
REFUGEE PROTECTION IN WESTERN EUROPE: RECONCILING SOVEREIGNTY, HUMAN RIGHTS, AND ETHICAL RESPONSIBILITY IN AN AGE OF CRISIS

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ABSTRACT

The governance of refugees in Western Europe has become a defining test of international law, human rights, and ethical responsibility. The 2015 “refugee crisis,” followed by ongoing displacement from Syria, Afghanistan, Ukraine, and parts of Africa, exposed the structural limits of the 1951 Refugee Convention and the deep fault lines within the European asylum system. While the principle of non-refoulement remains the cornerstone of protection, deterrence policies such as pushbacks, externalisation agreements with third countries, and the resurgence of detention practices have undermined compliance with international standards. At the same time, regional jurisprudence, including the European Court of Human Rights’ ruling in *M.S.S. v. Belgium and Greece* (2011), has highlighted the persistent gap between legal commitments and the lived realities of asylum seekers.

The ethical dimension is equally unambiguous: populist narratives frame refugees as threats to cultural cohesion and security, while empirical evidence shows their marginalisation stems more from exclusionary policies than inherent risk. Socio-economic pressures, such as housing shortages, integration challenges, and perceptions of crime, have further complicated policy responses, often justifying restrictive measures. Nevertheless, a balanced approach remains possible. By broadening the interpretation of protection to include climate and conflict-displaced persons, embedding fair burden-sharing across EU states, and prioritising inclusive integration strategies, Western Europe can align sovereignty with humanitarian commitments.

This article critically examines the interplay of law, politics, and ethics in Western Europe’s refugee governance, arguing for a recalibration of asylum policies that uphold human dignity while addressing legitimate state concerns using doctrinal and descriptive methods of study.

Keywords: Refugee protection, Western Europe, non-refoulement, asylum law, sovereignty, human rights.

Introduction

Global migration is one of the defining phenomena of the 21st century, shaped by a complex interplay of economic disparities, armed conflicts, environmental crises, and political instability. While migration itself is as old as human history, the scale, speed, and diverse nature of contemporary movements pose unprecedented challenges for international law and ethical governance. Migrants and asylum seekers, who often flee persecution, violence, or intolerable living conditions, frequently encounter legal systems and policies that fall short of guaranteeing their fundamental rights and dignity. (Parviz, 2024)

One of the most important things that has happened in the 21st century is global migration. This is because of a complicated mix of economic inequality, military conflict, war, natural disasters, and political instability. Migration has existed throughout human history; nevertheless, the magnitude, velocity, and variety of modern movements present unparalleled problems for international law and ethical governance. Migrants and asylum seekers, who often flee violence, persecution, or living situations that are too bad to bear, often run into legal systems and policies that don't protect their basic rights and dignity.

The legal frameworks established to safeguard these vulnerable groups, such as the *1951 Refugee Convention* and several human rights agreements, were created in situations that are markedly different from contemporary globalised reality. Furthermore, the growing securitisation of borders, the rise of nationalism, and the politicisation of public debate have made it even harder to find effective ways to protect people. This article looks closely at the legal and moral problems that come up while trying to protect migrants and asylum seekers. It examines how international law addresses changing migratory patterns and the ethical principles that must inform solutions to maintain justice and humanity in a globalising context. (Frelick et al., 2016)

I. The Context of Global Migration and Refugee Movements

Migration today cannot be understood without appreciating its multifaceted causes and consequences. *The United Nations High Commissioner for Refugees* (UNHCR) estimates that as of 2024, over 108 million people are forcibly displaced worldwide, including refugees, asylum seekers, and internally displaced persons (IDPs). This figure is extraordinary and reflects the convergence of multiple crises, from prolonged conflicts in Syria, Yemen, and

Ukraine to climate-driven displacement in regions like the Sahel and Pacific Islands. (Bertassello et al., 2023)

Forced displacement isn't the only reason people move; economic migration is still a big reason, as people look for better jobs and opportunities, which can be seen by looking at Bangladesh, where many people illegally migrate from the Middle East to Europe via a risky ocean route for better economic earnings. However, in fact, the line between voluntary and coerced migration is often blurred. Many migrants are caught in "mixed flows," where they need protection and want to make money at the same time. This intricacy makes it hard for simple policy ideas that put migrants into two groups: meritorious refugees and undeserving economic migrants.

Moreover, public and political narratives often depict migrants and asylum seekers as threats, burdens, or culturally incompatible entities. This kind of framing not only puts people in an immoral light, but it also supports measures that make protection less effective. This securitised discourse, frequently magnified by populist leaders and media, obscures the fundamental human narratives and legal responsibilities that ought to inform migrant governance. (Diab, 2025)

II. International Legal Frameworks Governing Migration and Refugee Protection

The 1951 Refugee Convention and its *1967 Protocol* are the most important pronouncements of refugee protection. They say who is a refugee and what states must do to protect them, including the principle of non-refoulement, which says that refugees cannot be sent back to places where they may be seriously harmed. This rule was created after World War II and is mostly about protecting people from persecution based on their race, religion, nationality, membership in a certain social group, or political viewpoint.

This limited reach leaves out many modern forced migrants, like those who have to leave their homes because of violence, environmental damage, or economic collapse. This creates big gaps in protection. Climate migrants, whose displacement is associated with environmental conditions, do not receive formal acknowledgement under the Refugee Convention, resulting in their legal ambiguity. (Pijnenburg & Rijken, 2020).

Human rights treaties, such as the *International Covenant on Civil and Political Rights*

(ICCPR) 1966, support refugee law by saying that all people, including migrants, have rights and dignity that are intrinsic to them. *The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (ICRMW) 1990, also provides rights, but it has not been ratified by many countries, which shows that countries are not willing to take on responsibilities for economic migrants.

Also, enforcing these international frameworks depends a lot on states working together, which doesn't always happen and is often affected by national interests. This type of enforcement, which focuses on the state, generates a conflict between sovereignty and international responsibilities, making it harder to apply protections consistently. Extraterritorial border controls and agreements with third nations to manage migrant flows make it harder for states to be directly responsible for protecting people. (Calvo-Mariscal, 2022)

III. Legal Challenges in Protecting Migrants and Asylum Seekers

When migrants and asylum seekers face real-world problems, the legal safeguards that are provided on paper often don't work. One big problem is that border controls and immigration regulations are getting stricter to keep people from coming, which is sometimes done for security reasons or because there aren't enough resources. Some of these steps are setting up physical obstacles, making visa rules stricter, and using advanced surveillance technologies. Many countries are increasingly using extraterritorial measures to keep asylum seekers from getting to their territory and getting protection. These methods include stopping boats in international waters and outsourcing border enforcement to transit countries. Such actions pose significant concerns regarding adherence to the non-refoulement commitment and international human rights legislation. (Does It Matter How We “Stop the Boats”?, 2017)

Additionally, human rights groups have questioned the common practice of holding migrants and asylum seekers in harsh and indefinite conditions. Detention violates the right to freedom and can make suffering worse, especially for people who are already vulnerable, such as children and people who have been tortured.

Access to justice is still a big problem. Many migrants don't have access to good legal help or information about how to apply for asylum because they don't speak the language, face prejudice, and have to deal with complicated government processes. The backlog and delay in the process of deciding who gets asylum make timely protection very rare. The legal problem

of stateless people, those who don't have a nationality or a secure place to live, is usually ignored. Statelessness makes people invisible in the eyes of the law, which means they can't get essential rights and services. Even though there are international agreements to try to reduce statelessness, millions of people are still stuck in legal uncertainty. (Darmawan & Heriyanto, 2023)

International and regional courts, such as the *European Court of Human Rights* and the *Inter-American Court of Human Rights*, have been essential in protecting the rights of migrants and looking into how states treat them. But their power is restricted by political opposition from governments and jurisdictional limits.

IV. Ethical Challenges and the Clash Between Sovereignty and Human Rights

The core of migration governance presents an ethical dilemma: the harmonisation of state sovereignty with the inherent rights of migrants and asylum seekers. It is reasonable for states to want to control their borders, keep their people safe, and keep society together. But these interests must be weighed against moral obligations to safeguard vulnerable individuals seeking refuge from violence. The politics of migration has intensified this conflict, as numerous countries implement measures motivated by immediate electoral advantages rather than fundamental adherence to human rights. Xenophobia and populist speech make people feel left out and discriminated against, which makes life harder for migrants and goes against social justice. (Abubakar et al., 2018)

Ethically, the idea of human dignity necessitates that migrants be regarded as rights-holders rather than mere subjects of control or suspicion. This means acknowledging their autonomy, requirements, and contributions, and making sure that regulations do not degrade or exclude people. The idea of justice in migration should not only include legality, but also fairness, equity, and solidarity. This kind of view goes against the common idea that putting national interests first is more important than sharing global responsibilities. Ethical migration governance requires the recognition that the underlying factors of displacement, such as violence, poverty, and environmental degradation, are interconnected with global disparities and historical injustices. (Triandafyllidou et al., 2023)

Sovereignty still controls how states respond. In *Sale v. Haitian Centres Council* (1993), the U.S. Supreme Court ruled that the non-refoulement commitment did not extend to interdictions

on the high seas. This meant that Haitian asylum seekers might go back to their own country. This limited interpretation of obligations exemplifies the conflict between humanitarian principles and governmental authority over boundaries. The UN Human Rights Committee has also criticised Australia's offshore processing system on Nauru and Manus Island many times for breaking Article 9 of the ICCPR, but it still works as a deterrent. Legal obligations are still at odds with the political calculations of how to handle migration.

Rights under the Refugee Convention are typically limited even when protection is given. Articles 17–24 provide refugees the right to work, go to school, and get help from the government, but in reality, many governments keep them in camps or informal settlements where they can't fully enjoy their socio-economic rights. This difference between what the law says and what people really experience generates a kind of "paper protection", status without real inclusion. Not protecting these rights hurts the integrity of refugee legislation and keeps people stuck in cycles of dependency, marginalisation, and illegal migration. (Field, 2010)

V. Emerging Issues and the Need for a Human-Centred Approach

Because migration is changing, we need new laws and policies that put people first. Climate change-induced displacement is an urgent emerging issue, with millions anticipated to be pushed from their homes due to rising sea levels, extreme weather, and resource scarcity. Current legal frameworks do not adequately address the needs of these migrants, highlighting the necessity to broaden protective measures and formulate new international consensus. Long-term refugee situations and secondary displacement make protection even harder. Numerous refugees endure years or decades in camps or informal settlements instead of sustainable alternatives, resulting in recurring cycles of vulnerability. Integration policies that make it easier for people to get education, health care, jobs, and be part of society are important, but not always followed through on. (Dimitriadis & Ambrosini, 2023)

The UN's *Comprehensive Refugee Response Framework* (CRRF) 2016 is an example of a promising method that certain areas have come up with. It addresses working together between states, humanitarian groups, and development agencies. Community sponsorship programs and avenues to regularisation provide human-centric alternatives to exclusionary policies. To deal with the size and complexity of migration, countries must work together and share the load. Changing the way the world is governed to make it more accountable, open, and inclusive will help create better and fairer protection systems. (Moretti, 2020)

Challenges with Repatriation:

The concept of non-refoulement (Article 33 of the 1951 Convention; customary international law; reinforced in Article 3 of the CAT and Article 19 of the EU Charter of Fundamental Rights) forbids sending refugees back to places where they will be tortured, persecuted, or treated inhumanely. But many repatriations nowadays are "premature" or "coerced," which means they happen too soon or because the host country is tired, doesn't have enough resources, or has made political arrangements with the country of origin. The UNHCR has said many times that repatriation must be safe, voluntary, and dignified, in line with its Handbook on Voluntary Repatriation (1996).

There are serious problems when people go back without real safety guarantees. The Rohingya repatriation attempts from Bangladesh to Myanmar show this: even if there are agreements between the two countries, conditions in Rakhine State are still hazardous and not up to international standards. Also, Afghan refugees in Pakistan and Iran have been pressured to go back, even if there is still fighting, which goes against the idea of voluntariness. (Rahaman, 2024)

Judges have also stressed the need for protection. The European Court of Human Rights said in *Soering v. United Kingdom* (1989) and *M.S.S. v. Belgium and Greece* (2011) that sending people back to places where they are treated badly is against Article 3 ECHR. These decisions go beyond asylum and put constraints on state-driven repatriation. Hence, even while repatriation is legally recognised as a mechanism to end refugee status, its misuse shows the conflict between the state's desire to limit long-term asylum and its duty to protect and respect human dignity. A critical perspective asserts that repatriation must be contingent not solely upon the lack of direct persecution but also on comprehensive assurances of safety, equality, and reintegration. (Billal, 2025)

VI. The Current Scenario in Western European Countries: Refugee Law Implementation and Socio-Economic Challenges

Since the 2015 migration crisis caused by wars in Syria, Afghanistan, and portions of Africa, Western Europe has been a main place for refugees to go. The influx of numerous asylum seekers has profoundly challenged the legal frameworks and socio-economic structures of various Western European nations, revealing both the efficacy and deficiencies of refugee

protection systems. The inadequacy of this framework has necessitated judicial creativity in certain jurisdictions.

In *Teitiota v. New Zealand* (Human Rights Committee, 2020), the UN Human Rights Committee examined the potential for climate-induced displacement to activate the non-refoulement requirement as stipulated in the International Covenant on Civil and Political Rights (ICCPR). The Committee did not classify Mr Teitiota as a refugee, but it acknowledged that environmental degradation endangering life may, in principle, preclude deportation. This case shows that protection is slowly spreading outside the Refugee Convention, but nations are still hesitant to make these changes official.

Refugee law is fragmented even within its own rules. While many countries have signed the Refugee Convention, they all have very different ways of putting it into action. The way Europe reacted to the influx of refugees in 2015 and 2016 showed that there was no way for countries to work together. Germany and Sweden took in a lot of Syrians, while other EU countries used the Dublin Regulation to avoid accountability. Hungary even built fortifications along its borders, which went against EU asylum rules. The European Court of Human Rights (ECtHR) has stepped in a few times, most recently in *M.S.S. v. Belgium and Greece* (2011), when it said that moving an asylum seeker to Greece under the Dublin system broke Article 3 of the European Convention on Human Rights (ECHR) because the conditions were inhumane. This type of law shows that domestic and regional courts are often the final line of defence, but it also shows how ineffective international enforcement is. (Nessel, 2009)

1. Implementation of Refugee Law in Western Europe

Most Western European countries have signed the 1951 Refugee Convention and its 1967 Protocol. These two documents constitute the basis for international refugee law. *Article 1* defines a refugee, *Article 33* establishes the principle of non-refoulement (which prohibits returning refugees to territories where their life or freedom would be threatened), and *Article 31* protects refugees from penalties for illegal entry. These are all clear legal obligations for states.

Even though there is a strong legal framework in place, putting it into practice in Western Europe has been quite hard. The large number of people seeking asylum poses a strain on national systems, causing delays and inconsistent use of asylum processes. For instance, *Article*

31 of the Convention forbids punishing refugees for entering a country without permission (because fleeing persecution often means crossing borders without permission), but some countries have strict border controls and detention measures that may go against this rule. (Abubakar et al., 2018)

Moreover, measures like pushbacks at borders and deals with third countries like Turkey and Libya to keep migrants from accessing Europe have put the principle of non-refoulement under *Article 33* to the test. These activities cast significant doubts on adherence to the Convention, as refugees may encounter threats of persecution or cruel treatment in these transit nations. Germany and Sweden, for example, initially embraced a more humanitarian approach that was in line with the spirit of the Convention. However, political and public pressure have forced them to adopt stricter measures, such as faster asylum proceedings and more deportations of those who have been denied refuge. This change shows a conflict between legal duties and the political situation at home. (Walsh et al., 2022)

2. Socio-Economic Challenges: Cultural Concerns, Crime, and Housing

The presence of a lot of immigrants has led to heated disputes about cultural identity, public safety, and economic stress. People are worried about cultural decline because they think that rapid changes in demographics could damage national traditions and social cohesion. The Refugee Convention's goal is to protect people who are escaping persecution, but it doesn't deal with the problems of integration, which need state policies based on human rights values to work.

Concerns about crime associated with refugees are a big part of the political debate. However, there is no evidence to show a clear link between being a refugee and committing more crimes. Numerous refugees encounter marginalisation, poverty, and social exclusion, conditions that are more strongly linked to vulnerability to crime than to a tendency for criminal behaviour. According to international human rights law, especially the *European Convention on Human Rights*, Western European countries have a moral and legal duty to protect refugees from discrimination and guarantee that they are treated equally under the law. Housing and residence shortages make it even harder to help them settle in. Many refugees live in overcrowded reception centres or poor housing for long periods of time, which goes against their right to decent housing as stated in *Article 21* of the *Universal Declaration of Human Rights* and supported by the International Covenant on Economic, Social, and Cultural Rights. Long-term

housing insecurity makes it harder for refugees to get back on their feet, go to school, find work, and fully engage in society. (Barpeeва & Mottaeva, 2020)

3. Balancing Protection and National Interests

Western European countries have a hard time combining their legal responsibilities under the *1951 Refugee Convention*, which include the need to give refuge and non-refoulement, with their own concerns about safety, economic resources, and social cohesion. The non-refoulement concept in Article 33 is an important legal protection, yet some states put national security or migratory control ahead of it. A Balanced Way to Keep Migrants and Asylum Seekers Safe.

A durable framework for refugees and migration must find a balance between the extremes of unqualified humanitarianism and strict state sovereignty. The goal is not to take away states' right to make rules, but to put that position in a context of rights and moral duty. A balanced approach could be based on three connected pillars:

I. Rethinking Legal Protection:

To find a balance between these two important things, we need to change both the way we think about morals and the way we think about the law. To better reflect the realities of today, protection should be extended to include people who have been displaced by climate change and those who are fleeing widespread violence. The Global Compact on Refugees (2018) is not legally binding, but it is a step toward shared responsibility because it calls for fairer resettlement and financial contributions. But the Compact is still just a goal because it doesn't have any obligatory duties. A normative commitment to fairness in distribution is necessary, similar to the ideals expressed by philosophers like Iris Marion Young and Joseph Carens, who contend that justice in migration should be evaluated on a global scale rather than solely inside national boundaries. (Janker & Thieme, 2021)

Integrating refugees into host cultures through education, healthcare, and access to the labour market affirms their dignity and reduces long-term dependency at the policy level. Numerous empirical studies demonstrate that refugees make economic and social contributions when obstacles are eliminated. The ethical argument aligns with the pragmatic: inclusive policies are both morally justifiable and materially advantageous.

The recurring worry of “misuse” of asylum, fraudulent claims, overcrowded institutions, or security risks cannot be disregarded but must be contextualised. Article 1F of the Refugee Convention already has ways to keep people who commit major crimes or go against the UN's principles from becoming refugees. National systems also regularly check for trustworthiness and security issues. Raising the likelihood of abuse as a reason to weaken the whole protective system is an unfair approach. A better ethical way to do things is to improve the process of adjudication such that it is fair and efficient and protects against arbitrary exclusion. The task is to bring law and ethics into line with each other in ways that protect and make sense. This necessitates that governments reframe sovereignty, viewing it not as a permit for exclusion but as a means for collective accountability in a globalised context. The jurisprudence of the ECtHR, the Human Rights Committee, and regional courts in Africa and the Americas already leads in this direction, emphasising that migration governance must be examined against the higher standard of human rights. Without this kind of recalibration, protecting refugees could turn into empty gestures, leaving millions of people who have been displaced for a long time with no long-term solutions. (Mende & Drubel, 2020)

International law has to go beyond the 1951 Convention's restrictive definition of a refugee. This does not mean that the Convention needs to be rewritten. Instead, it needs to be added to with procedures that protect climate-displaced people, victims of widespread violence, and those fleeing structural poverty against refoulement. The UN Human Rights Committee's ruling in the Teitiotia case has already pointed in this direction. This broader interpretation might be made official through soft law tools like regional treaties or by making the Global Compact on Refugees stronger by adding obligatory responsibilities.

II. Shared Responsibility and Fair Distribution of Burden:

The idea of solidarity should influence how the state acts. Instead of making promises on the fly, fair systems like required resettlement quotas for regions, pooled financial resources for frontline states, and organised humanitarian visas might make sure that responsibility is shared more fairly. Taking lessons from the EU's Dublin system's shortcomings, accountability should be spread out depending on capacity metrics like GDP, population density, and past contributions to displacement.

III. Putting ethical responsibility into our own systems:

At the national level, refugee protection must progress from mere acknowledgement to

authentic inclusion. Allowing refugees to work, go to school, and get medical care not only upholds human rights but also eases social tensions by letting them contribute to the economy. To ease worries about abuse, we need to make sure that strong yet fair adjudication mechanisms, clear documentation systems, and court oversight are all in place. Article 1F of the Refugee Convention already protects people who pose real threats by including exclusion clauses. The fear of abuse cannot be used to deny refuge to everyone.

This three-part structure shows that it is possible to find balance without losing respect. States can reconcile sovereignty with humanity by broadening legal categories, equitably sharing burdens, and integrating inclusive ethics into domestic policy. In reality, this would imply that instead of seeing refugee and migration governance as a zero-sum game between citizens and outsiders, we should see it as a way to promote global justice that is in line with constitutional and international obligations to human dignity, freedom, and equality.

The growth of populist political parties against immigration has made governments feel like they have to make their policies stricter, which often goes against their international legal obligations. Nonetheless, local initiatives and civil society efforts have demonstrated that humane and rights-based integration techniques are feasible, thereby supporting the Convention's foundational humanitarian principles. (Diab, 2025)

Conclusion

The protection of migrants and asylum seekers in the context of globalisation is tense with profound legal and ethical challenges. It is very hard to safeguard migrants and asylum seekers in the context of globalisation because of legal and moral issues. International law offers fundamental concepts and methods; yet, it is frequently limited by state sovereignty, political interests, and the changing dynamics of migration. The moral obligation to protect human dignity, fairness, and solidarity necessitates a reconfiguration of migratory governance that surpasses limited national confines and adopts collective responsibility.

To deal with these problems, we need to take a holistic approach that includes strengthening legal frameworks, making sure everyone has access to justice, fighting xenophobia, and encouraging cooperation across countries. Ultimately, migration is a human experience that requires answers based on compassion, respect for rights, and acknowledgement of our shared humanity in an increasingly interconnected globe.

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