The Role of International Law in Shaping National Immigration Policies.

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ABSTRACT

Immigration law stands at the interface between state sovereignty and international law obligations, creating a dynamic space where national policy is relentlessly being redefined by evolving global frameworks. International law, framed in terms of treaties, conventions, customary law, and judicial precedent, has increasingly influenced how states organize, regulate, and rationalize their immigration policies. Mechanisms such as the 1951 Refugee Convention and its 1967 Protocol, the International Covenant on Civil and Political Rights, the European Convention on Human Rights, as well as regional instruments of the Americas and Africa have set standards limiting arbitrary exclusion and reiterating protection for basic rights of refugees and migrants. At the same time, soft law instruments like the 2018 Global Compact on Safe, Orderly and Regular Migration encouraged cooperative responses to address contemporary issues like climate-induced displacement and irregular migration. This paper critically examines how much international law affects national immigration policy, balancing state interests in controlling borders with obligations to maintain human dignity. By analysing seminal court decisions, new controversies, and significant legal doctrines, the study frames the tension between universality and sovereignty, asymmetrical enforcement across regions, and growing calls for greater international solidarity. The study concludes that international law provides normative guidance of great value but depends on political will, enforcement strategies, and the capacity of states to reconcile national interests and international obligations.

Keywords: International law; immigration policy; sovereignty; refugee protection; human rights; Global Compact for Migration; asylum; displacement.

INTRODUCTION

Immigration has become one of the defining features of the 21st century, and it has provoked pressing concerns regarding sovereignty, human rights, and international cooperation. Governments are at pains to balance their sovereign prerogative to control entry and residence within their territories against international law obligations. Even though immigration policy is articulated at the national level, there are global legal norms and bodies that provide principal guidelines, limits, and normative norms that shape home country policies towards migration. These impacts are strongest in areas of refugee protection, migrants' rights, and preventing human trafficking (Betts, 2011).

The role of international law in the governance of migration has its foundations in a series of fundamental legal instruments. Leading among these is the 1951 Refugee Convention and its 1967 Protocol, which remain to this day the cornerstone of the international refugee protection regime. The Convention embodies the principle of non-refoulement, which prohibits states from returning individuals to a place where their life or freedom will be threatened (Goodwin-Gill & McAdam, 2021). This standard, which has become customary international

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law, has been enshrined in many nation asylum laws and thus contributes to demonstrating the direct influence of international law on domestic immigration systems. Similarly, global human rights conventions such as the Universal Declaration of Human Rights (UDHR, 1948) and the International Covenant on Civil and Political Rights (ICCPR, 1966) articulate rights to apply to migrants like freedom from arbitrary detention, the right to family life, and protection against discrimination (Hathaway, 2021).

Regional systems also inform the development of immigration policies. In the European Union, CEAS and Schengen regulation construction has harmonized asylum procedures and ideals of free movement between members, creating a supranational level of migration governance (Guild, Costello, & Moreno-Lax, 2017). At the African level, the 1969 OAU Refugee Convention extended protection to refugees by giving protection to individuals who were fleeing mass violence and foreign aggression, constituting a regional application of international refugee law to internal situations (Okoth-Obbo, 2001). The Inter-American Court of Human Rights has also made landmark rulings confirming the protection of migrants, refugees, and asylum seekers in the Americas (Arboleda, 2006).

Despite these international and regional regimes, the influence of international law on national immigration policies remains questionable. Sovereignty is still exercised by states as the underlying principle of managing immigration, with international obligations being selectively taken up to accommodate domestic political agendas. For instance, while Canada's Immigration and Refugee Protection Act articulates the country's global commitments pursuant to the 1951 Refugee Convention, other nations such as the United States have been faulted for restrictive readings of asylum obligations (Aleinikoff, 2003). This variability highlights the conflict between global norms and domestic policymaking, which illustrates international law providing counsel and legitimacy rather than fully determining immigration outcomes.

There has also existed a fierce academic debate over this interrelationship between sovereignty and international law. There are those who believe that states possess absolute autonomy in choosing migration, considering international obligations secondary to self-interest at the national level (Wellman, 2011). There are others who assume that globalization and increasing international organizations have increasingly constrained state power unilaterally to control migration (Hollifield, Martin, & Orrenius, 2014). Outside scholarly controversy, the pragmatic challenges—namely, scarce resources, national populism, and security issues—further hinder states' willingness and capacity to integrate completely with international law.

International institutions also contribute to shaping national immigration systems. The United Nations High Commissioner for Refugees (UNHCR) aids states with technical and legal advice in implementing international refugee law in national systems, and the International Organization for Migration (IOM) works with governments to influence migration policy consistent with international standards (Betts & Milner, 2017). These institutions exhibit how international engagement encourages, but does not coerce, harmonization in various legal and political contexts.

Briefly, immigration policy is situated at the intersection of state authority and international obligation. International law, through treaties, conventions, and institutions, establishes structures that affect national legislations and practices, most significantly in refugee protection and the safeguarding of migrants' rights. However, the extent of influence depends on regional forces, domestic politics, and the commitment of states to comply with international standards. This essay will thus analyze the role of international law not as a determinant but as a shaping framework that informs, advises, and even constrains national immigration policy.

Conceptual Framework

Immigration is a multifaceted concept that has attracted the attention of policymakers, scholars, and

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international organizations. Effectively, immigration refers to the movement of individuals across state borders in search of settlement, temporary or permanent, in a host country. Unlike internal migration, immigration always gives rise to questions of jurisdiction, sovereignty, and belonging since it refers to the intrusion of foreigners into a sovereign state (Castles, de Haas, & Miller, 2014). Immigration motives differ. Voluntary migrants migrate for work, study, or reunions with family members, whereas forced migrants migrate under the duress of persecution, conflict, or environmental emergencies (Betts, 2013). Immigration policy, therefore, constitutes the set of rules, laws, and administrative regimes that determine who can enter a country, on what conditions they may stay, how they must integrate into society, and under what conditions or grounds they can be sent back. These policies are generally thought of as the expression of state sovereignty, but also as dependent on external norms, particularly those provided by international law.

Sovereignty tends to be thought of as an international politics and law organising principle. Sovereignty grants states sovereign authority over their land, inhabitants, and decision-making processes. For immigration, sovereignty is reflected in the power of states to control their borders and determine entry and exit of aliens (Jackson, 2007). Historically, the authority here is nearly absolute and allows states to exclude foreigners for purposes ranging from security to protectionism for economic purposes (Krasner, 1999). Christopher Wellman (2011) has argued that immigration control should be understood as an extension of the state's freedom of association, in the same way that people are free to decide whom they want to invite into their homes. This is an argument about political communities' sovereignty to decide membership. Other critics, such as Carens (2013), argue against this proposition based on the truth that sovereignty cannot subvert the human fundamental rights as well as the dignity of human beings. For them, borders should not function as unbending walls but regulated in the spirit of human rights duties calling for the context of universality of justice.

International law enters the picture as an architecture that both legitimates state action and imposes responsibilities that curb full discretion in the governance of migration. International law is also widely described as the aggregate of rules governing state-state relations and other international participants pursuant to sources embedded in Article 38 of the Statute of the International Court of Justice. They include treaties, customary international law, general principles of law, and judicial opinions (Shaw, 2021). Among them, some treaties have had far-reaching effects in the realm of immigration. The 1951 Convention Relating to the Status of Refugees and its 1967 Protocol continue to be the pillars of international refugee protection. The Convention codifies the principle of non-refoulement, an act that renders states illegal to send refugees back to places where their life or freedom is in danger (Goodwin-Gill & McAdam, 2021). Aside from refugee law, human rights treaties such as the 1948 Universal Declaration of Human Rights and the 1966 International Covenant on Civil and Political Rights establish rights that apply to migrants and asylum seekers, including protection against arbitrary detention and family reunification (Hathaway, 2021). The 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families is another instance of the expanding body of international law to regulating migration, even though it is not widely ratified by major countries receiving migrants.

Regional legal instruments have also impacted immigration law. In the European Union, the Common European Asylum System (CEAS) attempts to harmonize asylum practice and establish minimum standards among member states. The Schengen Agreement, by eliminating internal borders, has enhanced the complexity of controlling migration by adding a supranational level of accountability (Guild, Costello, & Moreno-Lax, 2017). African nations, in the 1969 Organization of African Unity Convention on Refugees, extended the definition of refugees to encompass persons fleeing general violence and external aggression, thereby making international law more sensitive to local situations (Okoth-Obbo, 2001). The same applies to the Americas, where the Inter-American Court of Human Rights has issued landmark rulings strengthening protections for migrants as well as for refugees (Arboleda, 2006).

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Though, the relationship between sovereignty and international law remains very contentious. While international law provides normative standards, implementation at the national level remains disorganized and often subject to political will. States may sign treaties but intentionally neglect to internalize their provisions or interpret them narrowly in order to limit their obligations (Aleinikoff, 2003). Immigration detention reflects this tension: international law prohibits arbitrary detention, but many states justify restrictive detention practice on grounds of national security or deterrence. The efforts of the European Union to introduce burden-sharing instruments for asylum seekers have also been rejected by some member states that want to preserve discretion in immigration policy at the national level (Boswell & Geddes, 2011). These tensions capture the long-standing reality of sovereignty as an organizing principle that persists despite international law's effort to establish a system of cooperation and accountability. What are the prospects therefore for a conceptual ordering in which immigration, sovereignty, and international law are interdependent but never harmonious at every instance. Immigration policy is domesticity-led, but states cannot operate in complete autonomy from the international sphere. Sovereignty entitles them to dominate borders, yet international law imposes obligations on them that seek to safeguard the rights of individuals and further consistency in how states regulate immigration. An understanding of this tension is critical to describing how international law constructs national immigration policy, since it emphasizes the tensions between state preference and international norms, and the empirical challenges of implementing world standards across various domestic contexts.

Key Legal International Instruments on Immigration

International legal instruments have played a crucial role in establishing how states manage immigration and respond to cross-border movement. Although immigration is a field in which sovereignty is strongly practiced, international law has increasingly set standards and obligations that impact national policies. These instruments span various issues of migration governance, from refugee protection to labor migration as well as the human rights protection. As a whole, they provide a legal climate that is acceptable to the limits under which states can exercise discretion while reminding governments of their commitments to international cooperation and human dignity.

One of the most important legal instruments is the 1951 Convention Relating to the Status of Refugees, complemented by its 1967 Protocol. These instruments created the modern international system for protecting refugees and remain the pillars of global responses to forced displacement. The 1951 Convention defines a refugee as a person who, fearing persecution on the basis of race, religion, nationality, membership of a specific social group or political opinion, is unable or unwilling to return to his or her country of origin. The 1967 Protocol removed the original temporal and territorial limitations of the Convention, thereby universalizing refugee protection. One central principle codified in this regime is non-refoulement, which prohibits states from expelling or returning individuals to territories where their lives or liberties would be threatened. This is now widely regarded as customary international law that binds even non-states parties to the Convention (Goodwin-Gill & McAdam, 2021). In practice, the majority of national asylum law codifies the refugee definition and non-refoulement obligation, thereby demonstrating how an international legal norm affects domestic law.

Outside of refugee law, international human rights instruments also influenced the rights and protection extended to migrants. The Universal Declaration of Human Rights (1948), although not binding in law, laid a normative foundation on the basis of claiming rights to all human beings, including a right to seek asylum. The International Covenant on Civil and Political Rights (1966) and the International Covenant on Economic, Social and Cultural Rights (1966) provide enforcable rights that are applicable to migrants. These include rights to liberty, security, family life, and nondiscrimination. They also establish minimum standards for the treatment of migrants in detention, access to justice, and cultural and social rights (Hathaway, 2021). The

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Convention on the Rights of the Child (1989) also expands protection further by insisting that children, whether they are documented or not, have a right to special care and protection. These instruments describe the manner in which human rights covenants have an indirect impact on immigration policies by compelling states to respect universal norms for dealing with immigrants.

Another foundational convention is the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families adopted in 1990. The convention seeks to protect the fundamental rights of migrant workers regardless of whether they are in a country lawfully or unlawfully, and to ensure them rights such as equality before the law, protection against arbitrary expulsion, and access to basic services. Despite, its impact has been curtailed because the majority of prominent migrant-receiving countries have not ratified it, a reflection of powerful states' resistance to limit their sovereignty over labor migration (Pécoud & de Guchteneire, 2007). Yet, for ratifying states, particularly migrant-sending states, the convention enhances the protection of their nationals abroad and forces governments to pursue policies in accordance with international workers' rights.

Apart from such global conventions, regional legal systems have played a crucial role in building migration governance. The most intricate supranational system has developed in the European Union, with the Common European Asylum System establishing a floor of standards for asylum procedures, reception, and qualification conditions. Regulations such as the Dublin Regulation determine which member state would process an application for asylum and thereby limit the chances of asylum shopping (Guild, Costello, & Moreno-Lax, 2017). The Schengen Agreement has also transformed the administration of migration by removing the requirement for internal frontier controls within member states, though it has exerted pressure on frontiers outside of membership territory and created controversy around burden-sharing. These instruments significantly constrain national autonomy by harmonizing the policies and deriving a common approach to dealing with migration in the EU.

In Africa, the 1969 Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa extended the definition of a refugee beyond the 1951 Convention to include those fleeing external aggression, occupation, foreign domination, or serious disturbance of public order. This broader strategy was formulated in recognition of the mass displacement dynamics on the continent and has been incorporated into asylum policies of many African countries (Okoth-Obbo, 2001). The African Union recently promoted the Protocol on Free Movement of Persons, which, though not yet in operation, aims to facilitate intra-African migration in the integration agenda of the continent. These local instruments exhibit international law's adaptability to the local and temporal conditions while forcing states to modify their domestic policies in turn.

In the Americas, the Inter-American system of human rights has made a significant difference in the protection of migrants. The Inter-American Convention on Human Rights (1969) and the jurisprudence of the Inter-American Court of Human Rights have enriched the principle of non-refoulement and interpreted due process guarantees for migrants and asylum seekers (Arboleda, 2006). The Court has produced landmark decisions recognizing irregular migrants' right to equal treatment as well as the right to access justice, against restricting national policies in Mexico and the Dominican Republic. This shows how domestic courts can influence national legal regimes directly by interpreting international obligations in language that supports migrant protection.

International activity has also extended beyond legally binding treaties to the employment of soft law measures. The Global Compact for Safe, Orderly and Regular Migration (2018) and the Global Compact on Refugees (2018) are political commitments rather than legally binding treaties, but they possess significant normative power. They encourage states to cooperate on issues such as responsibility-sharing, safe migration

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channels, and protecting vulnerable groups. Although their enforcement lies in the hands of states, they set policy agendas that shape national discourse and encourage convergence among immigration policies (Betts & Milner, 2017).

Together, these instruments show the growing role of international law in managing migration. They establish minimum standards, facilitate regional harmonization, and construct normative blueprints that guide national immigration policy. Yet their effectiveness is dependent on the generosity of states to ratify, enact, and comply with them. The treaties on refugee and human rights have continued to be relatively influential, while the convention on migrant workers has struggled to gain membership from destination countries. Regional instruments have most effectively functioned in Europe, Africa, and the Americas, where shared history and institutions allow for more intensive cooperation. These instruments of law illustrate the dynamic and complex relationship between sovereignty and international norms in the regulation of immigration.

The Influence Of International Law On National Immigration Policies

The influence of international law on national immigration policies is indirect and works on legal, political, and institutional planes. Although immigration has been portrayed as an area where states have unlimited sovereignty, international law has infused binding rules, normative expectations, and institutional pressures that significantly shape how states design and implement policies. These effects can be particularly observed in areas of refugee protection, human rights standards, anti-smuggling and anti-trafficking, family reunification, and labor migration. States may be irregular in implementing these standards, but their presence within national legal systems is evidence of the reality that international law has emerged as a defining force in immigration control.

The most obvious area of international influence is perhaps refugee and asylum seeker protection. The 1951 Refugee Convention and the 1967 Protocol are the cornerstone instruments that have influenced asylum policy globally. The doctrine of non-refoulement, codified in Article 33 of the Convention, has been enshrined in most signatory states' domestic law so that people cannot be sent back to places where they would be persecuted or where their life would be threatened (Goodwin-Gill & McAdam, 2021). To illustrate, Canada's Immigration and Refugee Protection Act explicitly reflects its obligations under the Refugee Convention, codifying procedures to assess asylum claims in accordance with international standards. Within the European Union, asylum regimes are established on the basis of obligations under both the Refugee Convention and EU directives, including the Qualification Directive and the Asylum Procedures Directive, which harmonize standards for the granting of protection (Guild, Costello, & Moreno-Lax, 2017). Even where political opposition to immigration is intense, courts frequently use international refugee law to hold governments to account for illegal removals or exclusory asylum measures, thus underpinning the impact of international norms on national systems. International human rights law also limits national discretion in immigration policy by setting out minimum standards of treatment for migrants. Treaties such as the International Covenant on Civil and Political Rights and the Convention Against Torture prohibit arbitrary detention, cruel or degrading treatment, and discrimination, each of which has relevance in immigration enforcement contexts (Hathaway, 2021). National courts routinely apply these obligations to review immigration detention policies or deportation practices. For example, the European Court of Human Rights has regularly ruled states in violation of Article 5 of the European Convention on Human Rights in immigration detention cases, requiring governments to amend domestic practice (Mole & Meredith, 2010). Similarly, in Latin America, the jurisprudence of the Inter-American Court of Human Rights has reinforced guarantees for irregular migrants, affirming their due process and non-discrimination rights, prompting reforms in states such as Mexico and Argentina (Arboleda, 2006). All of these developments demonstrate that international human rights law has become a key point of reference in balancing state sovereignty with the protection of migrants' rights.

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One other field in which international law has influenced domestic policies is the combat against human trafficking and migrant smuggling. The United Nations Convention against Transnational Organized Crime (2000) and its supplementary protocols on trafficking in persons and smuggling of migrants compel states to criminalize trafficking and smuggling and also to take measures to safeguard victims. These obligations have led to extensive reforms of domestic criminal codes and immigration regimes, with the majority of states passing special anti-trafficking units and victim protection mechanisms consistent with international standards (Gallagher, 2010). In West Africa, for example, the Economic Community of West African States (ECOWAS) has approved action plans for harmonizing anti-trafficking activities, demonstrating how regional cooperation complements global treaties in shaping national responses. The focus on victim protection within international instruments has prompted states to move away from dealing with trafficked individuals as irregular migrants who could be deported to treating them as victims who are deserving of assistance and legal redress.

Family reunification is a further area of policy that has been affected by international law, specifically through human rights standards. The right to family life, enshrined in Article 16 of the Universal Declaration of Human Rights and Article 23 of the International Covenant on Civil and Political Rights, was found by many courts to apply to migrants and their families. This has led to judgments from the courts compelling states to amend restrictive family reunification policies. In the European Union, the Family Reunification Directive sets out minimum standards for the member states, demonstrating how international and regional norms shape national legal frameworks (Groenendijk, 2006). Although discretion in terms of eligibility criteria and conditions is left to the states, international law has ensured family unity as a legitimate ground for migration, limiting the freedom of states to deny entry to family members of legal residents or refugees.

Labour migration policies have similarly, though sporadically, been informed by international legal frameworks. The International Labour Organization (ILO) has adopted several conventions touching on the treatment of migrant workers, including protection against exploitation, the right to equal treatment, and protection regarding working conditions. While ratification levels are low within major receiving states, these instruments have influenced national labor standards and have prompted civil society efforts to promote protections for migrant workers (Pécoud & de Guchteneire, 2007). The 1990 International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, despite its poor ratification by receiving states, has been significant for migrant-sending states, which use it to urge more humane treatment of their nationals abroad. Its indirect impact has been in focusing international attention on the rights of migrant workers, pushing states to harmonize their policies with international labor norms even without formal ratification.

International law has also influenced immigration enforcement strategies, particularly in the context of deportations and removals. The principle of non-refoulement prohibits states from deporting individuals to countries where they would be tortured, persecuted, or exposed to inhuman treatment. This has led courts to halt deportations where real risks of harm are substantiated, despite governments' insistence on implementing firm immigration controls. In the United Kingdom, for example, removals to countries with poor human rights records have been successfully appealed against under the European Convention on Human Rights, demonstrating how national enforcement policy is directly shaped by international legal obligations (Mole & Meredith, 2010).

The influence of international law is not limited to binding treaties but extends to soft law and international policy initiatives. The 2018 Global Compact for Safe, Orderly and Regular Migration is a non-binding treaty that encourages states to adopt policies allowing safe migration, Xenophobia prevention, and enhanced collaboration on return and reintegration. Although lacking legal power, the Compact has shaped policy debates in the majority of states and been referred to in the development of migration strategies, particularly in

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Asia and Africa (Betts & Milner, 2017). The Global Compact on Refugees, adopted in 2018, has promoted responsibility-sharing arrangements and stimulated reforms in national asylum systems. These instruments reflect the increasing role of soft law in informing national policy through political commitment and normative guidance.

Together, these examples show how international law affects immigration policies in various areas. Refugee law creates binding standards for asylum regimes, human rights law constrains arbitrary state action, anti-trafficking treaties revolutionize enforcement and victim protection, family reunification agreements strengthen migrant rights to reunify, labor standards heighten protections for migrant workers, and soft law agreements shape global migration policy debates. While the degree of influence varies by treaty, state, and regional situation, the overall trend is one of growing interdependence between national immigration regimes and international legal frameworks.

Case Studies

Case studies provide a useful lens through which to examine how international law interacts with national political contexts to shape immigration policies. Through comparing different jurisdictions, it emerges that the influence of international law is neither consistent nor automatic, but is instead filtered through national agendas, regional politics, and judicial interpretation. Three illustrative examples are the European Union, the United States, and African nations, which reveal the different ways that international norms are integrated into national immigration regimes.

The European Union represents one of the most advanced examples of regional integration in migration control, with international and supranational legal orders co-existing alongside national policies. EU member states are parties to the 1951 Refugee Convention and the European Convention on Human Rights, both of which have shaped asylum policy. To these undertakings, the EU has added a supranational legal order in the shape of the Common European Asylum System (CEAS), whereby asylum laws are harmonized across the region. Initiatives such as the Qualification Directive and the Dublin Regulation set standards for refugee recognition and responsibility-sharing between member states (Guild, Costello, & Moreno-Lax, 2017). The European Court of Human Rights has reaffirmed the binding nature of human rights protection for migrants, as in M.S.S. v. Belgium and Greece (2011), when it held that asylum seekers could not be returned to conditions of inhuman treatment. The Court of Justice of the European Union has also handed down judgments holding states to their commitments under EU directives even where national politics favor exclusionary policies. At the same time, national governments, particularly Hungary, Poland, and Italy, have resisted EU-level commitments, most prominently during the 2015 migration crisis. This tension underscores the degree to which international and supranational norms shape policy but are challenged in practice. Despite such resistance, the EU context presents the strongest example of international and regional law consolidating immigration governance as a multilevel system in which state sovereignty is moderated by legal obligations.

The United States provides a counter example, whereby international law has a lesser but still significant influence on immigration policy. Although the U.S. is a signatory to the 1967 Refugee Protocol, it is not a signatory to the 1951 Refugee Convention itself, although significant provisions of international refugee law, like the principle of non-refoulement, are included in domestic asylum law. The Refugee Act of 1980 aligned

U.S. asylum procedures with international standards, freeing the domestic law from the grip of discretionary sua sponte power, and demonstrating the influence of treaty commitments on national law (Aleinikoff, 2003). However, subsequent administrations have at times adopted constrained interpretations of such commitments. For instance, U.S. courts have been frequently required to interpret the limits of asylum eligibility, with rulings on gender-based persecution or gang violence reflecting persistent tensions between international norms and

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national discretion (Hathaway, 2021). The Trump administration's "Remain in Mexico" policy was widely criticized abroad for violating non-refoulement principles, yet courts habitually balanced such interests against executive authority. The U.S. has also declined to ratify other migration-specific agreements, such as the Migrant Workers Convention, demonstrating its selective acceptance of international agreements. Advocacy organizations and international agencies such as the UNHCR indirectly influence U.S. policy by providing legal advice, overseeing implementation, and shaping debates around refugee resettlement. So while sovereignty is the dominant narrative of American immigration policy, international law still has an important role in shaping asylum policy and providing a rights-based agenda for challenges. In Africa, the confluence of global and regional law has produced unique innovations in refugee protection and migration management. The 1969 Organization of African Unity (OAU) Refugee Convention significantly expanded the refugee definition from that of the 1951 Convention, covering those fleeing external aggression, occupation, and events seriously disturbing public order. This wider criterion has been included in national law around the continent, providing protection to massive groups of people displaced by wars in countries like Sudan, Somalia, and the Democratic Republic of Congo (Okoth-Obbo, 2001). Uganda, for instance, has received international acclaim for its liberal refugee policies, with refugees being accorded the right to work, freedom of movement, and the right to land, in adherence to its international and regional commitments (Betts, 2011). Kenya, for example, has internalized refugee protection norms into its Refugees Act, albeit its implementation has continued to be uneven, especially for Somali refugees in Dadaab camps. West African states, via the Economic Community of West African States (ECOWAS), have also developed protocols on free movement, residence, and establishment, one of the most advanced regional migration systems beyond Europe (Adepoju, 2007). These measures, while not exempt from enforcement challenges, are indicative of the ways that international law has shaped African national immigration regimes, in some cases going beyond standards set in other regions of the globe. However, xenophobia, institutional weakness, and security concerns habitually delimit the de facto implementation of such international commitments. In the European Union, binding regional and international agreements have made asylum and migration control a supranational realm, even if contested in practice. In the United States, international law provides a foundation for asylum but remains subject to sovereignty and domestic politics. In Africa, international and regional law has extended refugee protections and promoted free movement regimes, even if faced with difficulties in practice. These divergences underline the point that while international law establishes shared standards and norms, national contexts mediate the extent and form of compliance, producing a mosaic of immigration control that is variegated.

Challenges In Aligning National Immigration Policies with International Law

While it plays an important part in the construction of national immigration systems, international law confronts severe challenges and constraints to shaping state policy. The underlying tension is that immigration is inevitably linked with sovereignty, and states are typically reluctant to accept outside restraint when they perceive it as conflicting with national security, political interests, or domestic imperatives. While international treaties, customary international law, and soft law tools have accumulated norms on the treatment of asylum seekers, migrants, and refugees, enforcement remains unequal and frequently undermined by weak measures to secure compliance. The dynamic between international law and immigration policy is therefore characterized not only by norm diffusion and legal convergence but by selective enforcement, resistance, and blatant violations.

The most consequential of these is the tug between international responsibility and state sovereignty. Immigration has traditionally been seen as one of the remaining bastions of state authority, bestowing on states the ability to decide who can enter, reside, and naturalize in their countries. As much as tools such as the Refugee Convention impose duties on states, governments appeal to sovereignty in order to justify coercive immigration policy. For instance, the 2015 European migration crisis highlighted the difficulty in

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implementing international commitments when several states, like Hungary and Poland, refused to accept EU relocation quotas or asylum seekers regardless of their EU and international refugee commitments (Guild, Costello, & Moreno-Lax, 2017). In the U.S., claims of sovereignty are usually made in resistance to wider internationalizing of international norms, as suggested by its inability to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families. Sovereignty is then a strong deterrent to the global application of international law, as states weigh their perceived national interests against burdens of compliance imposed by others.

Another limitation is the weak enforcement mechanisms of international migration law. As opposed to international trade or investment law, which has strong constraints of dispute resolution mechanisms, treaties regarding migration do not generally have binding institutions for enforcement. The Refugee Convention, for example, does not have a standing tribunal or court to decide on violations and is left mainly to the discretion of domestic courts and political will (Hathaway, 2021). Although there are institutions such as the European Court of Human Rights and the Court of Justice of the European Union that have been able to enforce obligations in Europe, such structures do not exist in a majority of regions. Even when international overseeing bodies are present, such as the UN Human Rights Committee or the UNHCR supervisory mandate, their recommendations are not binding, and states do not pay heed to them. This institutional weakness explains why non-refoulement disregards, prolonged immigration detention, and curtailment of asylum practice continue with very little consequences for non-cooperative states.

Domestic politics and rising populism also limit the effectiveness of international law. In recent decades, the majority of countries have experienced growing nationalist and populist parties raising concerns about immigration as a threat to cultural identity, economic security, or stability. Leaders use anti-immigrant rhetoric in order to mobilize electoral support, and in these cases, international legal obligations are defined as demands originating from outside. As one example, the pull-out in 2017 by the Trump administration from engagement in the talks in the Global Compact for Safe, Orderly and Regular Migration was justified on grounds of protecting American sovereignty, whereas the Compact is not binding (Betts & Milner, 2017). Similarly, in the United Kingdom, Brexit arguments became entangled with resistance to EU migration law and free movement obligations, demonstrating the political backlash international migration law might generate. Populism has therefore jeopardized political adherence to international law as governments opt for short-term political gains over long-term legal obligations. Resource constraints similarly compromise adherence to international obligations, particularly within the Global South. A number of African and Asian countries hosting large refugee populations struggle to implement international standards due to limited financial and institutional capacities. Uganda's liberal policies that grant rights to work and land are undermined by failure to follow up due to chronic underfunding of humanitarian interventions (Betts, 2011). Similarly, in Lebanon and Jordan, with millions of Syrian refugees hosted there, the gap between international obligations and actuality is exacerbated by strained infrastructures and deficient international burden-sharing. This represents another major deficiency of international law: while it creates rules, it most frequently does not ensure adequate international cooperation and funding to enable compliance, which unreasonably burdens frontline states.

Ambiguities as well as loopholes in international law further make it less effective. For example, the 1951 Refugee Convention was negotiated during the post-World War II era and is not precisely aimed at current causes of displacement such as climate change, environmental disasters, or mass violence. Accordingly, several individuals who are under serious threat are not covered by the legal definition of "refugee" and thus do not receive adequate protection (McAdam, 2012). Although instruments like the 1969 OAU Refugee Convention have expanded the definition of refugees, there is no global consensus to modernize international refugee law. Even the Migrant Workers Convention, as extensive in scope as it is, has not been ratified by major migrant destination states and therefore its global application is limited. These deficits leave major categories of

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migrants vulnerable to lack of protection, demonstrating the need to reform and modernize international legal regimes.

Politicization of burden-sharing is also weakening the effects of international law. The Refugee Convention recognizes the principle of international cooperation but does not have binding measures to ensure equal sharing of responsibility. This has created uneven burdens on certain states, particularly those with borders adjacent to conflict areas. In the Syrian refugee crisis, Lebanon, Turkey, and Jordan got most of the displaced individuals, while wealthier nations in Europe and North America absorbed relatively fewer refugees (Crawley & Skleparis, 2018). Such imbalances not only impose upon host states but also create resentment and thus governments adopt restrictive measures despite being under international obligation. Lack of enforceable burden-sharing, international law is open to accusations of unfairness and selective application.

Eventually, the rise of security interests and counterterror policies has led numerous states to turn to restrictive immigration policies that undercut international safeguards. After September 11, 2001, states increasingly prioritized immigration control as a matter of national security and consequently have detained, monitored, and expanded border controls. These restrictions generally work in contravention to international obligations, such as the prohibition on arbitrary detention under the International Covenant on Civil and Political Rights (Mole & Meredith, 2010). Governments have been able to justify such action in the wake of international criticism, basing it on security threats, even going to an extent to comment on the frailty of international law with existing domestic imperatives.

Overall, the constraints and limitations of international law in shaping immigration policy are rooted in sovereignty, deficient mechanisms for enforcement, domestic politics, resource limits, legal uncertainties, burden-sharing debates, security, and global disparities. Though international law has developed an important normative framework, its ability to enforce cooperation remains limited by the nature of state action and global disparities. These limitations underscore the needs for more robust enforcement measures, more equitable cooperation, and responsive reforms attuned to contemporary migration issues.

Emerging Trends and Future Directions

International law for the subject matter of migration is still developing according to emerging global concerns, shifting politics, and new emerging laws. While the 20th century was marked by the codification of refugee law and the evolution of human rights regimes binding migrants, the 21st century is witnessing newer controversies emerging, particularly in relation to global governance, climate change displacement, and greater prospects for international cooperation. These developments both react to the inadequacies of existing frameworks and recognize that migration is a transnational process no single country can expect to control on its own.

The most powerful recent development is the adoption of the Global Compact for Safe, Orderly and Regular Migration (GCM) in 2018. The GCM was endorsed by the United Nations General Assembly as the first-ever universal international agreement on migration management. Though non-obligatory, it represents a historic attempt at encouraging collective approaches towards migration, prioritizing values of human dignity, responsibility-sharing, and protecting migrant rights (UN General Assembly, 2018). Its 23 targets provide a roadmap for action aimed at addressing a wide range of migration-related issues, such as reducing migration vulnerabilities, increasing legal access, and pushing back against human trafficking. While opponents cite the non-binding nature of the Compact as evidence of its poor enforceability, its political strength lies in the fact that it sets out a model for consultation and cooperation between states.

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Also, it has already influenced national policy debates, with other states putting migration policies into practice aligned to GCM objectives. But the negative critique of the Compact, particularly by countries such as the United States, Hungary, and Poland, which refused to sign it, highlights the persistent tension between sovereignty and cooperation at the international level. The Compact remains an important first step toward the institutionalization of a more reasonable, rights-based conception of migration governance, while its actual impact in the world remains subject to political will. Another new trend that is redefining global legal discourse on migration is climate change and environmental displacement.

The current refugee framework, enshrined in the 1951 Convention, does not provide for climate change as a refugee reason, exposing tens of millions to the threat of displacement with no access to the law. Climate-related events, such as desertification, sea-level rise, and extreme weather, already are displacing individuals from their homes in vulnerable regions, particularly the Pacific Islands, sub-Saharan Africa, and South Asia (McAdam, 2012). Jurists and policymakers began thinking about how to cover this protection gap. One course has been the establishment of regimes of complementary protection at the regional and national levels, under which protection can be granted on humanitarian grounds even if a person does not fit the refugee definition. For example, New Zealand has pursued policies for inhabitants of Pacific island states threatened by rising sea levels, though these are politically charged. Globally, for instance, bodies such as the UN Human Rights Committee have also recognized that it could constitute a breach of the right to life under the International Covenant on Civil and Political Rights to return individuals to countries where climate change jeopardizes their lives (Teitiota v. New Zealand, 2020).

Although such decisions are short of creating binding obligations, they represent growing willingness to transfer human rights instruments into environmental displacement. The future debates will concern whether or not a new international climate-induced migration treaty is feasible or piecemeal development of existing refugee and human rights law will suffice. The potential for increased international cooperation in migration policy is also shaped by broader geopolitical and economic trends. Pressure to migrate is likely to increase due to continued global inequalities, demographic changes, and conflict, making international cooperation more urgent.

Regional institutions have become increasingly used to meet governance gaps, as is witnessed in the European Union's Common European Asylum System and the Economic Community of West African States' free movement agreements (Adepoju, 2007). Regional architecture demonstrates that it is possible to achieve cooperation but also defines political solidarity's limits in the face of adversity. The pandemic of COVID-19 further highlighted the vulnerability of cooperative models, with states quickly closing borders and suspending asylum processes, regularly at the cost of international commitments (Guild, Moreno-Lax, & Garlick, 2021). However, the pandemic also served to underscore the critical contribution of migrant labor in the maintenance of economies, leading to renewed demands for more humane and sustainable migration policies. The challenge facing the test will be balancing legitimate security and public health concerns with respect for international legal obligations and migrants' human rights. The more widespread employment of soft law and multi-stakeholder governance will also shape the direction of international law and migration. The Global Compact for Migration and the Global Compact on Refugees, as non-binding documents, are still useful tools for dialogue and the transmission of norms.

International actors, civil society, and migrant rights organizations are increasingly involved in shaping migration governance, often as a result of being able to fill the vacuum left by the absence of binding enforcement. This pluralization of governance raises important accountability and legitimacy issues but also simply reflects that state-dominated models cannot come close to addressing the demanding migration dynamics (Betts, 2011). Last, the future of international law in migration will be with the international

community's capacity to make cooperation firm while transforming legal models to adapt to contemporary realities. Growing recognition of displacement due to climate change, political support for cooperative approaches such as the GCM, and the promise of stronger regional models of governance all suggest a slow but uneven expansion of the role of international law in shaping national immigration policy.

While sovereignty and home country politics will continue to be source of problems, the future will witness incremental change, new legal questions, and an ongoing balancing act between state discretion and international norms. The emergence of new questions, particularly those related to environmental change and global crises, underscores the necessity of re-molding migration governance so as to be legally legitimate but politically feasible

CONCLUSION

The role of international law in the shaping of national immigration policy is at once deep and contentious, reflecting the underlying contradiction between state sovereignty and the imperatives of international governance. International law over the decades has provided a framework for the protection of refugees, migrants' rights, and the facilitation of cooperative approaches to migration management.

These instruments contribute to shared norms and expectations, albeit unequal in the enforceability, such as the 1951 Refugee Convention, human rights treaties, and now the Global Compact for Safe, Orderly and Regular Migration. The instruments demonstrate how, while states control immigration policy-making chiefly, their policies are now inevitably decided by international legal standards and global debate. Nevertheless, the weaknesses of international law are evident. Weakened enforcement tools, political resistance, and resource constraints undermine habitual compliance.

Populism and nationalism have also undermined the legitimacy of global norms as states are more likely to prioritize domestic interests over international commitments. Simultaneously, new challenges such as climate change, pandemics, and protracted displacement accentuate the inadequacy of existing legal regimes and emphasize the necessity for change. The irregular distribution of burden among states, particularly in refugee emergencies, demonstrates the necessity of greater burden-sharing and international solidarity mechanisms (Hathaway, 2021; McAdam, 2012). In the future, the prospects for international law in this area will be incremental, not transformational. Non-legally binding instruments such as the Global Compact are available fora for cooperation and norm-setting, as human rights jurisprudence continues to add protective shields for marginalized populations. Ultimately, international law neither can realistically dictate national immigration law nor can it be irrelevant, but rather serves as a unifying template that pushes states towards greater conformity with shared standards of humanity, dignity, and justice.

New Section

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