is a feature of our brain to keep us alive. In the short story, it is as much a conscious and unconscious choice of the narrator to substitute her daughter for a dog – on the one hand, the brain has indeed erased vital details from this episode so as to allow the narrator to live. On the other hand, it is her conscious choice not to give her daughter’s name to the interviewer and to reclaim agency over the story and over the singular refugee experience.

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Whereas “Lucky” is an example of how narrative techniques are used in literature to fill the gaps of the law, there are other examples, such as Chimamanda Ngozie Adichie’s “The American Embassy,” which focus on the narrative de-construction of the ideal refugee. The actual asylum interview in real-life situations is not equipped to deal with such narratives that diverge from the expected way of storytelling or from the beaten tracks of accepted refugee experiences. Literature, however, fills this gap and shows us what difficulties exist in terms of storytelling in asylum determination processes. To be made aware of the shortcomings of the law is the first step towards accepting atypical refugee experiences and different storytelling traditions in the law.

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I hope you enjoyed this very first episode of my podcast *Migra\$tory: Law, Narratives, Refugees*.

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If you are interested in learning more about the representations of refugee experiences in literature, tune in for my interview with Professor Cecile Sandten of the University of Chemnitz, Germany, as we will be talking about some of the stories contained in the short story collection *Refugee Tales*.

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If you are more of a film buff, don’t miss my interview with Dr. Agnes Woolley from Birkbeck, University of London, in which we talk about different forms of refugee films.

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The difficulties posed by storytelling expectations in asylum determination processes is the topic of my interview with Anthea Vogl from the University of Technology, Sydney. If you would like to hear more about the legal perspective of Law, Narratives, and Refugees, make sure to tune in to that episode!

-outro music playing-

In the next episode, I will host Professor Jan C. Jansen and his team, Dr. Megan Maruschke, Dr. Thomas Mareite, and Jannik Keindorf, from the University of Duisburg-Essen. We discuss historical migration patterns, refugees before there was a cohesive word for them, and central America in the Age of Revolutions.