

Trapped by Passports

By Zein El Amine

This blog explores legal inequities in migration and highlights how borders and visa policies disproportionately affect Global South citizens.

It examines the disparities between state sovereignty and human rights, emphasising the barriers to freedom of movement and inefficient refugee protection. Highlighting these issues underscores the necessity of equitable human rights and focused migration policies.

Keywords:

Human Rights, Migration, Global North, Global South, Sovereignty, Freedom of Movement, Refugee Status, Inequality, International Law, Visa Policies, Conflict, Jus Cogens, Personal Experience and Initial Questions

Author Biography:

My name is Zein El Amine, a Lebanese honours student pursuing a Bachelor's degree in Law in Society at Vrije Universiteit in Amsterdam. With internships at prominent law firms and experience in event management, I combine legal expertise with organisational skills, focusing on global justice and the intersection of law and human rights.

Introduction

As a Lebanese citizen, moving to the Netherlands for education required complex visa-related bureaucratic procedures. This process was costly and long. However, it made me think about different scenarios and this experience led me to ask concerned questions:

“Would my experience have been different had I been born in the Global North, with the advantages of a more privileged passport?;

Can these processes be made more accessible and efficient for individuals pursuing education and personal development?;

If conflict erupted in the Middle East North Africa region (MENA region), would my nationality limit my right to travel to a Global North country, leaving me without sufficient international protection?”

The Legal Framework Governing Human Mobility

These questions led me to look into the international legal frameworks governing human mobility and the complex relationship between individual rights,

such as freedom of movement, and the sovereign rights of states.

Hugo Grotius, a founding figure of customary international law, stated that *“provided one does not harm the natives, a person has the right to travel and live in another country without prevention”*.¹

This view is upheld by the Universal Declaration of Human Rights, which acknowledges that freedom of movement is essential to a person’s human dignity and autonomy in Article 13.²

Nevertheless, as my experience demonstrated, the practical application of this right is uneven, with significant discriminatory disparities.

The Reality of Restricted Movement for Global South Citizens

The principle of freedom of movement means that an individual has a right to move and travel for education or personal advancement. As a Lebanese citizen seeking education, I should be permitted to travel without excessive barriers.

However, since Lebanon is in the Global South, freedom of movement remains

largely aspirational as Global South passport holders are subject to additional procedures and requirements.³

This inequity is not incidental but rooted in the sovereign rights of states, a fundamental principle of customary international law. Article 1(2) of the United Nations Charter reinforces the right to self-determination, a core norm that supports a state’s authority to regulate entry and to exercise jurisdiction over who crosses its borders.⁴ In practice, this translates into a legal regime where states in the Global North hold significant discretion over their immigration policies, particularly concerning nationals from the Global South.

Take, for example, the European Commission: it has on file a list of nations whose citizens must apply for a Schengen visa to enter their territories.

Unsurprisingly, many on this list are countries in the Global South. This fact strengthens the argument that structural

¹ Hugo Grotius, *De Iure Belli Ac Pacis* (1925).

² United Nations, ‘Universal Declaration of Human Rights’ (*United Nations* 10 December 1948) <<https://www.un.org/en/about-us/universal-declaration-of-human-rights>>.

³ Applying for a Schengen Visa’ <[https://home-affairs.ec.europa.eu/policies/schengen-borders-and-](https://home-affairs.ec.europa.eu/policies/schengen-borders-and-visa/visa-policy/applying-schengen-visa_en)

[visa/visa-policy/applying-schengen-visa_en](https://home-affairs.ec.europa.eu/policies/schengen-borders-and-visa/visa-policy/applying-schengen-visa_en)> accessed 12 November 2024.

⁴ United Nations, ‘*Charter of the United Nations and statute of the International Court of Justice*’ (24 October 1945) art 1(2) <<https://treaties.un.org/doc/publication/ctc/uncharter.pdf>> accessed 12 November 2024.

inequality exists within the legal processes of global migration.⁵

Migration Rights in Humanitarian Contexts

In humanitarian contexts, this divide in migration rights can become a matter of life and death.⁶ Armed conflicts, natural disasters, and political upheaval often prompt individuals to cross borders in search of safety and stability.

Reflecting on my earlier question—what would happen if war erupted in my region?—the unfortunate answer is that my fate would likely hinge upon the limitations of my nationality.

Refugee status is commonly invoked within the war context. However, according to the 1951 Refugee Convention Article 1A.2, to claim refugee status, one must first cross an international boundary.⁷ Consequently, if war erupted in the MENA region, I would first need to leave the region to claim refugee status and benefit from protection. Relying solely on my

Lebanese passport does not allow me to leave the country as I am required to apply for visas to enter countries outside MENA (and even some MENA countries).

Case Study: The Syrian Civil War

The Syrian Civil War of 2011 is fitting to illustrate the dangers of these disparities. Many Syrians were forced to flee their homes to escape persecution. However, some found themselves trapped in the war due to complex visa processes and ineffective refugee application processing.⁸ This showcases how passport inequalities and ineffective migration policies can drastically alter the course of actions in people's lives, and this goes as far as putting the concerned individuals in fatal danger, as illustrated by the Syrian Case.

The Role of International Organisations in Addressing Inequities

Given these disparities, international organisations are legally and ethically responsible for addressing these systemic inequities. Their mandates, grounded in international human rights law, compel

⁵ European Commission, 'Applying for a Schengen Visa' <https://home-affairs.ec.europa.eu/policies/schengen-borders-and-visa/visa-policy/applying-schengen-visa_en> accessed 12 November 2024.

⁶ Tendayi Achiume, 'Migration as Decolonization' (2019) 71 *Stanford Law Review* 1509, p. 1515.

⁷ Paul Weis, *The Refugee Convention, 1951: The Travaux Préparatoires Analysed with a Commentary* (UNHCR 1951)

<<https://www.unhcr.org/sites/default/files/legacy-pdf/4ca34be29.pdf>> accessed 12 November 2024.

⁸ Amnesty International, 'Left out in the Cold: Syrian Refugees Abandoned by the International Community' <https://www.amnesty.nl/content/uploads/2014/12/left_out_in_the_cold_syrian_refugees_abandoned_by_the_international_community_0.pdf> accessed 12 November 2024.

them to prioritise the reduction of these disparities through policies that align with jus cogens norms—those peremptory principles of international law that prioritise human rights above all else.

These institutions must advocate for equitable migration policies. That is the only meaningful way of reducing the disproportionate barriers faced by citizens from the Global South.⁹

Conclusion: A Call for Equitable Legal Frameworks

To conclude, we observe critical inequities that are the staple of cross-border movement when it comes to movement into countries of the Global North. These inequities reflect the enormous imbalances in international legal frameworks and must be addressed in the future.

In the world of tomorrow, I aspire to wake up one day and write an essay that does not have any reference to the words Global North and Global South. These two designations reflect the lack of equal human rights and a lack of justice and fairness. They today illustrate more than ever the failure of the world's collective responsibility to practice what they preach.

⁹ Gleider Hernández, *International Law* (Oxford University Press 2022).

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