

Contemporary Migrants and Refugees Issues: Related Human Rights Violations

Abdullah Demir

Abstract

This article addresses the structural problems and discriminatory practices that arise in the implementation of human rights in the context of migrants and refugees. Although modern human rights discourse is based on a universal understanding of rights, nation-state-centered migration policies limit de facto this universality. The study analyzes the tension between the normative framework of the Universal Declaration of Human Rights and the security-based and status-based practices of contemporary migration regimes. In particular, it discusses the legal status of irregular migrants, the systematic obstacles they face in accessing fundamental rights, and the discriminatory consequences of these obstacles. The article argues that human rights violations against migrants are related to structural and institutional arrangements rather than specific practices; it emphasizes the necessity of rethinking human rights from a perspective based on human dignity rather than citizenship.

Keywords: Human rights, migrants, refugees, discrimination, nation-state, universality, irregular migration, human dignity

Introduction

Although the concept of human rights is universal in nature, when it comes to migrants and refugees, the protection of these rights lies at the center of an ongoing chronic tension between “nation-state” sovereignty and “universal human dignity” (Sassen, 1999).

The Problem of Access to Human Rights of Migrants: Modern human rights doctrine is based on the philosophy of “inalienable rights,” which was established by the 1948 Universal Declaration of Human Rights (UDHR). While Article 1 of the UDHR declares that all human beings are born free and equal in dignity and rights, Article 2 affirms that these rights apply to everyone without distinction based on nationality, status, or origin. However, when examining today’s migration policies, it is evident that this universal ideal has often been replaced by “security-oriented” and “status-focused” approaches.

Systemic and Structural Barriers: Migrants’ access to rights, particularly that of irregular (undocumented) migrants, is restricted not only by individual malicious practices but also by the very design of legal systems. The fact that states prioritize border security over human rights removes the individual from being a “subject with rights” and turns them into a “security object that must be controlled” (Bigo, 2002).

The Multidimensional Nature of Rights Violations: Rights violations against migrants are not limited to a single area; they represent a structural, institutional, and societal whole. At the structural level, legislation deprives migrants of basic opportunities such as work permits or social security. At the institutional level, bureaucratic obstacles and discriminatory treatment are encountered in public institutions (health, security, judiciary). At the societal level, rising xenophobia, hate speech, and social exclusion are also encountered in public discourse.

The “Legitimization” of Discrimination and the Erosion of Rights: Discrimination against migrants is often legitimized by cloaking it in legal terms. When the concept of “citizenship” is used as a prerequisite for access to human rights, non-citizens are pushed into a legal limbo (Menjívar, 2006).

The Vulnerability of Being Undocumented: Individuals without identity or residence documents are afraid to demand their most basic rights (protection from violence, emergency healthcare, etc.) for fear of deportation. This situation creates a systematic environment that makes migrants “ideal victims” for criminal organizations and exploitative employers.

Intersectionality and Layered Violations: Discrimination does not occur at the same level for every migrant. Factors such as gender, ethnicity, disability, or sexual orientation, when added to the status of being a migrant, increase the severity and type of rights violations experienced.

Briefly, as long as the modern human rights regime views refugee and migrant rights as an “exceptional” area, the claim of universality promised by the UDHR will continue to weaken. Therefore, the issue of migrants’ access to rights is not merely a matter of humanitarian aid, but also a global crisis of justice and democracy.

Methodology

This study is a conceptual and descriptive analysis conducted within the framework of a qualitative research approach to examine human rights violations and discrimination against migrants. The research is not based on empirical data collection; it is based on a systematic literature review conducted through international human rights literature, migration studies, and relevant legal texts. Within the scope of this study, fundamental theoretical approaches addressing the relationships between the universality of human rights, nation-state sovereignty, migration policies, and discriminatory practices were examined; these approaches were evaluated in the context of the structural problems produced by contemporary migration regimes. During the analysis process, the tension between the legal status of migrants and refugees and their access to fundamental rights was examined from a critical perspective.

The study comparatively evaluated reports published by international organizations (such as the United Nations, UNHCR, UNICEF, and IOM) and academic studies accepted in the field; it revealed inconsistencies between normative human rights documents and actual practices. In this regard, the study aims to show that human rights violations against migrants are related to structural and institutional arrangements rather than individual attitudes and prejudices.

Key Areas of Rights Violations

Violations of the Right to Life: The right to life is the foundation and prerequisite for all human rights; for the violation of this right renders all other rights invalid. Defined as an absolute right in international law (ICCPR, art. 6), the right to life is systematically threatened for migrant and refugee masses not only in war zones but also at the borders and at sea where they seek safety (Pallis, 2005).

Deadly Risks and Statistics on Migration Routes: Migrants are often left with no choice but to take routes that pose a risk to their lives because legal pathways are closed. Violations of the right to life are concentrated in areas such as the Mediterranean and the Mexico-US border. According to data from the International Organization for Migration (IOM), more than 3,000 people lost their lives crossing the Mediterranean in 2023 (IOM, 2024). These deaths are not only due to accidents but also to inadequate search and rescue operations and restrictions imposed on civil society vessels. The Mexico-US border (extremely dangerous rivers and deserts), conflict corridors in the Middle East, and routes in Southeast Asia (such as the Andaman Sea) have become “death corridors” where thousands of refugees lose their lives every year.

Pushback Practices and State Responsibility: Violations of the right to life sometimes stem not only from natural conditions but also from direct or indirect interventions by states. Pushback and avoidance of search and rescue duties are two such examples. The pushback of refugee boats by some

coastal and border states into international waters, or the coercion of neighboring countries' coast guards to do so, is a clear violation of international law and the "non-refoulement" principle (Goodwin-Gill & McAdam, 2007). These practices directly cause boats to sink and people to drown. Although maritime law stipulates an obligation to assist anyone in distress (SAR - Search and Rescue), some states' failure to fulfill this responsibility for political reasons is considered a "violation of the right to life through neglect."

Border Security vs. Human Dignity: The sovereignty of states to protect their borders does not supersede individuals' right to life. However, today's "securitization" policies are transforming border lines into "lawless zones" devoid of human rights. Pepper spray, plastic bullets, and physical violence used during border crossings can sometimes lead directly to fatal injuries (Spijkerboer, 2007).

Legal Accountability: Failure to conduct independent and effective investigations following deaths perpetuates a culture of impunity and contributes to the continuation of violations of the right to life.

In short, protecting the right to life is not merely an option for states, but an unavoidable obligation arising from international law. Deaths along migration routes are not just statistics; they are a sign of the "ethical and legal failure" of the global human rights regime at its borders.

Torture, Ill-Treatment, and Arbitrary Detention

The prohibition of torture and ill-treatment is a "jus cogens" (peremptory norm) rule, one of the strongest rules in international law. According to the 1948 Universal Declaration of Human Rights (Art. 5) and the 1984 Convention Against Torture, no circumstances, including war or political instability, can justify torture. However, "security" and "deterrence" policies in migration management processes create gray areas where refugees are deprived of this absolute right (Nowak, 2005).

Detention Conditions and Inhumane Treatment: Administrative detention processes for refugees and migrants are often carried out in "high-security" centers with conditions that are harsher than those in penal institutions. Violations in these centers are systematic in various ways. Inadequate physical and hygienic conditions are one of such violations. Inadequate nutrition, limited access to clean water, and overcrowded wards are not merely a form of neglect; they constitute cruel and degrading treatment that violates the individual's dignity. Denial of access to healthcare leads to acute illnesses becoming chronic, falling under the category of "torture by omission." Psychological pressure and uncertainty, on the other hand, create other adverse conditions. The uncertainty of the length of detention, restricted access to legal assistance, and the constant threat of deportation cause severe psychological damage to individuals (Amnesty International, 2017).

Criticized Global Practice Examples: Some countries' migration control strategies have been labeled "centers of systematic rights violations" by international human rights organizations:

Libyan Temporary Detention Centers: These centers, where migrants attempting to reach Europe via Libya are held, are described as "black holes" where international law is completely disregarded, and where slave markets, systematic torture, and rape are commonplace.

Australia's Island Camps (Nauru and Manus): These camps, established by Australia on Pacific islands to prevent refugees from entering the mainland, have been widely condemned globally due to prolonged isolation and inhumane living conditions.

US ICE Detention Centers: The "family separations" and hygiene crises occurring in US Immigration and Customs Enforcement (ICE) centers are the most concrete example of how immigration management in modern democracies can turn into a rights crisis (Human Rights Watch, 2019).

Migrant Children as the Most Vulnerable Group Requiring Special Protection: Children are the group that suffers the most severe physical and psychological impact during migration processes. According to the UN Convention on the Rights of the Child, “the best interests of the child” must take precedence over any administrative decision. Holding children in the same physical spaces with foreign adults exposes them to violence, abuse, and severe trauma. This situation is one of the most serious violations of children’s rights. Furthermore, depriving a child of his/her liberty leads to permanent psychological damage, developmental delays, and loss of belonging. Many international organizations advocate for the complete prohibition of the administrative detention of migrant children (UNICEF, 2021).

Arbitrary Detention and Lack of Judicial Oversight: The absence of judicial oversight of detention procedures or the ineffectiveness of appeal mechanisms renders this process “arbitrary.” Any situation where an individual does not know why he or she is being detained or is unable to defend himself or herself against this decision constitutes a clear violation of the right to liberty and personal security (ICCPR, art. 9).

In short, the prohibition of torture and ill-treatment does not end at borders. The right of states to control migration does not give them the authority to subject an individual to inhumane conditions. It is essential to establish a transparent, independent, and human dignity-centered monitoring mechanism in these areas.

Barriers to Accessing Justice and Legal Invisibility

Access to justice is the protective shield of all human rights; for if there is no effective judicial remedy to which one can turn when a right is violated, that right is doomed to remain on paper. This principle, guaranteed in international law (ICCPR Art. 8, ICCPR Art. 14) as the “right to an effective remedy” and the “right to a fair trial,” is crippled by structural and administrative barriers when it comes to migrants (Hathaway, 2005).

The “Legal Silence” Spiral and Fear of Deportation

The biggest obstacle to access to justice for irregular or undocumented migrants is that legal processes function as a mechanism for “detection and deportation” rather than a mechanism for “seeking justice.”

Lack of Firewall: In many countries, law enforcement and judicial authorities are required to report the status of migrants who are victims of crime to immigration authorities. This situation means that migrants who have suffered severe violence, robbery, or abuse face the risk of deportation when they seek justice. As a result, perpetrators go unpunished, while victims are sentenced to “silence” (Crépeau and Hastie, 2015).

The Deterrent Effect of Complaint Mechanisms: The lack of safe channels through which individuals who have suffered rights violations can file complaints without facing administrative sanctions makes justice inaccessible to migrants.

Procedural Barriers: Lack of Language, Legal Assistance, and Information

Access to justice is not just about being able to go to court, but about being able to defend oneself in court. Migrants face serious disadvantages in this regard.

Interpreter and Language Barrier: The complexity of legal proceedings and their conduct in a foreign language prevents migrants from fully explaining the violations they have suffered. The lack of qualified interpretation services leads to false statements and irreparable loss of rights.

Inadequacy of Free Legal Aid: Most immigrants lack the financial means to hire a private lawyer. The free legal aid mechanisms offered by states often exclude immigrants or keep the procedures too complex.

The Problem of Accessing to Information: Migrants are often unaware of the legal system of the country they have sought refuge in, their rights, and where to turn for help. The inadequacy of information mechanisms undermines the will to seek justice from the very beginning (UNHCR, 2022).

Judicial Oversight of Administrative Decisions

Decisions made by immigration authorities, such as deportation, detention, or status denial, profoundly affect an individual's life.

Effective Appeal Process: Administrative decisions against immigrants are often implemented "urgently," without giving the individual sufficient time and legal means to appeal the decision or suspend its execution.

Restriction of the Right to Defense: Imposing confidentiality on files on the basis of "national security" can make it impossible for the immigrant and their lawyer to make a concrete defense against the allegations.

Intersectional Barriers and Disadvantaged Groups

Difficulties in accessing justice are even more severe for refugee women, persons with disabilities, and unaccompanied children.

Women: Refugee women who are victims of gender-based violence are distanced from justice, caught between family pressure and the state's "suspicious" approach (Bhabha, 2014).

Unaccompanied Children: The slow processing of the "guardian" or "trustee" system for children who are unable to manage legal proceedings on their own prevents the child's best interests from being safeguarded.

In short, barriers to accessing justice push migrants "outside the law," creating an unprotected space against criminal organizations and exploiters. For a rights-based approach, a "legal wall" must be erected between judicial authorities and immigration authorities, free legal aid must be made widely available, and migrants must be recognized as "subjects of rights" regardless of their status. Justice only gains its true meaning when it is accessible not only to citizens but to everyone.

Non-Refoulement and Its Violations

The principle of non-refoulement is the heart and most fundamental protection shield of international refugee law. This principle prohibits a state from returning a person, by any means whatsoever, to a place where their life or freedom would be threatened, or where they would be at risk of torture or ill-treatment (Goodwin-Gill & McAdam, 2007).

This principle, guaranteed by Article 33 of the 1951 Geneva Convention, binds not only the signatory states to the convention but all states as a rule of customary law. Furthermore, under the Convention Against Torture (Article 3), this prohibition is absolute; that is, no national security concern can justify sending an individual to a place where he or she will be tortured (Lauterpacht & Bethlehem, 2003).

Refoulement is not only physical. This principle covers not only expulsion, but also the refusal to admit an individual at the border or pushing them back at sea.

Currently, many states are preventing individuals from entering their territory in order to avoid the obligation to accept asylum applications. That refugees in the Aegean Sea and on the Balkan route are pushed back using physical force without being allowed to apply for asylum is frequently reported by international observers. This practice completely eliminates the individual's access to the "right to asylum" (Pallis, 2005).

In countries hosting large refugee populations, such as Turkey, Iran, and Pakistan, cases where individuals are forcibly sent back under the guise of "voluntary return" without their safety being

fully verified, due to economic pressures or the political climate, are the focus of criticism by human rights organizations.

Indirect Refoulement: Violation of the principle does not always take the form of direct expulsion. Sometimes states subject refugees to such harsh living conditions (starvation, lack of shelter, inability to access healthcare) that individuals are left with no choice but to return to unsafe countries “of their own free will.” This situation is referred to as “constructive refoulement” and still constitutes a violation in legal terms.

Chain Refoulement: This occurs when a state sends an asylum seeker to a third country it claims is safe, but that third country then returns the person to their country of origin where they would face persecution. This chain process does not eliminate the responsibility of the first sending state and is one of the most serious gaps in the international protection system (Hathaway, 2005).

Legal and Political Consequences: Forced return practices are not only a breach of contract, but also a serious legal error that damages the international reputation and human rights record of states. In some cases, when committed through a chain of events, these actions can have consequences serious enough to be considered “crimes against humanity.”

The prohibition of refoulement is the very reason for the existence of the right to asylum. States’ border security policies cannot override an individual’s right to “protection from persecution.” An effective control mechanism and the presence of independent observers at border crossings are essential to ensure that this vital principle does not remain merely on paper.

Forms and Indicators of Discrimination

Discrimination is the most fundamental fact demonstrating that human rights violations faced by migrants and refugees are not random, but systematic and structural. This process is defined as the prevention of individuals from enjoying equal rights and services solely because they are “foreign” (Zick et al., 2008). Discrimination manifests itself across a broad spectrum, ranging from official state mechanisms (institutional) to deep-seated societal perceptions (social).

Institutional (Structural) Discrimination: Institutional discrimination occurs when a country’s laws, policies, or administrative routines are structured in a way that places immigrants at a disadvantage. Regardless of intent, the functioning of the system subjects refugees to a “second-class” status (Castles and Miller, 2008).

“Citizenship” Filter in Healthcare: Many states restrict public healthcare services to citizens or those with a specific status of residence permit. This situation indirectly violates the right to life by preventing refugees or irregular migrants from accessing basic treatment and medication. The approach that “the health of non-citizens is unimportant” is the most concrete and dangerous example of institutional discrimination.

“Linguistic” Exclusion in Education: The right to education is not secured simply by opening the school doors. When migrant children are not provided with the language support (preparatory classes, supplementary courses) necessary to adapt to the curriculum, these children are inevitably driven into failure and school dropout. The failure to provide resources to overcome the language barrier is a structural obstacle that renders education ineffective for refugees.

Legal Barriers in the Labor Market (Work Permits): In many countries, the refusal to grant work permits to refugees or the excessive difficulty in obtaining them condemns individuals to poverty and informal employment. This situation legitimizes exploitative mechanisms such as wages below the minimum wage, uninsured work, and the absence of compensation rights in the event of a work accident. Migrants excluded from the labor market at the institutional level cannot find legal protection against the exploitation of their labor.

Deprivation of Housing and Social Security: Laws restricting foreigners from acquiring or renting housing, or social assistance being reserved exclusively for the “native population,” leads to the ghettoization of immigrants and spatial segregation. This situation is an institutional choice that increases social polarization.

Institutional discrimination pushes migrants outside the protective umbrella of the state, transforming them from “rights holders” into “problematic groups that need to be managed.” Removing these barriers is not only a humanitarian necessity; it is also imperative for the implementation of the principle of non-discrimination enshrined in international law.

Social and Cultural Discrimination: Social and cultural discrimination is a phenomenon that goes beyond laws and is deeply rooted in the mindset and daily practices of society. When immigrants and refugees are coded as “foreign elements” that threaten the identity or welfare of the host society, this situation goes beyond mere prejudice; it becomes a systematic process of exclusion and demonization (Esser, 2001).

Verbal violence shapes how migrants are perceived in society and also paves the way for physical violence and human rights violations against them. Due to perceptions of economic and security threats, migrants are often labeled with unsubstantiated claims such as “stealing jobs,” “exploiting public resources,” or “increasing crime rates.” This narrative diverts the economic concerns of the local population toward refugees, converting class tensions into “xenophobia.” In the media and political spheres, politicians’ populist rhetoric and the media’s portrayal of refugees solely in the context of “crisis,” “invasion,” or “criminal cases” dehumanizes refugees, reducing them to a statistical “burden.” This verbal violence destroys social empathy.

Anti-immigrant sentiment is not usually one-dimensional; it is fueled by existing ideological prejudices. The religious identities of immigrants (Islamophobia) or their skin color (Afro phobia/Racism) are fundamental factors determining the intensity of discrimination. Discussions conducted under the name of “cultural incompatibility,” especially in the Western world, are actually a reflection of deep cultural racism (Balibar, 1991). The irrational fear and hatred felt simply because a person is “foreign” or has an uncertain status is a barrier that confines individuals to the lowest strata of society.

Discrimination confronts immigrants not only in headlines but in every aspect of life. Landlords’ reluctance to rent to foreigners or excessive prices in the real estate market force immigrants to live in isolated neighborhoods with the worst conditions in the city. This situation creates a spatial barrier that makes social integration impossible. Even if they possess equal merit and qualifications, being eliminated from job interviews due to name, accent, or origin (“CV discrimination”) is an invisible ceiling that condemns refugees to unskilled jobs. Poor treatment, being ignored, or verbal harassment encountered in hospitals, schools, or public transportation are “micro” but highly impactful forms of discrimination that undermine the migrant’s presence in public spaces.

Social exclusion and hate speech evolve into physical attacks when they reach a certain saturation point. Social demonization legitimizes violence against immigrants “in the eyes of the perpetrator.” Failure to effectively investigate hate crimes reinforces the perception that immigrants are “vulnerable” throughout society.

Fighting social and cultural discrimination is possible not only through legal regulations but also through a transformation of social attitudes. Building an inclusive social discourse that views immigrants as “human beings” rather than “threats” and embraces diversity as a source of richness is the only guarantee of social peace.

Gender-Based and Multiple Discrimination: Intersectional Vulnerabilities

The phenomenon of migration is shaped not only by individuals' "migrant" identity, but also by different layers of identity such as their gender, sexual orientation, ethnic origin, or disability status. "Multiple discrimination" refers to the situation where these identities combine to push the individual into a deeper spiral of exclusion and violence.

Women Refugees and Gender-Based Violence

Women migrants face more specific and severe risks than men at every stage of the migration process (country of origin, transit journey, and destination country). Systematic violence and abuse are among these risks. Security vulnerabilities along migration routes leave women exposed to sexual assault, harassment, and exploitation by human traffickers, local gangs, and sometimes even public officials (Pickering and Cochrane, 2007). Being forced into sexual intercourse as a "transit fee" (survival sex) is a tragic reality along these routes. Moreover, female refugees face forced marriage due to economic dependency. Poverty and lack of legal status can push families to marry off their daughters at an early age and by force, under the pretext of "protection" or "relief from burden." Furthermore, in the labor market, female migrants are employed in unregulated sectors such as domestic services, where they are paid the lowest wages and are most vulnerable to exploitation. In addition, women living in camps or ghettos face significant barriers in accessing basic necessities such as sanitary pads, birth control, and safe delivery services, leading to serious violations of their health rights.

Intersectionality theory (Kimberlé Crenshaw) argues that the victimization experienced by these individuals is not merely a result of "migrant status and gender," but that these two conditions intersect to create a new and more destructive form of oppression. Because the refugee policies of states and civil society organizations are generally designed around a "general refugee profile" (young, adult males), the specific needs of groups such as disabled refugee women, elderly individuals, or unaccompanied girls remain "invisible" in the system. Furthermore, an individual or a woman with irregular status who reports the violence she has suffered may choose to remain silent for fear of "deportation." This situation creates a complete zone of impunity for perpetrators (Crenshaw, 1991).

In short, combating gender-based and multiple discrimination requires the reconstruction of refugee policies from a "gender-sensitive" and "intersectional" perspective. "Safe houses" for victims of violence, "security wall" practices between judicial authorities and immigration authorities, and integration strategies that include positive discrimination for vulnerable groups are the only way to break this systematic injustice.

The Political Context of Discrimination and Violations

Violations of migrant rights are not random application errors; they are the result of a systematic political choice shaped by the modern nation-state's pursuit of "sovereignty" and "security." To understand this background, it is necessary to examine the rise of populism and the criminalization of migration.

Populist Discourse and the "Scapegoat" Policy: Populist politics divides society into two poles: the "pure people" and the "corrupt elites/dangerous others." In this narrative, immigrants are positioned as agents who disrupt the peace and prosperity of the people.

Economic Instrumentalization: Politicians present immigrants as an "economic burden" to conceal the real causes of structural economic problems such as unemployment, inflation, or disruptions in public services (policy mistakes, global crises, etc.). This situation creates a political shield by directing economic anger in society toward refugees.

The Illusion of Cultural Homogeneity: Immigrants are portrayed as elements that "melt" or "invade" the cultural fabric and values of society. This perception of a "cultural threat" is used as a strategic lever to consolidate nationalist sentiments.

Securitization of Migration: The security-oriented approach removes migration from the realm of human rights and categorizes it as a “national security threat.” This paradigm shift is the most significant factor legitimizing rights violations (Bigo, 2002; Huysmans, 2006).

Criminalization of Migration: Border crossings are coded as a crime, and migrants are coded as potential criminals, terrorists, or intelligence threats. This perspective presents the disproportionate use of force against migrants and arbitrary detentions as a “necessary measure” in the eyes of society.

State of Emergency Measures: Presenting migration as a “survival issue” paves the way for states to suspend universal legal norms and enact “exceptional” laws that bypass the right to asylum. Walls erected at borders and pushback practices are the physical consequences of this security hysteria.

The Erosion of Human Rights norms: The most damaging consequence of the political backdrop is that the claim of “universality” of human rights has been reduced to a privilege limited to the nation’s own citizens. Populist and security-oriented policies promote the idea that human rights are “less applicable to some.” This situation weakens the rule of law guarantees not only for migrants but for the entire society. Political interests cause states to view their responsibilities under international treaties (such as the Geneva Convention) as a “cost” or “restriction on sovereignty.” This accelerates the collapse of the global refugee protection system. (Mudde and Kaltwasser, 2017).

Discrimination and violations are not merely the prejudice of ordinary people on the street; they are a structure produced and legitimized by the political center. Defending migrant rights is therefore not just a humanitarian aid activity; it is also a struggle for democracy and the rule of law against populism and authoritarianism.

International Law and Monitoring Mechanisms: The Issue of Inspection and Capacity

Although the protection of refugee and migrant rights is recognized as a shared responsibility of the international community, the enforcement of these rights takes place in a tense arena between national sovereignty barriers and international legal norms. While existing mechanisms are successful in monitoring and reporting violations, they have significant limitations in terms of their capacity to directly compel states (Betts, 2009).

Monitoring and Humanitarian Aid Organizations: These organizations, which are at the forefront of the international system, undertake both operational and normative tasks.

The United Nations High Commissioner for Refugees (UNHCR), as the “guardian” of the 1951 Geneva Convention, checks states’ practices towards asylum seekers. However, the UNHCR has no enforcement power; it functions by persuading states and creating public pressure (shaming).

The International Organization for Migration (IOM) focuses primarily on migration management, humanitarian aid, and “voluntary return” programs. IOM monitors deaths and rights violations along migration routes using data-driven approaches (such as the Missing Migrants Project) to provide critical data for policymakers.

Regional Judicial Mechanisms and Strategic Litigation: The most tangible “enforcement” power of international law is seen in regional human rights courts. The European Court of Human Rights (ECHR), in particular, can issue rulings that interfere with the sovereignty of states. The courts are building legal barriers that prevent the pushback of refugees based on the “right to life” and the “prohibition of torture.” However, the non-implementation or delay in implementing court rulings weakens the effectiveness of the system.

Treaty-Based Monitoring Committees (CERD, etc.): Expert committees within the United Nations periodically monitor states’ compliance with the treaties they have signed. The UN Committee on the Elimination of Racial Discrimination (CERD) reviews state reports and monitors anti-immigrant

rhetoric and hate crimes. The “General Recommendations” published by CERD extend the scope of the prohibition of discrimination to include refugees. The recommendations of these committees are not legally “binding.” States generally disregard these reports when they conflict with national interests, reducing international oversight to a symbolic level.

Structural Problems of International Mechanisms: There are three main reasons why the system fails to provide protection. The first is a lack of enforcement power. International institutions do not have a “police force” that can forcibly open state borders or stop pushbacks. Second, institutions such as UNHCR and IOM are financially dependent on Western states, which are their largest donors (and also pursue the strictest migration policies). Third is the lack of political will. States’ perception of migration as an “internal security” issue narrows the scope of international law.

Although international mechanisms serve as a “conscience” that documents violations, the protection of refugee rights ultimately depends on states’ willingness to comply with these legal norms. To fill this gap, it is essential that civil society increase its strategic litigation and that international institutions strengthen their capacity for political pressure.

Conclusion

Human rights violations against migrants highlight one of the fundamental contradictions of the modern human rights discourse. Although the idea of universal rights is accepted at the normative level, in practice these rights are largely defined through citizenship and legal status. This situation pushes irregular migrants outside the scope of legal protection and institutionalizes discriminatory practices. The examples examined in this study demonstrate that human rights violations against migrants are directly linked to the nation-state’s security, sovereignty, and border policies rather than individual prejudices. In this context, for human rights to be effectively protected, the understanding of rights must be freed from status-centered approaches, and an inclusive perspective centered on human dignity must be developed. Otherwise, the discourse on human rights will continue to be a norm limited to certain groups rather than a universal principle.

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