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## THE MYTH OF A UNIVERSAL REFUGEE REGIME: A COMPARATIVE ANALYSIS OF FRAGMENTATION IN GLOBAL REFUGEE PROTECTION

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### Abstract

The international refugee protection system is often described as a universal legal framework built on the 1951 Refugee Convention and its 1967 Protocol.<sup>572</sup> This paper challenges that assumption, arguing that this sense of universality is more apparent than real.<sup>573</sup> By comparing refugee protection practices across Europe, Africa, the Middle East, and Asia, the study shows that the global refugee system is highly fragmented, with significant differences in how protection is provided in different regions.<sup>574</sup> Although the legal norms may appear consistent, their actual implementation is shaped by political priorities, economic capacity, and institutional strength, leading to uneven and often inconsistent outcomes for refugees.<sup>575</sup> The paper ultimately argues that, rather than functioning as a single, coherent regime, the current system operates as a set of regionally distinct frameworks—highlighting the need to rethink how global refugee governance is understood and structured.<sup>576</sup>

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<sup>572</sup> Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137; Protocol Relating to the Status of Refugees, Jan. 31, 1967, 606 U.N.T.S. 267.

<sup>573</sup> B.S. Chimni, The Geopolitics of Refugee Studies: A View from the South, 11 J. Refugee Stud. 350, 351–52 (1998).

<sup>574</sup> Alexander Betts, Survival Migration: Failed Governance and the Crisis of Displacement 23–27 (2013).

<sup>575</sup> James C. Hathaway, The Rights of Refugees Under International Law 3–10 (2d ed. 2021).

<sup>576</sup> Gil Loescher, Alexander Betts & James Milner, The United Nations High Commissioner for Refugees (UNHCR): The Politics and Practice of Refugee Protection into the Twenty-First Century 70–75 (2008).

## 1. Introduction

The modern international refugee regime is often seen as a cornerstone of global human rights protection.<sup>577</sup> Built on the 1951 Refugee Convention and expanded by the 1967 Protocol, it is commonly described as a universal legal framework that applies across countries.<sup>578</sup> In theory, this suggests that refugees—regardless of where they seek protection—are entitled to a consistent set of rights and safeguards.<sup>579</sup>

In practice, however, this idea of universality does not hold up<sup>580</sup>. Refugee protection varies significantly across regions, shaped by differences in legal systems, political priorities, economic capacity, and institutional strength.<sup>581</sup> The result is a fragmented global landscape, where the level of protection a refugee receives depends less on international law and more on geography.<sup>582</sup> This paper challenges the notion of a truly universal refugee regime.<sup>583</sup> It argues that global refugee protection is fundamentally uneven, with clear disparities in legal standards, enforcement mechanisms, and real-world outcomes.<sup>584</sup> Through a comparative analysis of Europe, Africa, the Middle East, and Asia, the paper shows that the international refugee system functions less as a unified framework and more as a patchwork of regional approaches.<sup>585</sup>

The central argument is that the “universality” of refugee law is largely theoretical rather than practical.<sup>586</sup> Recognising and understanding this fragmentation is essential if meaningful reform of the global refugee system is to be achieved.<sup>587</sup>

## 2. Theoretical Foundations of the Refugee Regime

### 2.1 The Idea of Universality

The international refugee regime is built on the premise that certain rights are universal, meaning that all individuals, regardless of their nationality or location, are entitled to basic protections when fleeing persecution.<sup>588</sup> It also assumes that states share a collective responsibility for providing this protection, rather than leaving the burden to a few countries.<sup>589</sup> Further, it is based on the expectation that legal standards will be applied uniformly, ensuring consistency in how refugees are treated across different jurisdictions.<sup>590</sup> The 1951 Refugee Convention gives concrete form to these principles by establishing a common definition of who qualifies as a refugee, setting out minimum rights that must be guaranteed to them, and placing clear legal obligations on states to uphold these standards.<sup>591</sup> Together, these elements create the impression of a coherent and universally applicable system of refugee protection.<sup>592</sup>

### 2.2 Normative Strength of the Framework

From a legal perspective, the refugee regime appears robust and well-developed.<sup>593</sup> The principle of non-refoulement, which prohibits the return of individuals to places where they may face persecution, is widely accepted and often regarded as a fundamental rule of international law.<sup>594</sup> In addition, the rights of refugees are clearly articulated within the Convention, covering key aspects of protection and treatment.<sup>595</sup> Institutional mechanisms also exist through the United Nations High Commissioner for Refugees (UNHCR), which plays a central role in supervising implementation, providing assistance, and

<sup>577</sup> Guy S. Goodwin-Gill & Jane McAdam, *The Refugee in International Law* 15 (3d ed. 2007).

<sup>578</sup> Convention Relating to the Status of Refugees, July 28, 1951, 189 U.N.T.S. 137; Protocol Relating to the Status of Refugees, Jan. 31, 1967, 606 U.N.T.S. 267.

<sup>579</sup> James C. Hathaway, *The Rights of Refugees Under International Law* 91–95 (2d ed. 2021).

<sup>580</sup> B.S. Chimni, *The Geopolitics of Refugee Studies*, 11 *J. Refugee Stud.* 350, 351 (1998).

<sup>581</sup> Alexander Betts, *Survival Migration* 23–27 (2013).

<sup>582</sup> Gil Loescher, *Beyond Charity* 42–45 (1993).

<sup>583</sup> Hathaway, *supra* note 3, at 6–8.

<sup>584</sup> Betts, *supra* note 5, at 30–32.

<sup>585</sup> Alexander Betts & Paul Collier, *Refuge* 54–60 (2017).

<sup>586</sup> Chimni, *supra* note 4, at 352–53.

<sup>587</sup> Loescher et al., *UNHCR: The Politics and Practice of Refugee Protection* 70–75 (2008).

<sup>588</sup> Universal Declaration of Human Rights art. 14, G.A. Res. 217 (III) A (Dec. 10, 1948).

<sup>589</sup> Hathaway, *supra* note 3, at 19–21.

<sup>590</sup> Goodwin-Gill & McAdam, *supra* note 1, at 21–23.

<sup>591</sup> Refugee Convention, *supra* note 2, arts. 1, 2–34.

<sup>592</sup> Hathaway, *supra* note 3, at 25.

<sup>593</sup> Goodwin-Gill & McAdam, *supra* note 1, at 16–18.

<sup>594</sup> Refugee Convention, *supra* note 2, art. 33.

<sup>595</sup> Hathaway, *supra* note 3, at 91–100.

promoting compliance.<sup>596</sup> On paper, therefore, the framework appears comprehensive and capable of ensuring meaningful protection for refugees worldwide.<sup>597</sup>

### 2.3 The Problem of Enforcement

Despite its normative strength, the refugee regime is limited by a critical weakness: the lack of effective enforcement.<sup>598</sup> There is no central authority with the power to ensure that states comply with their obligations, and the system relies heavily on voluntary adherence by individual governments<sup>599</sup>. Furthermore, there are no consistent or meaningful sanctions for violations, which reduces the incentive for strict compliance.<sup>600</sup> This situation creates a clear gap between the legal norms established at the international level and the realities of how those norms are implemented in practice.<sup>601</sup> In many cases, what the law promises does not fully translate into what refugees actually experience on the ground.<sup>602</sup>

### 2.4 From Universality to Fragmentation

This gap between legal norms and actual practice leads directly to fragmentation within the refugee regime.<sup>603</sup> States often interpret their obligations differently, influenced by domestic political considerations, economic capacity, and institutional strength.<sup>604</sup> As a result, implementation varies widely across regions, and the level of protection offered to refugees becomes uneven.<sup>605</sup> While the framework continues to present itself as universal in theory, its practical operation reveals a system that is fragmented and inconsistent.<sup>606</sup>

## 3. Conceptualising Fragmentation in Refugee Protection

### 3.1 What is Fragmentation?

Fragmentation in refugee protection refers to the lack of uniformity in how international standards are understood, applied, and experienced in different parts of the world.<sup>607</sup> It involves divergence in legal standards across jurisdictions, inconsistency in how those standards are implemented, and significant variation in the outcomes faced by refugees.<sup>608</sup> Rather than functioning as a single, cohesive system, the refugee regime operates as a collection of uneven and sometimes conflicting approaches.<sup>609</sup>

### 3.2 Types of Fragmentation

#### (a) Legal Fragmentation

Legal fragmentation arises from differences in domestic legal frameworks.<sup>610</sup> In some countries, international refugee law is fully incorporated into national legislation, providing clear legal protections and procedures.<sup>611</sup> In others, however, there is little or no formal refugee law, leading to ad hoc or discretionary approaches to protection.<sup>612</sup> This results in significant variation in the legal standards that refugees encounter depending on where they seek asylum.<sup>613</sup>

#### (b) Institutional Fragmentation

Institutional fragmentation reflects differences in the strength and effectiveness of asylum systems.<sup>614</sup> Some states have well-developed administrative structures, independent courts, and established procedures for processing refugee claims.<sup>615</sup> Others lack the necessary

<sup>596</sup> U.N. High Comm'r for Refugees, Statute of the Office of the UNHCR, G.A. Res. 428 (V) (1950).

<sup>597</sup> Loescher et al., *supra* note 11, at 3–5.

<sup>598</sup> Hathaway, *supra* note 3, at 6–10.

<sup>599</sup> Chimni, *supra* note 4, at 360–62.

<sup>600</sup> Betts, *supra* note 5, at 45–47.

<sup>601</sup> Goodwin-Gill & McAdam, *supra* note 1, at 24–26.

<sup>602</sup> Loescher, *supra* note 6, at 50–52.

<sup>603</sup> Betts & Collier, *supra* note 9, at 60–65.

<sup>604</sup> Chimni, *supra* note 4, at 355–57.

<sup>605</sup> Hathaway, *supra* note 3, at 10–12.

<sup>606</sup> Goodwin-Gill & McAdam, *supra* note 1, at 27.

<sup>607</sup> Alexander Betts, *Survival Migration* 23–27 (2013).

<sup>608</sup> Alexander Betts, *Survival Migration* 23–27 (2013).

<sup>609</sup> Alexander Betts, *Survival Migration* 23–27 (2013).

<sup>610</sup> James C. Hathaway, *The Rights of Refugees Under International Law* 10–15 (2d ed. 2021).

<sup>611</sup> James C. Hathaway, *The Rights of Refugees Under International Law* 10–15 (2d ed. 2021).

<sup>612</sup> James C. Hathaway, *The Rights of Refugees Under International Law* 10–15 (2d ed. 2021).

<sup>613</sup> James C. Hathaway, *The Rights of Refugees Under International Law* 10–15 (2d ed. 2021).

<sup>614</sup> Guy S. Goodwin-Gill & Jane McAdam, *The Refugee in International Law* 24–30 (3d ed. 2007).

<sup>615</sup> Guy S. Goodwin-Gill & Jane McAdam, *The Refugee in International Law* 24–30 (3d ed. 2007).

institutional capacity, leading to delays, inefficiencies, or inconsistent decision-making.<sup>616</sup> The roles played by courts, administrative agencies, and enforcement bodies also vary widely, further contributing to uneven protection.<sup>617</sup>

### (c) Political Fragmentation

Political fragmentation is driven by the influence of domestic politics on refugee policy.<sup>618</sup> Governments often shape their approach to refugee protection based on internal political pressures, public opinion, and electoral considerations.<sup>619</sup> In many cases, migration is increasingly treated as a security issue, leading to restrictive policies and heightened border controls.<sup>620</sup> This politicisation results in inconsistent interpretations and applications of international obligations.<sup>621</sup>

### (d) Economic Fragmentation

Economic fragmentation arises from disparities in resources between states.<sup>622</sup> Wealthier countries generally have greater capacity to provide support, infrastructure, and integration opportunities for refugees.<sup>623</sup> In contrast, less developed countries often host large numbers of refugees despite having limited resources, leading to significant strain on their systems.<sup>624</sup> This imbalance contributes to unequal burden-sharing at the global level.<sup>625</sup>

### 3.3 Consequences of Fragmentation

The combined effect of these forms of fragmentation is a system in which protection standards vary widely across regions.<sup>626</sup> Refugees often move toward countries

perceived as offering better protection, contributing to complex migration patterns.<sup>627</sup> At the same time, certain host countries face disproportionate pressure, which can strain their resources and institutions.<sup>628</sup> Ultimately, the level of protection a refugee receives becomes heavily dependent on geography rather than on universally guaranteed rights, highlighting the limitations of the current global framework.<sup>629</sup>

## 4. Europe: Institutionalised Universality with Political Constraints

### 4.1 Legal Framework

Europe is often seen as having the most developed and structured system of refugee protection.<sup>630</sup> Its framework is built on multiple overlapping legal instruments, including the 1951 Refugee Convention, the Common European Asylum System (CEAS), and the European Convention on Human Rights.<sup>631</sup> Together, these instruments create a detailed and relatively coherent system that aims to standardise refugee protection across member states while also embedding it within a broader human rights framework.<sup>632</sup>

### 4.2 Judicial Enforcement

A defining feature of the European model is the central role played by courts in enforcing refugee rights.<sup>633</sup> Judicial decisions have been instrumental in shaping and strengthening the system.<sup>634</sup> Key cases such as *Hirsi Jamaa v. Italy* and *Chahal v. United Kingdom* have reinforced the principle of non-refoulement and placed clear limits on arbitrary deportation practices.<sup>635</sup> Through such rulings, European courts have acted as important safeguards, ensuring that

<sup>616</sup> Guy S. Goodwin-Gill & Jane McAdam, *The Refugee in International Law* 24–30 (3d ed. 2007).

<sup>617</sup> Guy S. Goodwin-Gill & Jane McAdam, *The Refugee in International Law* 24–30 (3d ed. 2007).

<sup>618</sup> B.S. Chimni, *The Geopolitics of Refugee Studies*, 11 *J. Refugee Stud.* 350, 355–60 (1998).

<sup>619</sup> B.S. Chimni, *The Geopolitics of Refugee Studies*, 11 *J. Refugee Stud.* 350, 355–60 (1998).

<sup>620</sup> B.S. Chimni, *The Geopolitics of Refugee Studies*, 11 *J. Refugee Stud.* 350, 355–60 (1998).

<sup>621</sup> B.S. Chimni, *The Geopolitics of Refugee Studies*, 11 *J. Refugee Stud.* 350, 355–60 (1998).

<sup>622</sup> Alexander Betts & Paul Collier, *Refuge* 54–60 (2017).

<sup>623</sup> Alexander Betts & Paul Collier, *Refuge* 54–60 (2017).

<sup>624</sup> Alexander Betts & Paul Collier, *Refuge* 54–60 (2017).

<sup>625</sup> Alexander Betts & Paul Collier, *Refuge* 54–60 (2017).

<sup>626</sup> Gil Loescher, *Beyond Charity* 42–50 (1993).

<sup>627</sup> Gil Loescher, *Beyond Charity* 42–50 (1993).

<sup>628</sup> Gil Loescher, *Beyond Charity* 42–50 (1993).

<sup>629</sup> Gil Loescher, *Beyond Charity* 42–50 (1993).

<sup>630</sup> Violeta Moreno-Lax, *Accessing Asylum in Europe* 12–18 (2017).

<sup>631</sup> Violeta Moreno-Lax, *Accessing Asylum in Europe* 12–18 (2017).

<sup>632</sup> Violeta Moreno-Lax, *Accessing Asylum in Europe* 12–18 (2017).

<sup>633</sup> *Hirsi Jamaa v. Italy*, 2012-II Eur. Ct. H.R. 97; *Chahal v. United Kingdom*, 1996-V Eur. Ct. H.R. 1831.

<sup>634</sup> *Hirsi Jamaa v. Italy*, 2012-II Eur. Ct. H.R. 97; *Chahal v. United Kingdom*, 1996-V Eur. Ct. H.R. 1831.

<sup>635</sup> *Hirsi Jamaa v. Italy*, 2012-II Eur. Ct. H.R. 97; *Chahal v. United Kingdom*, 1996-V Eur. Ct. H.R. 1831.

states remain accountable to their legal obligations.<sup>636</sup>

### 4.3 Strengths of the European Model

The European system benefits from a number of structural strengths.<sup>637</sup> It relies on codified procedures that provide clarity and predictability in asylum processes.<sup>638</sup> Refugees and asylum seekers generally have access to courts, allowing them to challenge decisions and seek remedies.<sup>639</sup> The presence of structured asylum systems helps ensure a more organised approach to processing claims, while integration policies in many countries aim to support refugees beyond immediate protection.<sup>640</sup> These features together make Europe one of the most institutionally advanced regions in terms of refugee protection.<sup>641</sup>

### 4.4 Internal Fragmentation

Despite its strengths, the European system is far from uniform.<sup>642</sup> Significant internal divisions persist among member states.<sup>643</sup> Responsibility for hosting refugees is unevenly distributed, leading to tensions over burden-sharing.<sup>644</sup> Some countries, particularly Hungary and Poland, have openly resisted aspects of the common framework.<sup>645</sup> At the same time, migration has become a politically sensitive issue, generating backlash and influencing national policies.<sup>646</sup> These internal differences

reveal that even a highly developed system can struggle with consistency.<sup>647</sup>

### 4.5 Externalisation of Borders

In recent years, Europe has increasingly shifted its focus toward controlling migration before it reaches its borders.<sup>648</sup> This has involved outsourcing migration management and entering into agreements with third countries to limit the movement of refugees.<sup>649</sup> While these measures are often justified as practical solutions, they raise serious concerns about accountability and access to protection.<sup>650</sup> In effect, such practices risk undermining the very idea of universality that the system is built upon.<sup>651</sup>

### 4.6 Key Insight

Europe ultimately demonstrates that even the most advanced and institutionalised refugee protection system remains vulnerable to political pressures, and that legal strength alone is not enough to ensure consistent protection.<sup>652</sup>

## 5. Africa: Progressive Norms, Implementation Gaps

### 5.1 Legal Framework

Africa's refugee protection framework is notable for its progressive and expansive approach. The OAU Convention goes beyond the 1951 Refugee Convention by broadening the definition of a refugee to include individuals fleeing generalised violence, public disorder, and external aggression.<sup>653</sup> This wider definition reflects the realities of displacement on the continent and makes the framework more inclusive in scope.

### 5.2 Strengths

One of the key strengths of the African approach is its recognition of mass

<sup>636</sup> Hirsi Jamaa v. Italy, 2012-II Eur. Ct. H.R. 97; Chahal v. United Kingdom, 1996-V Eur. Ct. H.R. 1831.

<sup>637</sup> European Commission, Common European Asylum System (CEAS) Overview (2014).

<sup>638</sup> European Commission, Common European Asylum System (CEAS) Overview (2014).

<sup>639</sup> European Commission, Common European Asylum System (CEAS) Overview (2014).

<sup>640</sup> European Commission, Common European Asylum System (CEAS) Overview (2014).

<sup>641</sup> European Commission, Common European Asylum System (CEAS) Overview (2014).

<sup>642</sup> Daniel Thym, Reforming Europe's Common Asylum System, 44 Eur. L. Rev. 302, 305–10 (2019).

<sup>643</sup> Daniel Thym, Reforming Europe's Common Asylum System, 44 Eur. L. Rev. 302, 305–10 (2019).

<sup>644</sup> Daniel Thym, Reforming Europe's Common Asylum System, 44 Eur. L. Rev. 302, 305–10 (2019).

<sup>645</sup> Daniel Thym, Reforming Europe's Common Asylum System, 44 Eur. L. Rev. 302, 305–10 (2019).

<sup>646</sup> Daniel Thym, Reforming Europe's Common Asylum System, 44 Eur. L. Rev. 302, 305–10 (2019).

<sup>647</sup> Daniel Thym, Reforming Europe's Common Asylum System, 44 Eur. L. Rev. 302, 305–10 (2019).

<sup>648</sup> Moreno-Lax, supra note 24, at 150–60.

<sup>649</sup> Moreno-Lax, supra note 24, at 150–60.

<sup>650</sup> Moreno-Lax, supra note 24, at 150–60.

<sup>651</sup> Moreno-Lax, supra note 24, at 150–60.

<sup>652</sup> Betts & Collier, supra note 16, at 70–75.

<sup>653</sup> Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa art. 1(2), Sept. 10, 1969, 1001 U.N.T.S. 45.

displacement, which allows for a more realistic and humanitarian response to large-scale refugee movements.<sup>654</sup> The framework is strongly oriented toward humanitarian principles and emphasises regional cooperation among states.<sup>655</sup> This collective approach helps create a sense of shared responsibility, even in challenging circumstances.

### 5.3 Implementation Challenges

Despite these progressive legal norms, implementation remains a major challenge. Many African states face significant resource constraints, which limit their ability to provide adequate protection and services.<sup>656</sup> Institutional weaknesses further complicate the situation, as administrative and legal systems are often underdeveloped.<sup>657</sup> In addition, there is a heavy reliance on international aid, making long-term sustainability difficult.<sup>658</sup>

### 5.4 Case Insight: Uganda

Uganda is frequently cited as an example of a relatively progressive refugee policy in practice. It grants refugees the right to work, allows freedom of movement, and provides access to land for settlement.<sup>659</sup> These measures go beyond basic protection and aim to promote self-reliance and integration, making Uganda one of the more open and forward-looking refugee-hosting countries globally.

### 5.5 Structural Constraints

However, even in cases like Uganda, structural limitations remain evident. Resource constraints continue to affect the quality and reach of protection, and refugee camps are still widely used across the region.<sup>660</sup> This highlights the

<sup>654</sup> James C. Hathaway, *The Rights of Refugees Under International Law* 190–95 (2d ed. 2021).

<sup>655</sup> Marina Sharpe, *The 1969 OAU Refugee Convention and the Protection of People Fleeing Armed Conflict and Other Situations of Violence*, UNHCR Legal & Prot. Pol’y Rsch. Series (2013).

<sup>656</sup> Alexander Betts, *Survival Migration* 140–45 (2013).

<sup>657</sup> Guy S. Goodwin-Gill & Jane McAdam, *The Refugee in International Law* 40–45 (3d ed. 2007).

<sup>658</sup> Gil Loescher et al., *UNHCR: The Politics and Practice of Refugee Protection* 120–25 (2008).

<sup>659</sup> Alexander Betts et al., *Refugee Economies: Forced Displacement and Development* 85–90 (2017).

<sup>660</sup> Betts, *supra* note 4, at 150–52.

gap between progressive legal frameworks and the realities of implementation on the ground.

### 5.6 Key Insight

The African experience shows that strong and inclusive legal norms do not automatically translate into effective protection, particularly when institutional capacity and resources are limited.<sup>661</sup>

### 6. Interim Conclusion

This section has demonstrated that, while international refugee law presents itself as a universal system, its actual implementation is highly uneven.<sup>662</sup> Europe and Africa provide two contrasting examples: one characterised by strong institutions but growing political resistance, and the other by progressive legal norms but significant capacity constraints.<sup>663</sup>

The next part of the paper will extend this analysis to the Middle East and Asia, where fragmentation becomes even more pronounced. It will further develop the argument that the global refugee regime is not a single, unified system, but rather a collection of regionally distinct frameworks shaped by varying political, economic, and institutional realities.<sup>664</sup>

## PART II: REGIONAL DIVERGENCE AND THE DEEPENING OF FRAGMENTATION

### 7. Middle East: Humanitarian Burden Without a Coherent Legal Framework

#### 7.1 Regional Context

The Middle East hosts one of the largest refugee populations in the world, largely as a result of prolonged conflicts in Syria, Iraq, Yemen, and Palestine.<sup>665</sup> Countries such as Turkey, Lebanon, and Jordan have taken in millions of displaced people, often under considerable economic and political pressure.<sup>666</sup> Despite bearing such a significant humanitarian burden, the region

<sup>661</sup> Hathaway, *supra* note 2, at 200–05.

<sup>662</sup> B.S. Chimni, *The Geopolitics of Refugee Studies*, 11 J. Refugee Stud. 350, 360–62 (1998).

<sup>663</sup> Betts & Collier, *Refugee* 60–65 (2017).

<sup>664</sup> Gil Loescher, *Beyond Charity* 50–55 (1993).

<sup>665</sup> UNHCR, *Global Trends: Forced Displacement* (latest ed.).

<sup>666</sup> *Id.*

does not have a unified or comprehensive legal framework to govern refugee protection, which makes responses largely uneven and ad hoc.<sup>667</sup>

## 7.2 Legal Structure

Most states in the Middle East are either not parties to the 1951 Refugee Convention or have entered substantial reservations that limit their obligations.<sup>668</sup> In many cases, there is also an absence of domestic refugee legislation, leaving a clear legal gap.<sup>669</sup> As a result, protection is typically based not on enforceable legal rights but on executive policies, temporary protection arrangements, and broader humanitarian considerations<sup>670</sup>. This creates a system where refugee protection lacks consistency and long-term certainty.

## 7.3 Reliance on International Actors

In this context, the United Nations High Commissioner for Refugees (UNHCR) plays a central operational role across much of the region.<sup>671</sup> It is often responsible for registering refugees, determining their status, and coordinating the delivery of humanitarian assistance.<sup>672</sup> However, this reflects a delegation of responsibility rather than the development of strong domestic institutions.<sup>673</sup> States continue to retain ultimate control, and UNHCR's role remains dependent on state cooperation.

## 7.4 Case Study: Lebanon

Lebanon provides a clear example of the structural limitations within the region.<sup>674</sup> It hosts a very large refugee population relative to its size, placing immense strain on its resources and infrastructure.<sup>675</sup> At the same time, it does not formally recognise refugee status under its legal system and imposes significant

restrictions on residence and employment.<sup>676</sup> As a result, many refugees live without legal security, rely heavily on external aid, and remain vulnerable to exploitation and precarious living conditions.<sup>677</sup>

## 7.5 Temporary Protection Model

Some countries in the region, particularly Turkey, have adopted temporary protection regimes as a way of managing large refugee inflows.<sup>678</sup> These frameworks typically do not grant long-term legal status, offer only limited rights, and are built on the assumption that refugees will eventually return to their home countries.<sup>679</sup> While such models provide immediate relief, they do not offer durable solutions or long-term stability for displaced populations.

## 7.6 Structural Challenges

The challenges faced by the region are deeply structural. Economic constraints limit the ability of states to provide sustained support, while ongoing political instability complicates policy responses.<sup>680</sup> Demographic pressures further intensify the situation, especially in smaller states hosting large refugee populations.<sup>681</sup> In addition, limited administrative capacity makes it difficult to develop and implement consistent protection mechanisms.

## 7.7 Key Insight

The Middle East illustrates a model in which the humanitarian burden is extremely high, but legal and institutional frameworks remain weak.<sup>682</sup> This imbalance reinforces the broader pattern of fragmentation within the global refugee regime.

<sup>667</sup> Gil Loescher et al., UNHCR: The Politics and Practice of Refugee Protection 100–05 (2008).

<sup>668</sup> Convention Relating to the Status of Refugees, *supra* note 2.

<sup>669</sup> Guy S. Goodwin-Gill & Jane McAdam, *The Refugee in International Law* 380–85 (3d ed. 2007).

<sup>670</sup> Alexander Betts, *Survival Migration* 120–25 (2013).

<sup>671</sup> U.N. High Comm'r for Refugees, *Statute of the Office of the UNHCR*, G.A. Res. 428 (V) (1950).

<sup>672</sup> Loescher et al., *supra* note 3, at 110–15.

<sup>673</sup> *Id.*

<sup>674</sup> Dawn Chatty, *Syria: The Making and Unmaking of a Refugee State* 180–85 (2018).

<sup>675</sup> UNHCR, *supra* note 1.

<sup>676</sup> Chatty, *supra* note 10, at 190–95.

<sup>677</sup> *Id.*

<sup>678</sup> Kemal Kirişci, *Syrian Refugees and Turkey's Temporary Protection Regime*, Brookings (2014).

<sup>679</sup> *Id.*

<sup>680</sup> Betts, *supra* note 6, at 130–35.

<sup>681</sup> UNHCR, *supra* note 1.

<sup>682</sup> Loescher et al., *supra* note 3, at 120–25.

## 8. Asia: Legal Vacuum and Discretionary Governance

### 8.1 Absence of Regional Framework

Unlike Europe and Africa, Asia does not have a regional refugee convention or any coordinated framework for protection.<sup>683</sup> There are no shared legal standards or institutional mechanisms that bind states together in their approach to refugee issues.<sup>684</sup> This absence creates a fragmented landscape in which each country develops its own policies, often without reference to a common framework.

### 8.2 Typology of Asian States

Asian states can broadly be grouped into three categories based on their approach to refugee protection. Some countries, such as Japan, are signatories to the Refugee Convention but adopt restrictive practices in implementation. Others, including India and Bangladesh, are not signatories but still provide limited or selective forms of protection. A third group, including Malaysia and Thailand, are non-signatories and maintain largely restrictive regimes, offering minimal formal protection to refugees.<sup>685</sup>

### 8.3 Core Characteristics

Across much of Asia, certain patterns are evident. Refugees are frequently treated as illegal migrants rather than as individuals entitled to protection.<sup>686</sup> Detention is commonly used as a tool of migration control, and access to rights is often limited or entirely absent.<sup>687</sup> In many cases, protection depends on executive discretion rather than enforceable legal frameworks, making outcomes unpredictable and inconsistent.<sup>688</sup>

### 8.4 Role of UNHCR

In several Asian countries, including India, UNHCR plays an important role in filling the legal

and institutional gap.<sup>689</sup> It conducts refugee status determination, issues identity documentation, and provides basic assistance.<sup>690</sup> However, its authority is not legally binding, and recognition by the state is often inconsistent.<sup>691</sup> This limits its effectiveness and leaves refugees in a precarious position.

### 8.5 Case Study: India

India reflects many of the broader trends seen across Asia. It does not have a dedicated refugee law and is not a party to the Refugee Convention.<sup>692</sup> Instead, it follows a group-based approach to protection, where treatment varies significantly depending on the refugee population in question.<sup>693</sup> For instance, Tibetan refugees have received structured and relatively stable protection, while Rohingya refugees have faced detention and the threat of deportation. This selective approach highlights the discretionary nature of refugee governance in the region.

### 8.6 Legal and Policy Implications

The absence of a uniform legal framework leads to a system characterised by inconsistency and uncertainty. Protection depends heavily on executive decision-making rather than clearly defined legal rights, and refugees often lack access to enforceable protections. This creates a situation where outcomes are shaped more by policy choices than by legal obligations.<sup>694</sup>

### 8.7 Key Insight

Asia represents perhaps the most fragmented regional context, where refugee protection is least institutionalised and most dependent on political considerations and state discretion.<sup>695</sup>

<sup>683</sup> B.S. Chimni, *The Geopolitics of Refugee Studies*, 11 *J. Refugee Stud.* 350, 365–68 (1998).

<sup>684</sup> *Id.*

<sup>685</sup> James C. Hathaway, *The Rights of Refugees Under International Law* 350–55 (2d ed. 2021).

<sup>686</sup> Human Rights Watch, *World Report* (latest ed.).

<sup>687</sup> *Id.*

<sup>688</sup> Chimni, *supra* note 19, at 368–70.

<sup>689</sup> UNHCR, *supra* note 7.

<sup>690</sup> *Id.*

<sup>691</sup> Hathaway, *supra* note 21, at 360–62.

<sup>692</sup> Chimni, *supra* note 19, at 370–72.

<sup>693</sup> *Id.*

<sup>694</sup> Hathaway, *supra* note 21, at 365–68.

<sup>695</sup> Chimni, *supra* note 19, at 372.

## 9. Comparative Synthesis: Mapping Fragmentation

### 9.1 Cross-Regional Comparison

A comparison across regions highlights the uneven nature of the global refugee regime.<sup>696</sup> Europe stands out with a relatively strong legal framework, high levels of enforcement, and well-developed institutional capacity, although political pressures are increasing. Africa presents a progressive legal framework but faces challenges in enforcement and capacity, resulting in moderate levels of protection. The Middle East, by contrast, has a weak legal structure and minimal enforcement, with protection largely dependent on humanitarian responses. Asia shows the highest level of fragmentation, with absent or inconsistent legal frameworks, weak enforcement, and highly variable institutional capacity. Across all regions, political influence plays a significant role, though it is particularly pronounced in Asia and the Middle East.

### 9.2 Refugee Status Determination (RSD)

Refugee status determination varies widely across regions,<sup>697</sup> further illustrating fragmentation.<sup>698</sup> In Europe, it is generally formalised and rule-based, supported by legal procedures and judicial oversight. In Africa, systems are mixed, combining formal mechanisms with more flexible approaches. In the Middle East, UNHCR often takes the lead in determining status, reflecting the absence of strong domestic systems. In Asia, the process is highly fragmented and inconsistent, with no uniform approach across countries. There is, therefore, no single global procedure governing how refugee status is determined.

### 9.3 Non-Refoulement Across Regions

The principle of non-refoulement, often considered universal, is applied unevenly across regions.<sup>699</sup> In Europe, it is strongly enforced through legal and judicial mechanisms. In

Africa, it is recognised but implemented inconsistently due to capacity constraints. In the Middle East, enforcement is relatively weak, and in Asia, its application is often selective and influenced by political considerations. This variation highlights the gap between the formal recognition of the principle and its practical application.

### 9.4 Socio-Economic Rights

Access to socio-economic rights also differs significantly. In Europe, refugees often benefit from structured integration policies that provide access to employment, education, and social services. In Africa, access is more limited but still present in certain contexts. In the Middle East, rights are generally restricted, particularly in relation to employment and long-term integration. In Asia, access is minimal or selectively granted, depending on state policy. These differences further reinforce the uneven nature of protection.

### 9.5 Core Observation

Across all regions,<sup>700</sup> a consistent pattern emerges: refugee protection is shaped less by formal legal commitments and more by geography, state capacity, and political priorities. This reality challenges the idea of a truly universal system.

## 10. Structural Drivers of Fragmentation

### 10.1 Sovereignty and State Control

One of the primary drivers of fragmentation is the emphasis on state sovereignty.<sup>701</sup> Governments prioritise border control, national security, and demographic concerns, often placing these considerations above international obligations.<sup>702</sup> This limits the uniform application of refugee law and leads to varied approaches across states.

<sup>696</sup> Betts & Collier, *Refugee* 60–70 (2017).

<sup>697</sup> Hathaway, *supra* note 21, at 100–05.

<sup>698</sup> Refugee Convention, *supra* note 4, art. 33.

<sup>699</sup> Betts, *supra* note 6, at 140–45.

<sup>700</sup> Loescher, *Beyond Charity* 50–55 (1993).

<sup>701</sup> James C. Hathaway, *The Rights of Refugees Under International Law* 6–10 (2d ed. 2021).

<sup>702</sup> B.S. Chimni, *The Geopolitics of Refugee Studies*, 11 *J. Refugee Stud.* 350, 360–62 (1998).

## 10.2 Economic Inequality

Economic disparities also play a significant role.<sup>703</sup> Developing countries host a large proportion of the world's refugees, despite having fewer resources.<sup>704</sup> At the same time, wealthier states often have greater capacity but may limit access through restrictive policies.<sup>705</sup> This imbalance results in unequal standards of protection.

## 10.3 Political Narratives

Political narratives surrounding refugees further shape policy responses.<sup>706</sup> Refugees are frequently portrayed as economic burdens or security threats, which influences public opinion and leads to more restrictive measures.<sup>707</sup> This politicisation contributes to inconsistency in how protection is provided.

## 10.4 Institutional Capacity

Institutional strength is another key factor.<sup>708</sup> Countries with well-developed legal and administrative systems are generally better able to provide consistent protection, while those with weaker institutions rely more on ad hoc or informal arrangements.<sup>709</sup> This creates further variation in outcomes.

## 10.5 Absence of Burden-Sharing Mechanisms

The lack of effective global mechanisms for burden-sharing means that responsibility is not distributed evenly.<sup>710</sup> There is no structured system to support host countries or redistribute refugees in a fair manner, which places disproportionate pressure on certain regions.

## 10.6 Key Insight

Fragmentation is not accidental but is the result of deeper structural factors, including the

interaction between legal frameworks, political priorities, and institutional capacity.<sup>711</sup>

## 11. The Illusion of Universality

### 11.1 Normative vs Operational Universality

The refugee regime appears universal in its legal design, with clearly articulated rights and obligations.<sup>712</sup> However, in practice, its implementation is fragmented, with significant variation across regions.<sup>713</sup>

### 11.2 Myth of Equal Protection

The idea that all refugees receive equal protection is largely a myth.<sup>714</sup> In reality, rights differ from one region to another, access to protection depends heavily on location, and enforcement remains inconsistent.

### 11.3 Geography as Determinant

A refugee's experience is shaped primarily by where they seek asylum rather than by their legal status alone.<sup>715</sup> Geography becomes the determining factor in the level of protection they receive.

### 11.4 Key Argument Strengthened

Taken together, these factors reinforce the central argument that the global refugee regime does not function as a single, unified system, but rather as a collection of regionally distinct and unevenly developed frameworks.<sup>716</sup>

## 12. Interim Conclusion

This section has shown that fragmentation in refugee protection is most visible in the Middle East and Asia, where legal frameworks are weak or absent and protection often depends on political discretion and international assistance.<sup>717</sup> The comparative analysis confirms that the idea of a universal refugee regime is largely theoretical.<sup>718</sup> In practice, refugee protection is shaped by regional

<sup>703</sup> Alexander Betts & Paul Collier, *Refuge* 60–65 (2017)

<sup>704</sup> UNHCR, *Global Trends: Forced Displacement* (latest ed.).

<sup>705</sup> Betts, *supra* note 3, at 70–75.

<sup>706</sup> Chimni, *supra* note 2, at 365–68.

<sup>707</sup> *Id.*

<sup>708</sup> Guy S. Goodwin-Gill & Jane McAdam, *The Refugee in International Law* 30–35 (3d ed. 2007).

<sup>709</sup> *Id.*

<sup>710</sup> Gil Loescher, *Beyond Charity* 50–55 (1993).

<sup>711</sup> Alexander Betts, *Survival Migration* 140–45 (2013).

<sup>712</sup> *Convention Relating to the Status of Refugees*, *supra* note 4.

<sup>713</sup> Hathaway, *supra* note 1, at 10–12.

<sup>714</sup> Chimni, *supra* note 2, at 370–72.

<sup>715</sup> Betts, *supra* note 11, at 150–52.

<sup>716</sup> Betts & Collier, *supra* note 3, at 75–80.

<sup>717</sup> Loescher et al., *UNHCR: The Politics and Practice of Refugee Protection* 120–25 (2008).

<sup>718</sup> Hathaway, *supra* note 1, at 12–15.

dynamics, resulting in unequal and inconsistent outcomes across the world.

### **PART III: THEORETICAL IMPLICATIONS, REFORM PATHWAYS, AND CONCLUSION**

#### **13. Reframing the Global Refugee Regime**

##### **13.1 From “Universal Regime” to “Fragmented System”**

The comparative analysis across regions points to the need for a conceptual shift in how the refugee regime is understood.<sup>719</sup> Rather than viewing it as a single, coherent global system that operates uniformly across jurisdictions, it is more accurate to see it as a fragmented structure made up of regionally differentiated approaches to protection.<sup>720</sup> What appears unified at the level of legal norms is, in reality, uneven and varied in practice.<sup>721</sup>

##### **13.2 Layers of the System**

The so-called “global regime” operates across multiple interconnected layers, each shaping how refugee protection is defined and delivered.<sup>722</sup> At the normative layer, the system is built on treaties, conventions, and broadly accepted legal principles that aim to establish universal standards.<sup>723</sup> At the regional layer, these norms are filtered through regional agreements, as well as political and institutional arrangements that reflect local priorities and constraints.<sup>724</sup> Finally, at the domestic layer, protection is shaped by national laws, policies, and administrative practices,<sup>725</sup> which ultimately determine how refugees are treated in practice. It is at this level that the greatest variation becomes visible.

##### **13.3 Misalignment Across Layers**

Fragmentation arises from a clear misalignment between these layers.<sup>726</sup> While legal norms are articulated at a global level, their implementation is left to individual states, and enforcement mechanisms remain weak or non-existent.<sup>727</sup> This disconnect creates structural inconsistency, where the same set of legal principles produces very different outcomes depending on where they are applied.<sup>728</sup>

##### **13.4 Key Theoretical Insight**

The key insight that emerges is that the refugee regime is not simply failing to achieve universality; rather, it was never structurally designed to function as a truly universal system in practice.<sup>729</sup> The gap between aspiration and reality is therefore built into the system itself.

#### **14. Implications for International Law**

##### **14.1 Limits of Normative Legalism**

International refugee law is grounded in the assumption that states will comply with their obligations and uphold agreed standards.<sup>730</sup> However, the analysis shows that compliance is often selective and shaped by national interests. States interpret their obligations flexibly, adapting them to domestic political and economic considerations.<sup>731</sup> This challenges the effectiveness of a purely normative legal framework.

##### **14.2 Weakness of Enforcement Mechanisms**

The role of the United Nations High Commissioner for Refugees is primarily supervisory and supportive.<sup>732</sup> While it monitors implementation and provides assistance, it does not have the authority to enforce

<sup>719</sup> Alexander Betts & Paul Collier, *Refugee* 60–70 (2017).

<sup>720</sup> Alexander Betts & Paul Collier, *Refugee* 60–70 (2017).

<sup>721</sup> Alexander Betts & Paul Collier, *Refugee* 60–70 (2017).

<sup>722</sup> Guy S. Goodwin-Gill & Jane McAdam, *The Refugee in International Law* 21–30 (3d ed. 2007).

<sup>723</sup> Guy S. Goodwin-Gill & Jane McAdam, *The Refugee in International Law* 21–30 (3d ed. 2007).

<sup>724</sup> Guy S. Goodwin-Gill & Jane McAdam, *The Refugee in International Law* 21–30 (3d ed. 2007).

<sup>725</sup> Guy S. Goodwin-Gill & Jane McAdam, *The Refugee in International Law* 21–30 (3d ed. 2007).

<sup>726</sup> James C. Hathaway, *The Rights of Refugees Under International Law* 10–15 (2d ed. 2021).

<sup>727</sup> James C. Hathaway, *The Rights of Refugees Under International Law* 10–15 (2d ed. 2021).

<sup>728</sup> James C. Hathaway, *The Rights of Refugees Under International Law* 10–15 (2d ed. 2021).

<sup>729</sup> B.S. Chimni, *The Geopolitics of Refugee Studies*, 11 *J. Refugee Stud.* 350, 372–75 (1998).

<sup>730</sup> Hathaway, *supra* note 8, at 6–10.

<sup>731</sup> Chimni, *supra* note 11, at 360–65.

<sup>732</sup> *Id.*

compliance.<sup>733</sup> This institutional limitation is central to the persistence of fragmentation, as there is no mechanism to ensure uniform application of the law.

### 14.3 Crisis of Universality

The growing gap between legal norms and practical outcomes raises a deeper question about the legitimacy of the system.<sup>734</sup> If the rights guaranteed under international law depend largely on geography, then the idea of universality becomes symbolic rather than substantive.<sup>735</sup> This creates a broader crisis of confidence in the framework.

### 14.4 Expanding Gaps in Contemporary Context

Contemporary challenges are further widening this gap. Issues such as climate-induced displacement, large-scale migration flows, and the increasing securitisation of borders are placing additional pressure on the existing framework.<sup>736</sup> These developments expose the limitations of a system that was not designed to address such complex and evolving realities.

### 14.5 Key Insight

Taken together, these factors suggest that the international refugee regime is facing a crisis of operational legitimacy, where its formal commitments no longer align with its practical functioning.<sup>737</sup>

## 15. Rethinking Refugee Governance: Beyond Uniformity

### 15.1 The Limits of a One-Size-Fits-All Model

Efforts to impose uniform standards across all states often fail because they do not account for differences in capacity, political priorities, and regional contexts.<sup>738</sup> What works in one region may not be feasible or effective in another, making a one-size-fits-all approach unrealistic.

### 15.2 Toward Differentiated Responsibility

A more practical approach would involve recognising these differences and adopting a model of differentiated responsibility.<sup>739</sup> This means tailoring legal and policy frameworks to specific contexts while ensuring that basic standards of protection are maintained. It also requires balancing state obligations with their actual capacity to implement them.

### 15.3 Regionalisation of Refugee Protection

Strengthening regional frameworks offers a way to bridge the gap between global norms and local realities.<sup>740</sup> Regional systems are often better positioned to address specific challenges, improve coordination among neighbouring states, and develop context-sensitive solutions.<sup>741</sup> For example, Europe has developed a high degree of institutional integration, while Africa has adopted broader legal definitions that reflect its displacement patterns.<sup>742</sup>

### 15.4 Role of Emerging Powers

Emerging powers, including countries like India, have the potential to play a more active role in shaping regional approaches to refugee protection.<sup>743</sup> They can lead initiatives, develop alternative frameworks suited to their contexts, and act as a bridge between global norms and regional practices.

### 15.5 Key Insight

Effective refugee protection is more likely to emerge from a pluralistic approach that accommodates diversity, rather than from attempts to impose rigid uniformity across vastly different contexts.<sup>744</sup>

<sup>733</sup> U.N. High Comm'r for Refugees, Statute of the Office of the UNHCR, G.A. Res. 428 (V) (1950).

<sup>734</sup> Gil Loescher et al., UNHCR: The Politics and Practice of Refugee Protection 100–05 (2008).

<sup>735</sup> Hathaway, supra note 8, at 12–15.

<sup>736</sup> Chimni, supra note 11, at 370–72.

<sup>737</sup> Alexander Betts, Survival Migration 140–50 (2013).

<sup>738</sup> Betts & Collier, supra note 1, at 75–80.

<sup>739</sup> Hathaway, supra note 8, at 20–25.

<sup>740</sup> Betts, supra note 19, at 150–55.

<sup>741</sup> Goodwin-Gill & McAdam, supra note 4, at 30–35.

<sup>742</sup> Betts & Collier, supra note 1, at 80–85.

<sup>743</sup> Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa, Sept. 10, 1969, 1001 U.N.T.S. 45.

<sup>744</sup> Chimni, supra note 11, at 372–75.

## 16. Reform Pathways

### 16.1 Strengthening Regional Frameworks

One important avenue for reform lies in strengthening regional systems.<sup>745</sup> This includes encouraging the development of regional conventions, fostering cooperative mechanisms among states, and establishing shared standards that are tailored to regional realities while remaining consistent with broader international principles.

### 16.2 Enhancing Burden-Sharing Mechanisms

Reform at the global level must also address the issue of unequal responsibility.<sup>746</sup> This involves creating more effective systems for burden-sharing, including equitable distribution of responsibility, increased financial support for host countries, and expanded relocation and resettlement programmes.<sup>747</sup> Without such measures, disparities will continue to deepen.

### 16.3 Improving Institutional Capacity

Strengthening institutional capacity is essential for improving protection outcomes.<sup>748</sup> This includes developing more efficient asylum systems, investing in administrative infrastructure, and enhancing training and resources for those involved in refugee protection. Better institutions lead to more consistent and reliable implementation.

### 16.4 Expanding Legal Definitions

There is also a need to update existing legal frameworks to reflect contemporary realities.<sup>749</sup> This includes recognising new forms of displacement, such as those caused by climate change, as well as addressing situations of generalised violence and complex migration flows that do not fit neatly within traditional definitions.

## 16.5 Strengthening Accountability Mechanisms

Introducing stronger accountability measures can help reduce gaps in implementation.<sup>750</sup> This may include improved monitoring frameworks, clearer reporting obligations, and the use of soft enforcement tools such as international scrutiny and reputational pressure. While not coercive, these mechanisms can still influence state behaviour.

### 16.6 Realistic Reform Approach

Any meaningful reform must be grounded in political reality.<sup>751</sup> It should avoid over-reliance on idealistic assumptions and instead focus on achievable, incremental improvements that can be sustained over time.

## 17. Revisiting the Role of the State

### 17.1 Centrality of State Sovereignty

States remain at the centre of the refugee regime.<sup>752</sup> They act as primary decision-makers, control access to their borders, and are responsible for implementing protection measures. This central role means that any system of refugee protection must engage directly with state interests and priorities.

### 17.2 Balancing Sovereignty and Responsibility

An effective system must strike a balance between respecting state sovereignty and ensuring that minimum standards of protection are upheld.<sup>753</sup> This balance is difficult to achieve but is essential for maintaining both legitimacy and functionality.

### 17.3 Political Nature of Refugee Policy

Refugee protection is not purely a legal issue; it is deeply shaped by political factors.<sup>754</sup> Domestic politics, security concerns, and public perception all influence how states respond to refugees. Any attempt at legal reform that

<sup>745</sup> Alexander Betts & Paul Collier, *Refuge* 80–85 (2017).

<sup>746</sup> Gil Loescher, *Beyond Charity* 55–60 (1993).

<sup>747</sup> UNHCR, *Global Compact on Refugees* (2018).

<sup>748</sup> Guy S. Goodwin-Gill & Jane McAdam, *The Refugee in International Law* 35–40 (3d ed. 2007).

<sup>749</sup> Jane McAdam, *Climate Change, Forced Migration, and International Law* 1–10 (2012).

<sup>750</sup> James C. Hathaway, *The Rights of Refugees Under International Law* 15–20 (2d ed. 2021).

<sup>751</sup> B.S. Chimni, *The Geopolitics of Refugee Studies*, 11 *J. Refugee Stud.* 350, 372–75 (1998).

<sup>752</sup> Hathaway, *supra* note 6, at 6–10.

<sup>753</sup> Goodwin-Gill & McAdam, *supra* note 4, at 40–45.

<sup>754</sup> Chimni, *supra* note 7, at 360–65.

ignores these political realities is unlikely to succeed.

### 17.4 Key Insight

Refugee protection should therefore be understood not only as a legal regime but also as a form of political governance, where law, policy, and power intersect.<sup>755</sup>

### 18. Final Synthesis

The analysis presented in this paper leads to several key conclusions. The international refugee regime may appear universal at the level of legal norms, but in practice it operates in a fragmented manner<sup>756</sup>. Differences in legal frameworks, institutional capacity, and political priorities across regions result in unequal protection outcomes for refugees. Europe, Africa, the Middle East, and Asia do not represent variations of a single system but rather distinct models shaped by their own contexts.<sup>757</sup> At the same time, gaps in enforcement and the absence of effective burden-sharing mechanisms further deepen this fragmentation. Ultimately, the idea of a universal refugee regime remains more aspirational than real, highlighting the need for a more grounded and context-sensitive approach to refugee governance.<sup>758</sup>

### 19. Conclusion

The idea of a universal refugee regime remains one of the most persistent assumptions in international law.<sup>759</sup> It reflects an aspiration toward shared responsibility and equal protection, grounded in the belief that legal norms can operate beyond borders and produce consistent standards across states.

However, this paper has shown that this sense of universality is largely illusory.<sup>760</sup> While the legal framework of refugee protection is formally global, its implementation is deeply uneven. In practice, the rights and protections

available to refugees differ significantly depending on where they seek asylum, shaped by regional conditions, state capacity, and political priorities.<sup>761</sup>

The regional analysis makes this disparity clear. Europe offers relatively structured and institutionalised systems, yet faces growing political resistance that limits consistency. Africa has developed progressive and inclusive legal norms but struggles to translate them into effective outcomes due to resource and capacity constraints. The Middle East carries a disproportionate share of the global refugee burden without the support of a coherent legal framework, relying instead on temporary and humanitarian arrangements. Asia remains the most fragmented region, where protection is largely discretionary and often informal, resulting in highly inconsistent treatment of refugees.<sup>762</sup>

Taken together, these differences show that the global refugee regime does not operate as a single, cohesive system.<sup>763</sup> Instead, it functions as a collection of regionally distinct approaches, each shaped by its own legal, political, and economic realities. The continued assumption of universality tends to obscure these differences and, in doing so, limits the effectiveness of reform efforts.

Going forward, refugee protection needs to be rethought in more realistic terms.<sup>764</sup> Rather than pursuing an ideal of complete uniformity, greater emphasis should be placed on strengthening regional frameworks, improving mechanisms for burden-sharing, and developing systems that are both flexible and accountable.<sup>765</sup> The goal should not be to create a perfectly uniform global regime, but to ensure that all refugees—regardless of where they are—are guaranteed a basic standard of

<sup>755</sup> Betts, *Survival Migration* 150–55 (2013).

<sup>756</sup> Hathaway, *supra* note 6, at 10–12.

<sup>757</sup> Betts & Collier, *supra* note 1, at 70–75.

<sup>758</sup> Loescher, *supra* note 2, at 60–65.

<sup>759</sup> Chimni, *supra* note 7, at 372–75.

<sup>760</sup> Goodwin-Gill & McAdam, *supra* note 4, at 21–23.

<sup>761</sup> Hathaway, *supra* note 6, at 12–15.

<sup>762</sup> Betts, *supra* note 11, at 140–45.

<sup>763</sup> Betts & Collier, *supra* note 1, at 75–80.

<sup>764</sup> Chimni, *supra* note 7, at 370–72.

<sup>765</sup> Loescher et al., UNHCR: *The Politics and Practice of Refugee Protection* 125–30 (2008).



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protection that upholds human dignity and aligns with fundamental international norms.<sup>766</sup>



<sup>766</sup> UNHCR, Global Compact on Refugees, supra note 3.



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