Essay question: Is effective cooperation on migration policies possible at the global or EU

# (European Union) level?

Word Count: 3970 (excluding reference list)

**Introduction**

"Movement from one country, place, or local to another" is how Blakemore (2019) defines migration. People have been moving since the earliest humans expanded out of Africa. This movement whether voluntary or forced has had a significant impact on our globe (Blakemore, 2019). Even now, at least 258 million individuals, or 3% of the world's population, reside in nations other than their own.

These figures have already surpassed the 2050 predictions reports the International Organization of Migration (IOM). With such an accelerated rate of migration, comes the question of has the perception of migration and migrants in the receiving countries changed over the years? what are countries doing to support the movement of people, are countries efficient in dealing with the issues arising out of migration at the global level?

Before diving into this question, it is important to understand that migrant is a broad term that includes people who cross borders for varied reasons like for better life, to connect with their family, and so on. For multiple reasons, people who flee their country because of fear, persecution, and armed conflict in their country are not considered migrants but termed refugees (Edwards, 2016). Refugees, out of the larger group of persons who relocate, require the most international attention and protection. As a result, this article will investigate international collaboration in the refugee regime.

The ongoing crisis in Ukraine (BBC News, 2022) puts the issue of movement of people due to crisis in perspective and tests the international migration law and policies. It brings to our attention the need for cooperation at the global level and especially at the EU level. This essay will primarily try to analyse the international cooperation in place for people who move because of crisis and build an understanding of if there is the scope of effective cooperation in the future by looking at the current practices. It will include the following: why cooperation in the refuge regime is needed, the global instruments that signal signs of cooperation and concluding by addressing the implementation gaps in cooperation policies and why countries should look beyond the security rhetoric.

# REFUGEES AND THEIR PROTECTION

Refugees have always been one of the most conspicuous human outcomes of major conflicts and atrocities throughout history (Betts and Firm, 2009). For instance, people have been compelled to flee their home nations throughout history, from the Second World War to Cold War proxy warfare to hostilities in Iraq and Afghanistan (Rondeaux and Sterman, 2019). Similarly, widespread human rights violations and political unrest have compelled many to escape in search of international assistance. These people require international protection once they leave their home country that is, other countries' readiness s to assure that they have accessibility to a fundamental set of rights and that they can return home or be effectively integrated into another community or state. This is important for both human rights and international security as the protection granted to refugees by states ensures that they do not become disenfranchised and become a possible threat. Thus, international cooperation enables a safer environment for the refugees and ensures the betterment of the entire international community ((Betts and Firm, 2009).

In the real world, the benefits of protection flow to the entire international community in terms of ensuring human rights and security, but the costs are incurred by whichever state opens its borders or chooses to financially contribute to protection. This means that individual governments will generally contribute to refugee protection only if there is a certainty that other states will do the same.

Otherwise, states will have a strong incentive to avoid contributing and instead rely on the generosity of others (ibid). As Astri Suhrke writes in the Journal of Refugee Studies that refugee protection is a global public good and this is the reason the management of the refugee regime has been a failure. “All actors will benefit from one state providing refugee protection, just as they will benefit from street lighting on a domestic level or international action against climate change” (Suhrke, 1998). As a result, understanding under what conditions international collaboration in refugee protection occurs and then determining if successful cooperation is possible. Effective cooperation may be characterized as a mutual agreement in which nations share the responsibility of hosting refugees and striving to preserve human rights (Betts, 2008).

The international cooperation on refugees has primarily been two-fold: burden-sharing and asylum protection (ibid). Asylum can be defined as giving protection to refugees who arrive on the territory of a certain country. Burden-sharing can take the form of providing protection to refugees on another country's territory, such as through resettlement or financial contributions to UNHCR. The reasoning in these two domains is vastly different. Asylum is regulated by a rigorous normative and legal framework, which is based on the principle of non-refoulement, which nations must adopt when returning a refugee to a country where he or she faces a legitimate fear of being persecuted (ibid). Burden sharing, on the other hand, is governed by an unstable legal and normative framework (ibid).

Since the mid-1980s, states' efforts to prohibit refugees from entering their territory have been a defining aspect of the developed world's migration policies (Pijnenburg, Gammeltoft-Hansen, and Rijken, 2018). Most countries' unwillingness to relinquish national control over international migration is understandable (Koser, 2010). Countries are sovereign and they have the right to decide who enters their border and who stays in the country. International migration has the potential to affect other aspects of state sovereignty, such as economic competitiveness, national and public security, and social cohesion (ibid). Usually, countries give in to these fears and use security rhetoric as a means for restricted migration. These issues surmount the challenge to ensure international cooperation. Thus, international cooperation on migration control takes many forms today, including giving foreign migration authorities access to partner states' territory, combined patrols between two or more countries, and various forms of delegation, which typically involve wealthier countries in the Global North financing, training, and equipping partner state authorities to carry out migration control rather than follow an asylum protection strategy. (Pijnenburg, Gammeltoft-Hansen, and Rijken, 2018). This gives us the picture that countries collaborate to avoid direct responsibilities and points to the question is this effective means of cooperation?

# IS THERE ANY HOPE LEFT?

Though the international cooperation on refugee regimes still offers only two options that are asylum or burden sharing, a lot has improved since the 1951 convention both at the Global and European Union levels. This section be will further divided into 2 sections: International cooperation at the Global, and at the EU level.

## International cooperation at the Global level

After the first world war (1914-18), many people fled their countries to seek refuge in other countries. This was the first time the subject of refuge was recognized at an international level, and countries quickly banded together to ensure that refugees were treated appropriately and that their human rights were protected. As a result, governments adopted the 1951 Convention relating to the Status of Refugees, which was later revised by the 1967 Protocol (United Nations High Commissioner for Refugees, 2019). These documents define who is a refugee and what kind of legal protection, other aid, and social rights they are entitled to. Broadly member states agreed to the principle of non-refoulment, non-discrimination, and non-penalization toward refugees (ibid).

However, this convention did not address the issue of burden-sharing and left it to the discretion of the participants. As a result, northern states' collaboration was only visible when they perceived refugee protection tied to their commerce, immigration, and security interests rather than human rights (Betts and Firm, 2009). The UNHCR tried to solve the issue of burden-sharing through the Convention Plus initiative, which was a global initiative to design a normative framework for burden-sharing which was not very effective (Zieck, 2009).

Fast-forwarding to the “2015 tipping point in the refugee regime, that drew attention to what many in academia, civil society, and the international civil service had been arguing for years that the international refugee protection regime would not be complete until the 'perennial gap' – the absence of a framework for international cooperation to share the burden and responsibility for hosting and supporting the world's refugees more equitably – is addressed” quotes Triggs and Wall (2020). This led states to come together for the better of all and signed a **Global compact on refugees** in 2018. The compact's goal is to lay the groundwork for predictable and balanced burden and responsibility sharing among all UN Member States, as well as other relevant stakeholders as needed, such as international organisations both inside and outside the UN system (UNHCR, 2018). Although it lacks legal standing, it expresses the international community's collective political will and objective of improving cooperation and solidarity with refugees and host nations (ibid). This was the first occasion in the Third Committee that a resolution regarding UNHCR activities was put to a vote rather than being adopted by agreement. The fact that the resolution was put to a vote demonstrated how seriously states take the Compact's responsibilities, the value they place on it, and their willingness to cooperate (Türk, 2018). In the goal to establish whether effective cooperation is possible or not, this can be taken as a positive step.

The international community has not only agreed on better burden-sharing but through United Nations Sustainable Development Goals, they have also agreed on working on the development of migrants regardless of status. States acknowledge migrants' positive contribution to "inclusive growth and sustainable development" (Wu, 2016). They pledge to 'cooperate worldwide to ensure safe, orderly, and regular migration, involving full respect for human rights,' among other things, including via the implementation of planned and well-managed migration policies' under Target 10.7 of Goal 10 - on reducing inequality within and among nations (The World Bank Group, 2020). Several other targets, such as Target 8.7 on eradicating forced labour and ending modern slavery and human trafficking, and Target 8.8 on protecting labour rights and promoting safe and secure working environments for all workers, including migrant workers and women, address aspects of migration (Klein Solomon and Sheldon, 2018). However, Target 10.7 is the foundation of the 2030 Agenda's migration component, and it is the most comprehensive call to action on migration. These SDGs targets complement the Global Compact on Refugees in fostering international cooperation.

Despite the underwhelming progress made at the global level during the 1990s, the two decades leading up to the adoption of the SDGs and the New York Declaration (Global compact on refugees) saw the emergence of several informal State-led dialogues on migration, at both the regional and (eventually) global levels, to improve understanding, trust, and cooperation on migration (Klein Solomon and Sheldon, 2018). However, there is still a long way to go before wealthy nations accept direct responsibility for hosting refugees rather than putting pressure on developing nations to do so.

## Cooperation at the EU level

Europe now has the most refugees in the world. The often-quoted UN figure of 85 percent of the world's refugees being in low- and middle-income nations no longer holds true (Betts, 2022). Since the beginning of 2015, more than 911,000 refugees and migrants have arrived on European beaches, with 3,550 lives lost in the process. This statistic covers persons transferring from one nation to another; the internal displacement figure is substantially higher. Over 75% of individuals arriving in Europe were fleeing persecution and conflict in Syria, Afghanistan, or Iraq (Spindler, 2015). António Guterres, the head of the UN Refugee Agency, put out essential recommendations that he said should underpin all efforts to tackle Europe's refugee and migrant crisis, emphasizing that the European Union was facing a "defining moment (ibid)." This raises the question of what has changed since then in the EU's refugee policy.

As a signatory to the 1951 agreement, EU countries share responsibilities for receiving and treating asylum seekers in a dignified manner. To comply, EU members work on establishing a Common European Asylum System, which is overseen by five legislative documents and one agency (European Commission, 2020). The main provisions of the System are the Directive on the Directive on the Definition of a Refugee; the Directive on Refugee Reception Conditions; Dublin II, which replaces the Dublin Convention and determines which EU Member State is responsible for reviewing an asylum application; and "Eurodac," a system that includes a central EU unit and fingerprint database to assist the Dublin Convention and Dublin II. (Green, 2005). These legislations are employed by EU countries to cooperate with one another in a matter of burden-sharing. The recognition to cooperate with third countries has been present since the European Council in Tampere in 1999 but it was only officialised in 2005 through the Global Approach to Migration. This document serves as an external dimension of EU migration policy along with the revised Global Approach to Migration and Mobility (2011). In this latter document, the idea of a mutually beneficial partnership in which both the EU and the partner countries benefit was considered (García Andrade, 2020). Along with this, the EU also faces the problem of Internally Displaced People (IDP), there were over 4 million IDPs by the end of 2017. It is reported that the number of IDPs is just double the refugee population. Measures to address displacement-related concerns have been devised, but their implementation has been impeded by a lack of financial resources (Ziyatdinova, 2018).

However, these provisions were not enough to ensure cooperation in situations of mass influx like that of 2015. To address the gaps, the countries adopted a few practices for both, the short and long term. In 2016, the European Commission adopted a new resettlement framework to ensure that people in need of international protection had a smooth and safe journey to Europe (European Council of the European Union, 2022). To quote Commissioner for Migration, Home Affairs, and Citizenship, Dimitris Avramopoulos said: "I welcome the increased efforts made by the Member States over the past months on relocation and resettlement. This is a true expression of European solidarity in action, which comes in addition to the enormous efforts made by the Member States to receive and host over 1,2 million asylum seekers in 2015 alone” (European Commission, 2016).

Further in 2020, a new pact on migration and asylum was bought to the table. Countries agreed on a new mechanism to end the deadlock between compulsory relocation and no solidarity: a new solidarity mechanism for situations of search and rescue, pressure, and crisis (Bloj and Buzmaniuk, 2020). Countries who were refusing to give entry to migrants in their territory before agreed to help in other forms.

Nonetheless, the effectiveness of this strategy is debatable.

Since Russia's military invasion of Ukraine on February 24, 2022, many IDPs from Ukraine have arrived, unable to return to their homes. Due to a large number of projected arrivals, the European Commission had identified a significant risk that EU nations' asylum processes may be unable to complete applications within the deadlines set. This would have a major influence on both the efficacy of national asylum procedures and the rights of people seeking international protection. (European Commission, 2022a). Under the 2001 Temporary Protection Directive, the EU has a tool to deal with such situations, and it was activated for the first time after 2001.

The Directive provides swift and efficient aid to persons escaping Ukraine's conflict (ibid). It entails the following: “residency rights, access to the labour market subject to Member States’ labour market policies, access to housing, social welfare assistance, medical or other assistance, and unaccompanied children and teenagers are entitled to legal guardianship and access to education” (European Commission, 2022b).

Along with this, 29 countries: 27 EU member states, and Norway and Turkey through the EU Civil Protection Mechanism are providing aid to Ukraine. This includes first-aid kits, protective gear, disinfectants, as well as tents, firefighting equipment, power generators, and water pumps (ibid). To ease off the burden of countries closer to Ukraine like Poland and Moldova, 15 EU member states have provided Moldova with different forms of aid, including shelter, hygiene supplies, and power generators.

France, Denmark, Germany, Austria, and Belgium have offered shelter equipment and medical supplies to Poland through the Mechanism (ibid). These gestures of

compassion and solidarity provide an opportunity at the EU level to build more effective cooperation policies on the refugee regime along with cooperating on IDPs (Betts, 2022).

**Does this imply that there is effective global and EU cooperation?**

The answer is not very straightforward. Though countries are signatories to the 1951 convention and the 2020 Global pact on refugees, several recent events throughout the world indicate countries backtracking on their efforts to cooperate. To highlight some:

1. In the far west i.e., the USA, the refugee limit set is 125,000 for the fiscal year 2022. Despite the fact that the United States (the most developed country) has resettled more refugees than any other country in the past, its programme has not kept up with the global refugee population, which has increased by nearly 50% in the last five years. Furthermore, the administration's resettlement infrastructure is still weak, and it has fallen short of its targets in terms of actual refugees resettled. (National Immigration Forum, 2019).
2. Denmark passed laws in June 2021 to shift asylum procedures to third countries, while its government cancelled residency permits for some Syrian refugees in April, claiming it was now safe to return to Damascus. The fact that this comes from a progressive country run by a Social Democratic government, one of the first to sign the 1951 agreement with the major principle of non-refoulment indicates the remarkable transformation of a country that was once regarded as one of the world's most progressive on asylum policy and refugee protection (Pace, 2021; Kirişci, 2021).
3. The Nationality and Borders Bill was introduced in the United Kingdom's parliament in July 2021. It covers nationality, asylum, immigration, victims of slavery, and human trafficking. Simply put, the measure includes provisions that penalise persons who risk their lives by taking the only route available to them and take people of their citizenship without warning. According to the UNHCR, the bill violates "international refugee protection principles and procedures" established by the 1951 Refugee Convention (Almond and Deane, 2022).
4. According to the UNHCR study, the Asia-Pacific area is home to 7.7 million "persons of concern," including 3.5 million Afghan and Myanmar refugees. However, most of these nations reject the 1951 agreement, and the region's states consider their primary duty as one of giving only temporary 'humanitarian' help (Kneebone, 2019). There have been very few regional advancements in providing refugee protection one such being the Bali Declaration (Bakir, 2016).
5. Australia’s offshore detention policy is one to highlight. Since 2013, anyone who arrives in Australia by boat and without a proper visa is detained and offshored to Nauru (Island in South Pacific which is 3000km away from Australia). In 2021, the Migration Amendment [(Clarifying International](https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=r6696) [Obligations for Removal)](https://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bId=r6696) Bill was tabled in the parliament, and this law allows it to detain refugees in detention centres for the rest of their lives. While the new rules purport to protect people from harm, they give the Minister new authority to revoke refugee status (Schuurman, 2021). It appears that countries around the world are teaching one other the incorrect lessons. The current British nationality and border laws appear to be identical to Australia's offshore policy.

This is the bitter truth that the treaty has been undermined by the very nations that were instrumental in its formation and implementation over many years. Also, it indicates the shortcomings of the existing global frameworks in establishing coordination between countries.

# Is effective cooperation possible in the future?

These incidents highlight that today the cooperation in the refugee regime is dominated by externalization policies. Externalization of international protection is defined by UNHCR as "measures taken by States – unilaterally or in collaboration with other States – that have effects outside their territories, and which directly or indirectly prevent asylum-seekers and refugees from reaching a particular 'destination' country or region, and/or from claiming or enjoying protection there" (Garlick, 2021).

States have defended their employment of this tactic by claiming that their primary objective is to preserve lives and keep people from making perilous trips from continent to continent. They have also stated that supporting refugees as close to their homes as possible, in neighbouring and surrounding countries where assistance costs are lower and deportation is easier to arrange, is more efficient. (Crisp, 2020).

This trend has been fueled by several other, less humanitarian motives. Asylum seekers and other irregular migrants are feared to constitute a serious danger to their sovereignty, economy, and security, and governments are concerned that their presence may weaken cultural identity and generate social unrest and cost them votes (ibid). This type of cooperation poses questions about the validity of such measures under international human rights law. Not only are problems of non-refoulment and access to protection for refugees crucial to address here, but also whether such programs are discriminatory in their design and/or impact (Pijnenburg, Gammeltoft-Hansen, and Rijken, 2018). Practices that shift burdens, evade responsibilities, or make access to international protection more difficult are incompatible with global solidarity and responsibility-sharing (Garlick, 2021). It raises the issue of the third country's accountability and responsibility for any resulting human rights breaches. It also takes away refugees’ freedom to choose where to dwell. Current deterrence measures raise more fundamental issues concerning the purpose and evolution of refugee international law (ibid).

Effective collaboration necessitates nations' sincere willingness to execute and adhere to multilateral treaties in spirit. Several state’s signatories to the 1951 Convention have not fully implemented or always complied with their obligations under domestic law (Turk and Dowd, 2014). When governments restrict asylum seekers and refugees from entering a territory, including when traveling by water, a gap in following the instrument to spirit appears.

Tightened entry controls, border closures, restrictive visa requirements, offshore border controls, interception at sea, mandatory detention on immigration grounds with few protection safeguards, and, in some cases, pushbacks and refoulement are some of the measures that reflect non-commitment of the states in providing protection to refugees. When countries allow refugees there are other issues that the countries are lagging for instance many refugees, particularly in urban areas, are unable to exercise their basic rights to documentation, education, and safety from sexual and gender-based abuse (ibid).

Countries must have a broader vision and move beyond migratory politics to enable effective collaboration. This cooperation can only be secured if governments recognize that, while refugees are a humanitarian duty, they are also people with goals, skills, and talent that can be employed by countries with labour shortages, such as the EU. For this to happen, countries must take two key steps: the first is to implement domestic policies that respect international law and provide an enabling environment for refugees, ensuring that both the receiving country and the people who flee due to fear benefit. One method is to employ the preference matching mechanism advocated by Will Jones and Alexander Teytelboym on a global scale (Betts, 2016). The second step is to create policy coherence across sectors at all levels of government, including local, national, and global. When policies are implemented in silos considerable possibilities to reach all potential beneficiaries and maximize the development potential of migration are lost (Barwise, Talkers, and Linklater, 2021).

Countries rectifying problems in the international laws and agreements and revising them is a sign of the willingness of the international community to show solidarity for instance the global compact on refugees and the activation of temporary protection. A clearer global framework for responsibility-sharing would allow governments to better defend their own commitments to refugees, reminding their citizens that all nations are taking in their fair share of those in need (Betts, 2022).

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