

Migration Flows and the Future of Democracy and World Order

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Abstract

The political salience of policy issue arenas related to the movement of people, including immigration, citizenship, and asylum, has increased in recent decades and is likely to continue to escalate for the foreseeable future, because of both real dynamics of migration flows and because of political dynamics including reactions to the Covid-19 pandemic. Existing governance regimes at the global, regional, and national levels somewhat order the migration issue arena and do much humanitarian good, but they also generate new problems and injustices. The perception of disorder in migration and citizenship are likely to continue to present challenges for liberal democracy and for international cooperation. This article outlines the contours of challenges of governing the movement of people since the end of the Cold War.

Keywords: migration; immigration; citizenship; asylum; refugees; democracy

Introduction

Over the past decade, migration, in particular immigration, has become the most important public policy issue in Western democracies.¹ Concerns about immigration are believed to be important for explaining the rise of populist right in many countries, including the election of Donald Trump in the United States, for discontent with regional and global cooperation, Brexit in particular, and with a general decline in democracy.² It has become a matter of consensus among academics and other migration specialists that it is the political salience of immigration that causes most of these problems, rather than actual changes in migration flows, or in the nature of policies themselves. The new prominence of immigration and citizenship might seem to be an irregularity, as during most of the post-WWII order immigration and citizenship were not salient most of the time. However, the new normal in much of the world for the foreseeable future is a situation in which fundamental questions about membership and freedom

¹ Sections of this article have drawn from my previously published and forthcoming work. See Rhodes, Sybil, "La libertad de movimiento post Covid-19," Chapter in Gabriel Constancio Salvia & Alejandro Anaya Muñoz *Los derechos humanos en las relaciones internacionales y la política exterior*. 1a ed. - Ciudad Autónoma de Buenos Aires: Fundación Cedral; Konrad Adenauer Stiftung. Argentina, 2021; and Rhodes, Sybil, "International Migration and Asylum: Problems, Incentives; Rhodes, Sybil, "Passports should guarantee respect for human rights, not serve as a pretext for war," Cedral (May 24, 2022); and Policy Cooperation in South America since the Cold War;" Chapter in Armijo, Leslie Elliott, Markus Fraundorfer, and Sybil Rhodes, eds. *South American Regional Governance: Policy and Drivers*. Forthcoming.

² Dennison, J., & Geddes, A. (2019). A rising tide? The salience of immigration and the rise of anti-immigration political parties in Western Europe. *The political quarterly*, 90(1), 107-116; Margalit, Y. (2019). Economic insecurity and the causes of populism, reconsidered. *Journal of Economic Perspectives*, 33(4), 152-70.

of movement are up for debate and renegotiation within national, regional, and global governance regimes. In each of these levels, the questions are being asked: Who is allowed to cross international, or even national, borders, and under what conditions? Who can be said to be a member of our political community?

In order to shed light on possible outcomes and paths forward, this article analyzes the nature of migration flows and the major migration governance regimes since the end of the Cold War. Solid arguments in favor of freedom of movement and liberal citizenship regimes continue, but the changing global context means that scholars and political leaders must be prepared to debate and innovate rather than defend the past.

Definitions and changes on the ground since 1990

Immigration policy consists of laws and practices allowing people to move permanently and non-permanently to other countries and petition for citizenship (or retain an immigrant status). In most countries, immigration policy also is usually said to include work and family-based admissions, as well as the admission of refugees and asylum seekers. Finally, immigration policy also governs tourists and students, and business and cultural visitors.³

Emigration policy governs how hard it is for people to leave their country. We should not forget this one, because countries, especially China, still place this type of restrictions on people who wish to leave for somewhere else, and many more countries reimplemented restrictions on domestic freedom of movement during the Covid 19 pandemic.

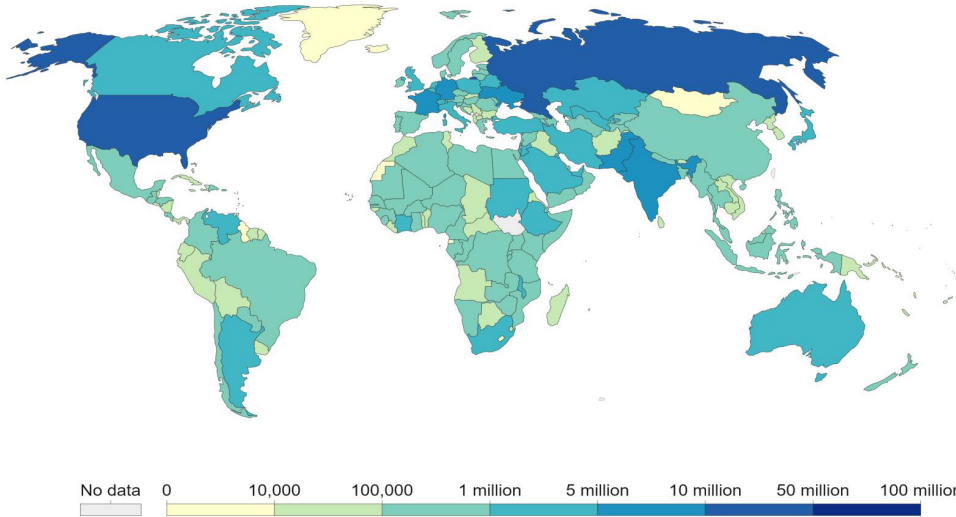
Citizenship policy is about who has political rights in a polity. For example, at its creation, in the southern region of the United States, Black slaves were not counted as citizens, and in the North they were. In most countries in today's world, this type of racial or ethnic exclusion from citizenship is illegal. Thus, for basic human rights in the short term, migration policy matters more and to greater numbers of people today than citizenship policy does. But in the long run, for shaping national public policy, citizenship policy matters a great deal, as in democracies public policy decisions ultimately respond to voting citizens.

Migration is politically salient in part because of gradual changes on the ground across the globe since the end of the Cold War. There are more people, there is more economic activity, and the immigration push-pull factors do their work. The reduced cost of international travel has also played a role. The result of globalization is that there is more immigration to prosperous regions, and especially to rich democratic countries. Europe, in particular, has experienced a surge in immigration. It also notable that there is more immigration in some countries that had not received much of it for several decades, notably in South America, as the two world maps show below in Figures 1 and 2 illustrate.

³ Helbling, M., Bjerre, L., Römer, F., & Zobel, M. (2017). Measuring immigration policies: The IMPIC database. *European Political Science*, 16, 79-98.

Total number of international immigrants, 1990

The total number of people living in a given country that were born in another country. This measures the cumulative migrant stock.



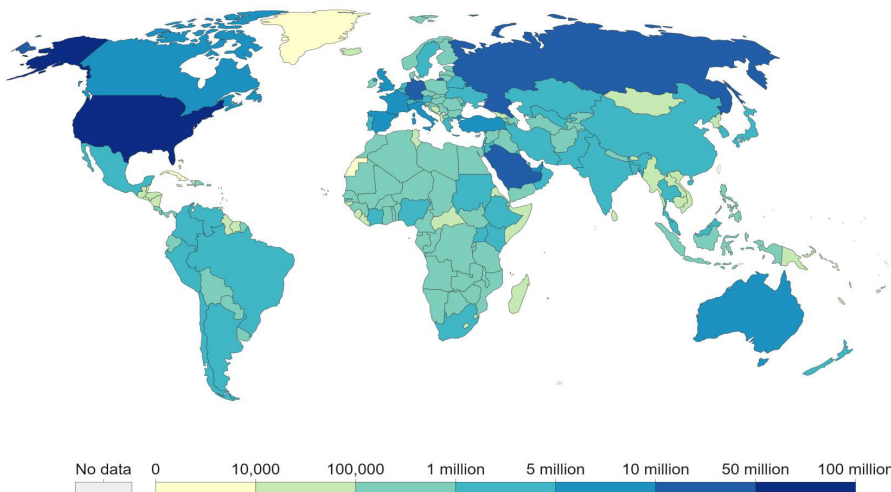
Source: United Nations Department of Economic and Social Affairs (UN DESA)

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Figure 1

Total number of international immigrants, 2020

The total number of people living in a given country that were born in another country. This measures the cumulative migrant stock.



Source: United Nations Department of Economic and Social Affairs (UN DESA)

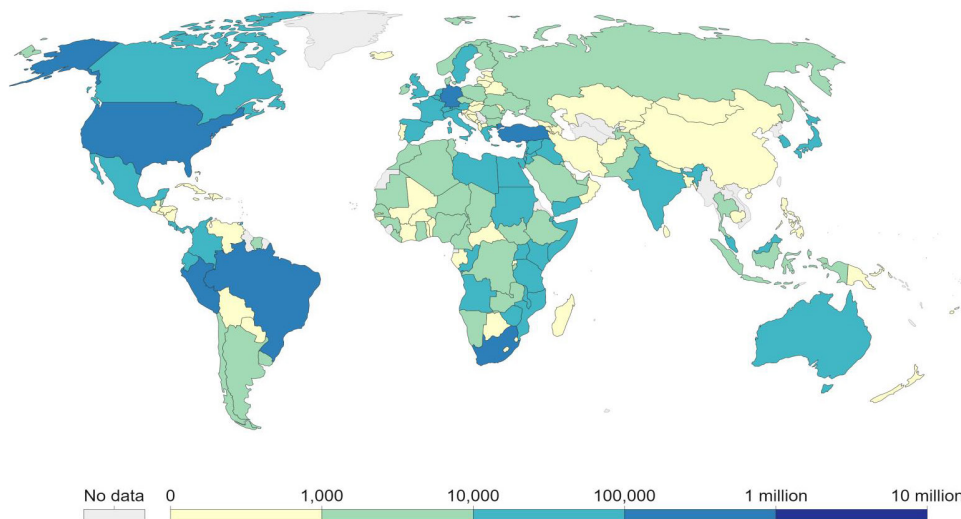
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Figure 2

Refugee and asylum flows have also become more globalized since the end of the Cold War. Figure 3 shows that the more democratic regions of Europe and North America, and democratic countries in Asia receive more applications for asylum than do less democratic countries and regions.

Number of pending asylum applications by destination country, 2019

The total number of people in the country whose application for asylum or refugee status is pending at any stage in the asylum procedure.



Source: United Nations High Commissioner for Refugees (UNHCR)
Note: Data is presented as the five-year rolling average.

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Figure 3

It would be incorrect to argue that migrant workers, refugees and asylum seekers seek to move to democratic countries only. Indeed, prosperous authoritarian states receive many willing workers, who are attracted by greater economic opportunities and are willing to sacrifice democratic freedoms in exchange. Some of the Arab Gulf states and Russia are clear examples of this phenomenon. Authoritarian leaders are often very willing to promote greater immigration, in part because they are not constrained by democratic checks and balances to provide immigrants with the full panoply of human rights protections, or with a path to citizenship. Immigration, asylum, and freedom of movement can be greater challenges for democratic countries and regions than for authoritarian ones precisely because of the how they value the existing governance regimes for the migration issue arena, which are rooted in the idea of the human right to freedom of movement.

Freedom of movement is enshrined in Article 13 of the Universal Declaration of Human Rights states that “Everyone has the right to freedom of movement and residence

within the borders of each state, and that everyone has the right to leave any country, including his own, and to return to his country.” Article 14 states that “Everyone has the right to seek and to enjoy in other countries asylum from persecution.” One major catch in the global asylum regime is that there is no corresponding obligation of receiving countries to grant asylum to all who seek it. The so-called liberal international order therefore stops short of recognizing a general human right to migration.⁴

It is equally clear that major immigrant-receiving states want to maintain control over the number and profile of people who cross international borders for work purposes. The “elephant in the room” is democratic accountability in immigration control.⁵ This is because the fundamental problem of democracy is defining membership. We all want the freedom to go wherever we want, and to join the polity we would like, but we don’t necessarily want other people to have the same freedom.

Some polities use migration policy as instrument of economic policymaking, while others use it for identity politics or for foreign-policy reasons. Most center right and center left have liberal discourse on immigration control and immigrant integration. During the 20th century, furthermore, liberal democratic states moved in the direction of nondiscriminatory openness. However, in countries across the world other types of discourses have become more common. In India, a 2019 law gives preference to immigrants that are not Muslims, for example.

Some humanitarian voices have long argued that there is a universal human right to migrate, which supercedes state sovereignty in the migration issue arena. These voices have an important achievement in the Convention to Protect the Rights of Migrant Workers and their Families, a convention that has been implemented, but that has not been signed and ratified by any of the major immigrant-receiving countries. Thus, in practical terms, at the global level the migration issue arena has been characterized by basically the same rules since the end of WWII, which may be summed up as a mixed regime with concessions to both state sovereignty and to human rights. It is more accurate to call the global regime a stalemate than a consensus, perhaps, but it has remained fairly stable at its core. That said, there have been changes at the margins, and important debates inside the regime. It is worth exploring these in greater detail, as they are indicative of the types of debates that are likely to continue in coming decades.

⁴ Goodman, S. W., & Schimmelfennig, F. (2020). Migration: a step too far for the contemporary global order?. *Journal of European Public Policy*, 27(7), 1103-1113.

⁵ York, S. (2022). UK Immigration and Asylum Administration and Adjudication: Home Office Indifference to Rule of Law Principles. *The Impact of UK Immigration Law*, 161-195.

Immigration and asylum in global and regional politics

The only migration governance regime with a well-developed body of international law is the one for refugees and asylum. The United Nations recognizes as a refugee a person who, in accordance with Article 1 of the 1951 Geneva Refugee Convention, “owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country...” Expanded definitions of refugee, recognized by the 1969 Convention of the Organization of African Unity, the 1984 Cartagena Declaration (in Latin America), and the European Union’s 2004 and 2011 Qualification Directives, include persons facing other types of persecution and generalized violence or natural catastrophe. Asylum seekers lack official UN recognition, but have the right to make the case to state officials that they qualify according to the same definitions as refugees; state officials are forbidden to send people back to places where their rights under the Geneva Convention can or will not be protected.

On the other hand, there is no functioning global governance regime for labor or economic migration, and many more people desire to immigrate to wealthy democratic states (and to wealthy non-democratic ones, though to a lesser extent) than those states typically wish to accept. Member states of the regime for refugees and asylum are obligated to consider the asylum claims and provide refuge to people who qualify, with no formal limits on numbers. This situation generates incentives to people to present themselves as belonging to a category with a greater likelihood of immigration relief, such as asylum, rather than a category with little possible relief, such as low-skilled labor migrant. Therefore, it can be hard for state officials to tell the difference between a refugee and a migrant laborer. Indeed, the difficulty of distinguishing across types of migration seems to be increasing, as greater access to transportation leads ever greater numbers of people to attempt to migrate to the most desired destination countries. “Refugees” were close to 8 % of all international migrations in 2018, and this percentage has been growing in recent years.⁶ Migration specialists have developed the more accurate label “mixed migration” to refer to people fleeing generalized difficult conditions but unlike “refugee,” “asylum seeker,” or even “migrant worker,” the “mixed” category implies no unambiguous rights under international humanitarian law.⁷

The numbers of people in the world who spontaneously seek asylum are growing and expected to grow further, but thus far much of the growth has occurred in

⁶ Hatton, T. J. (2020). Asylum migration to the developed world: Persecution, incentives, and policy. *Journal of Economic Perspectives*, 34(1), 75-93.

⁷ Mixed Migration Centre. (2020) Quarterly Mixed Migration Update: Latin America and the Caribbean. QUARTER 4 2020. <https://reliefweb.int/sites/reliefweb.int/files/resources/qmmu-q4-2020-lac.pdf>

Western Europe. Until Russia's recent invasion of Ukraine, the largest jump that had occurred was the Syrian civil war, when Europe received one and a half million asylum applications within a twelve-month period spanning 2015-16. The proportion of asylum claims *accepted*, in Europe and in other receiving countries, remains low (an average of 36% over the past 37 years). From October-November 2020, 70 percent of the asylum cases in the US were denied. When people seek refuge in a nearby country their claims of eligibility for refugee status may be more credible, and they are also more likely to come in overwhelming numbers. Even small countries can generate large flows when they are close by: for example, in the 1970s a quarter of a million Cubans arrived in Florida. For this reason developing countries "host" more refugees than wealthy democracies do (85% of the world total) although they do not "resettle" them in the same way, as they often hold them in camps with many restrictions on their ability to work and interact in the local society. In 2016, slightly over 50% of resettled refugees went to the United States, and 39% went to Australia and Canada.⁸

The most relevant "refugees" for Latin America are regional "spontaneous" asylum seekers or "mixed migration." Although worldwide the most important source regions are the Middle East, Africa, and Asia, in Latin America in recent years, Guatemala, El Salvador, Mexico, Venezuela, and Haiti have been the largest sources of asylum seekers. In South America, Venezuelans are by far the largest group.⁹

This difference helps explain the relative acceptance of Venezuelan asylum seekers in South America. After Europe, South America has one of the most ambitious regional freedom-of-movement governance regimes, at least formally, largely based around the Mercosur (whose founding Treaty of Asunción [1991] contained a provision for the free circulation of the factors of production) but also including other subregional groupings such as the Andean Community and the Pacific Alliance.

Through the Schengen Agreement the nationals of EU member-states enjoy essentially unrestricted rights to move and to work within the borders of the other states; however, the Schengen Agreement was accompanied by additional cooperation among EU member states to improve border controls, i.e., regulate the entry of persons from non-member states. In North America, in contrast, there has been no attempt to incorporate a freedom-of-movement regime into regional agreements such as the North American Free Trade Agreement, known since 2018 as the United States-Mexico-Canada Agreement.

Liberal travel regimes facilitate people's movement across international borders for purposes of education, trade, investment, innovation, or tourism. It can be difficult for

⁸ Hatton, T. J. (2020). Asylum migration to the developed world: Persecution, incentives, and policy. *Journal of Economic Perspectives*, 34(1), 75-93.

⁹ Audebert, C. (2017). The recent geodynamics of Haitian migration in the Americas: refugees or economic migrants?. *Revista brasileira de estudos de população*, 34(1), 55-71.

state leaders and citizens alike to see beyond existing negative problems and identify opportunities to work together to achieve possible future gains from migration. This policy myopia can be especially acute in light of the negative salience of immigration, refugee, and asylum issues over the past decades, to the extent that there is an emerging scholarly literature that attempts to correct for it by emphasizing the often-oversized contributions that refugees and other migrants make to receiving societies.¹⁰

To obtain some of these benefits unilaterally and selectively, some countries literally sell citizenship; others offer “investment visas”.¹¹ Such solutions are piecemeal and associated with cronyism and corruption. Collective solutions can do more; the more open the “travel regime” between clusters of countries, the greater the levels of mutual peace and prosperity.¹²

As in much of the world, South American countries tightened migration controls during the period between the world wars. Legal barriers slowed, but did not stop, the intra-South American flows. By the 1990s, regional integration agreements in South America began to provide a framework for regularizing regional migration in the hopes of increasing prosperity. The “freedom of circulation” of the factors of production clause in the founding document of Mercosur, the Treaty of Asunción, is the most ambitious. The Andean Community, and the Pacific Alliance, which includes Mexico, also included measures to facilitate a more open travel regime, particularly for business purposes, consolidating and extending an existing trend toward bilateral visa reciprocity among Latin American countries.

States tend to be less amenable to multilateral cooperation and transnational integration, and relatively open regional migration governance regimes can be overturned, when national leaders and/or publics believe “high” security politics or questions of national identity are at stake. For example, in 2015 the European Union faced severe political difficulties dealing with the crisis of people fleeing the war in Syria and desperate conditions in other countries in Africa, the Middle East, and Asia. Unable to convince all its members to engage in asylum “burden sharing,” the EU only moved out of crisis mode in 2016 by signing a deal with Turkey to keep people from crossing the Aegean Sea. In 2017, United States president Donald Trump put a brake on the caravans of Central Americans heading for the US border to claim asylum by imposing similar deals on Mexico, El Salvador, and Guatemala. In addition to these “Remain in Mexico (or the other countries)” policies, the Trump administration implemented numerous sensationalistic restrictions on immigration,

¹⁰ Betts, A., Omata, N., & Bloom, L. (2017). Thrive or survive? Explaining variation in economic outcomes for refugees. *Journal on Migration and Human Security*, 5(4), 716-743.

¹¹ Vecchione, John and Ann Weisman. “No More Pay-to-Play Green Cards” *The Wall Street Journal* 9/19/18, p. 19.

¹² Whyte, B. (2008). Visa-free travel privileges: An exploratory geographical analysis. *Tourism Geographies*, 10(2), 127-149.

including the separation of asylum-seeking families on the border.¹³ In the first few months of 2021, newly elected US President Joe Biden unilaterally reversed many of the previous administration's restrictions but did not initiate regional negotiations to build cooperation. Biden also formally lifted the "Remain in Mexico" policy for asylum seekers, but in practice imposed a "Wait in Mexico" policy which, from the point of view of the asylum seekers themselves, is similar.¹⁴

International relations scholars have argued that the increased salience has turned immigration into a security issue, a matter of "high" politics (as opposed to "low" economic concerns). Humanitarians have lamented the negative effects of this "securitization" of migration and of preoccupation with national interest over international norms on respect for human rights.¹⁵

The pandemic challenges to the freedom of movement

It is a natural tendency for citizens to surrender civil liberties to their leaders during a crisis. This is true in the realm of security, and also in public health, as we saw in in countries all over the world where people accepted, and even demanded, coercive measures in the hope of "flattening the curve" of Covid-19.

At first, the World Health Organization specifically recommended against restrictions on freedom of movement when it declared a global health emergency on January 30th. The WHO was following a consensus in the public health community that entry and exit screenings are preferable to wholesale travel bans. Voices across the globe subsequently criticized the guideline, however, and many governments began stringent measures.

The result was a global crackdown on mobility that was unprecedented in scale. Governments all over have closed borders, imposed curfews, detained travelers, and downright blocked immigrants, refugees, students, and business people, along with tourists. The European Union's Schengen Agreement, the most advanced experiment in international freedom of movement, essentially shut down.

Protecting public health has long been a principal reason states limit freedom of movement. In early 2020, across the world there was a "kneejerk" reaction to close borders against specific, longstanding recommendations of the World Health Organization. Migrants have been especially hard hit by Covid-19 all over the globe.¹⁶

¹³ Pierce, S., Bolter, J., & Selee, A. (2018). US immigration policy under Trump: Deep changes and lasting impacts. *Migration Policy Institute*, 9.

¹⁴ Bier, David. J. (2021). Biden's "Wait in Mexico" Is Worse Than Trump's "Remain in Mexico". CATO Institute Blog. Mar 2. <https://www.cato.org/blog/bidens-wait-mexico-worse-trumps-remain-mexico>

¹⁵ Rudolph, C. (2003). Security and the political economy of international migration. *American political science review*, 603-620; Messina, A. M. (2014). Securitizing immigration in the age of terror. *World Pol.*, 66, 530.

¹⁶ Brito, M. O. (2020). COVID-19 in the Americas: Who's Looking after Refugees and Migrants?. *Annals of Global Health*, 86(1).

Governments responded to the Covid-19 pandemic by criminalizing international border crossings to a scale unprecedented since at least WWII. Migrants were often first to lose work but could not return to their home countries, or if they did, they discovered things in Venezuela were worse than ever, and went back to Colombia or other receiving countries as soon as they could.

Out of blue, people from wealthy developed countries who usually enjoy high levels of what some have called “passport privilege” have on occasion been surprised to be met with restrictive border measures in less developed areas. People in the latter are long accustomed to strict rules that keep them from entering the former. Some commentators have been less than sympathetic to the former, stating that it was about time the privileged tasted some of their own medicine. Others expressed the same feeling of comeuppance regarding a similar phenomenon within national borders, as small towns have tried to prevent the wealthy from escaping the plague in the cities and retreating to their second homes.

In normal, times restrictions on internal movement are one of the prime factors that differentiate democracies from dictatorships. During the pandemic this difference between democracies and dictatorships was less than we might have thought. The controls in China that were lauded for their efficacy have involved confinement of people away from their homes. Countries in Eastern Europe suspended the delivery of passports to their citizens. In Italy in and Spain low percentages of people told pollsters they were concerned about wholesale travel bans. People in the United States appeared similarly unconcerned about the suspension of constitutional liberties.

The reaction to the pandemic demonstrates that for many people, unlike some rights, the freedom of movement right is not absolute. But which conditions determine when the right can be violated, who decides, how long, how much: all that is a matter of policy. Because of the continued perception of crisis, some old patterns have broken down.

The invasion of Ukraine

Russia’s invasion of Ukraine launched yet another crisis. In this case, some European Union members who had balked at accepting refugees from the Syrian conflict were more than willing to receive Ukrainians. Meanwhile, for years Russia has used the irredentist practice of “passportization” to unilaterally convert people in post-Soviet republics into Russian citizens. These actions, and the countering policies, can have serious repercussions for peoples’ lives, including the loss of pensions and other state benefits in the affected post-Soviet republics. Russia has changed its legislation to permit the newly naturalized to obtain access to some benefits and to be able to vote in Russian elections, but it is not clear how well these policies are working.

Conclusions

There is a human right to freedom of movement, but it has traditionally been best respected within democratic states. The extent to which such a right has been protected by the global migration governance regime since WWII is limited, however. Regional governance regimes in only a few places, namely Europe and to some extent Latin America, have also provided some guarantees for freedom of movement as a human right.¹⁷

In normal, times restrictions on internal movement are one of the prime factors that differentiate democracies from dictatorships. Both ongoing globalization and emergencies like the Covid pandemic and violent conflicts have placed increasing pressure on the idea of freedom of movement even in democracies. This article has argued that the new political normal means fundamental questions about who belongs, and who can go where will continue to be raised.

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¹⁷ Arcarazo, D. A., & Freier, L. F. (2015). Discursos y políticas de inmigración en Sudamérica:¿ Hacia un nuevo paradigma o la confirmación de una retórica sin contenido?. *REMHU: Revista Interdisciplinar da Mobilidade Humana*, 23(44), 171-189.

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