

## Book Review

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### **International Migration Law**

**by Vincent Chetail**

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*International Migration Law* by Vincent Chetail provides a comprehensive overview of the international legal framework regulating population movement. His insightful analysis of the different sources of international migration law enables readers to gain a solid understanding of the historical development of the modern-day migration governance system.

To begin the book, the author discusses three common, but false, claims about migration – a phenomenon surrounded by controversy and heated political and scholarly debates. First, as Chetail indicates, contrary to commonly held views, statistics on population movement suggest that the current level of migration has not caused a major crisis. According to the *International Migration Report*, released by the United Nations Department of Economics and Social Affairs (UNDESA) in 2017, migrants accounted for some 258 million or 3.4% of the world's population. Second, the majority of migrants travel for economic reasons, drawn by social and economic pull factors. According to UNDESA estimates, refugees and asylum-seekers account for approximately 10% of global migrants. Third, the author rebuts anti-immigrant propaganda in political and media discourses, which argues that immigrants are a drain on public resources. He highlights the economic and social benefits of immigration, pointing to evidence that migrants fill labour gaps in host countries and, in the long-run, can increase per capita gross domestic product (GDP) by up to 2%.

Chetail critically evaluates the sources of international migration law, arguing that the complexity of migration regulation lies in the fact that it is both national and international in essence. In the legal sense, migration involves a multilateral relationship between a migrant, a home country, and a host country. On the one hand, sovereign states enforce national laws and bureaucratic restrictions to regulate the movement of individuals across their borders. States' efforts to control unauthorised border crossings may include immigration laws, visa regimes, deportation and detention measures, presence of military forces, and physical barriers. On the other hand, a broad range of international and regional treaties, conventions, and bilateral and multilateral agreements provide a

framework for regulating international migration. Most states are bound by the principles set out in international human rights law, which identifies a range of rights applicable to all human beings. While human rights law is, in theory, applicable to all migrants, in practice the enforcement of human rights and protections depends on which international instruments a particular country has ratified.

The book is divided into three parts. In Part I, which deals with the historical context and origins of international law, the author explores the Eurocentric history of international law by distinguishing three main stages. Focusing on the legacy of European intellectuals of the early modern period – including Francisco de Vitoria and Hugo Grotius, considered the founders of international law; and prominent international law scholars such as Samuel von Pufendorf, Christian Wolff, and Emer de Vattel – he investigates the tensions between state sovereignty and the free movement of people that arose in the 16th through 18th centuries. This period witnessed a gradual departure from the general acceptance of free movement. The early scholars of international law acknowledged departure and admission as opposite rights to be governed by different norms. The 19th and 20th centuries were characterised by diversity of migratory flows. The emphasis on *laissez-faire* economics encouraged mass population movements from Europe to the Americas, long-distance migration from Africa and Asia, and intra-European migration. When the question of states' sovereignty re-emerged at the end of the 19th century, immigration controls tightened in the US and the UK. Australia, Canada, and other traditional destination states followed suit by declaring immigration a matter of domestic jurisdiction and developing rules to regulate movement. Several initiatives to lay the grounds for an international legal framework for migration encountered resistance after World War I, and in the inter-war period. For Chetail, the growing recognition of migrants' rights was a defining feature of the second half of the 20th century. With the emergence of international human rights law, the notion of minimum standards for the treatment of aliens, which used to be the responsibility of states, was enshrined in numerous international treaties and conventions.

Part II is dedicated to contemporary international migration law. According to Chetail, each of the components of the migration process – departure, admission, and stay – is governed by an excessive number of universal and regional treaties, bilateral admission and readmission agreements, and customary international law, which makes it difficult to establish a coherent legal and normative framework. While the legal principle of states' territorial sovereignty is still valid and powerful, the expansion of coexisting human rights law and enforcement mechanisms has led to a 'schizophrenic evolution' (p.76). Thereafter, Chetail elaborates on the normative framework pertaining to different components of the migration process and provides insights into the situations faced by three categories of migrants – refugees, migrant workers, and trafficked migrants – through analysis of the relevant United Nations (UN) treaty regimes.

Part III focuses on the impact of "soft law" on contemporary global migration governance. The author acknowledges that the term soft law, which applies to "a variety of non-binding instruments adopted by states and international organizations" (p.284) may seem ambiguous and confusing. Chetail notes that soft law plays an important role in the regulation of the migratory process and fosters international cooperation on sensitive issues. Despite its non-binding nature, soft law creates an expectation of compliance from states. The author indicates that, while relevant norms regarding the

protection of migrants exist, a lack of guidelines on their application, and the absence of a clear division of roles and responsibilities among international organisations, creates barriers to the implementation of such norms. Non-binding normative instruments adopted by international organisations often come in the forms of resolutions, recommendations, and memoranda of understanding, which typically lack the power to impose legal obligations. The author also gives an overview of non-legally binding instruments such as the 2016 *New York Declaration for Refugees and Migrants*, the 2018 *Global Compact for Safe, Orderly and Regular Migration*, and other agreements that could be instrumental in creating intergovernmental dialogue and trust.

Chetail places great emphasis on the power of non-binding soft law, the effectiveness of which is yet to be examined. With some states reluctant to support any inter-state dialogue, it is unclear how sustainable such framework could be. While the author accurately describes recent trends in relation to soft law, he does not indicate how the lack of enforcement mechanisms may affect different categories of migrants in light of migration issues that require immediate action. The author is aware of the lack of accountability, transparency, and democratic control measures under the soft law regime. Nevertheless, he does not demonstrate how such drawbacks could be mitigated. The evidences used throughout the book are mostly concentrated on contemporary liberal democracies. The book focuses on Western traditions of migration regulation and tends to neglect the national jurisprudence of non-Western states. Finally, much of the discussion is focused on certain categories of migrants, such as refugees, migrant workers, and trafficked or smuggled migrants, who are covered by multilateral treaties. Further research is needed in relation to other categories of migrants, such as irregular or undocumented migrants, and stateless persons.

This book makes a valuable contribution to knowledge regarding global migration governance as it captures the complexities surrounding contemporary international migration law. The book challenges ill-informed assumptions surrounding migration and offers well-grounded insights on a number of questions. The tensions between states' sovereignty, migration controls, and migrants' rights are well-illustrated in this accomplished work. It familiarises readers with a diversity of international, regional, and national legal instruments regulating the movement of people across borders. Beginning with a broad historical overview of the evolution of international migration regulation, the subsequent chapters offer strong and persuasive empirical evidence and analysis on the functions of soft law in global migration governance. Compared to other books on the topic, the language of this book is accessible to readers with little or no knowledge of legal jargon. Overall, *International Migration Law* could be attractive and useful to a wide audience ranging from legal experts, scholars, and graduate students in the field, to the general public interested in international migration law.