



Protect

The Right to International Protection

The Right to International Protection.
A Pendulum between Globalization
and Nativization?



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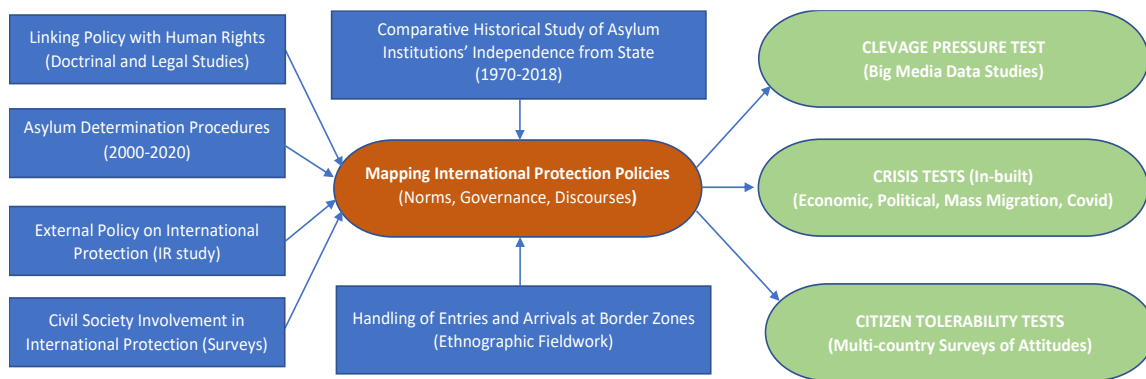
PREFACE

This long essay is one of the end products of *PROTECT The Right to International Protection*, an international research project with 12 partner universities coordinated by this author, on behalf of the University of Bergen. The main funding body is the European Union's Horizon 2020 Framework Programme. The project's Canadian partner was funded fully by the Social Sciences and Humanities Research Council (SSHRC) of Canada. The coordinating university, the University of Bergen, received additional funding from the Research Council of Norway to facilitate dissemination and communication in Norwegian. The project officially started on 1 February 2020, launched internationally on 8 March 2020, and ended on 30 April 2023. My aim in this preface is to give some background of the components in the research design of PROTECT, which will make it easier for the readers to grasp the results presented in this essay.

The purpose of PROTECT is to assess whether or how the UN's Global Compacts on Refugees (GCR) and Migration (GCM) can be an opportunity to bring international refugee protection closer to high human rights standards. This includes also the GCR's interactions with the GCM and regional international protection frames like CEAS and the New Pact. For this purpose, we identified the parameters of an effective human rights-based international protection system that is resilient in times of crises. We identified the legal norms, governance modes, and discourses that best serve this objective. This was done by scrutinizing, quantitatively and qualitatively, as well as comparatively and through case studies, how the existing rich variety of policy approaches have been performing over a long time span. It is important to remember that not all measures introduced by the Compacts are completely new. Many of them have been utilized by the states before. Therefore, assessing the past performance of these measures gives us an opportunity to forecast the utility of the Compacts. Where past examples are not available, we devised the needed elements as experiments. The best performing norms, governance modes, and discourses were then put on the following tests:

- Cleavage-pressure test (portraying the pressure on policymakers by the groups contesting within the global cleavage system with big media data)
- Citizen tolerability test (depicting the pressure on policymakers by the citizens through surveys of citizens and civil society organizations' attitudes)
- Crisis tests (assessing policy performance during the times of crises, including economic, political, mass migration, and Covid-19 crises)

The Research Components of PROTECT



Source: Sicakkan (2022)

We performed our research work in eight research components. The first component was devoted to research design and theory development while the last one was dedicated to synthesizing the project results. The figure above illustrates the remaining six components. The comparative framework was designed to achieve a global applicability – that is, by way of strategic country selection in each research component, we endeavored to obtain results that are applicable beyond the set of countries included in the different research components. As the table at the end shows, 27 countries in total are studied in different work packages; however, they are not analyzed altogether in every research component. In these strategically selected countries, we are searching for the best performing norms, governance modes, and discourses on international refugee protection by studying:

- constructions of *the relationships between the GCR&GCM and human rights* (doctrinal studies) and comparative legal studies of the EU, Canada, and South Africa (2020-2022)
- *history of building and effectiveness of asylum offices* (historical comparative case studies of 11 countries, 1950/70-2020)
- effectiveness of *national asylum determination systems* (quantitative mapping, 2000-2020)
- handling of entries and arrivals at *border zones* (ethnographic fieldworks, 2020-22)
- *civil society organizations' (CSO) attitudes and involvement* in international protection (2020-2022)
- *citizens' attitudes* to international protection (26 country representative surveys, 2021)
- *media's framings* of international protection related news (media study, big data, 2014-2022)

Geographical coverage of the data produced in PROTECT

	Public opinion data	Institutional Data	CSO data	Fieldwork data	Traditional Media data	Historical Data
Austria	✓	✓	✓		✓	✓
Belgium	✓	✓				✓
Canada	✓	✓	✓	✓	✓	✓
Croatia	✓					
Czech Rep.	✓	✓	✓		✓	
Denmark	✓	✓	✓		✓	✓
Estonia	✓					
France	✓	✓		✓	✓	✓
Germany	✓	✓	✓		✓	✓
Greece	✓	✓	✓	✓	✓	✓
Hungary	✓	✓	✓		✓	
Italy	✓	✓	✓	✓	✓	✓
Lithuania	✓					
Mexico	✓					
Netherlands	✓		✓		✓	✓
Norway	✓	✓	✓		✓	
Poland	✓	✓	✓		✓	
Romania	✓					
Slovakia	✓					
Slovenia	✓				✓	
South Africa	✓	✓	✓	✓	✓	✓
Spain	✓	✓	✓	✓	✓	
Sweden	✓	✓	✓		✓	
Switzerland						✓
Turkey	✓					
UK	✓	✓	✓		✓	
USA	✓		✓		✓	
EU		✓		✓		✓

NOTA: data on the external dimension of the EU's migration and asylum policy (2.3.) regards agreements with third countries, notably in the Middle East and North Africa. They are not displayed in the table.

This brief background information about the project design, research components, and the temporal and geographical coverage of the data used in our studies should be sufficient to make sense of the results presented in the following essay. More information about the theoretical approach and research design can be found in our deliverables from the first research component (Sicakkan 2021, 2022, Sicakkan and Atak 2022). It is important to underline that the six above-mentioned research components relied on different methodologies and qualitative and quantitative methods tools. Detailed information about the component-specific designs and methods can be obtained by inspecting the sources referred to in the essay.

Hakan G. Sicakkan
Bergen, 12 May 2023

The Right to International Protection

A Pendulum between Globalization and Nativization?

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The 1951 *Geneva Convention on the Status of Refugees*, including its 1967 Protocol, is the very fundament of the international refugee protection system. It establishes the legal category of “refugee”, defines the rights of the refugees, and designates the states as the main guardians and implementers of the international refugee law. It stipulates the states to protect people who need protection by *admitting them to their safe territory*, by *not returning them to unsafety*, by *giving them territorial asylum*, and by *integrating them into their society*. Other forms of protection – e.g., temporary protection, extra-territorial arrangements (e.g., internal protection, protection in safe zones, and refugee camps close to conflict areas), or financial or other aid to overloaded countries, military interventions in conflict zones – are regarded as provisional measures within the liberal intergovernmental approach of the postwar international protection regime. In addition to these, although not a binding arrangement, the United Nations’ Global Compact on Refugees (GCR), approved by the UN General Assembly in 2018, reinstated and expanded the international refugee regime’s element of *international collaboration* – an objective which had been briefly mentioned in the preamble of the 1951 Geneva Convention, but was not an integral part of the international refugee protection system in practice.

Thus, the primary norms of the current international refugee protection regime implied in the 1951 Convention are *access to safe territory*, *non-refoulement*, *territorial asylum*, and *international responsibility-sharing*. However, research in the field of refugee studies has been reporting an increasing deviation from the norms of non-refoulement, access to safe territory, and territorial asylum in states’ protection policies and practices (e.g., Sicakkan 2008a, Kritzman-Amir and Berman 2009, Foster 2012, Nagy 2017, Hathaway 2018, Bhattacharya and Biswas 2020). As to the international responsibility-sharing norm, it has recently been revived through the UN Global Compacts on Refugees and Migration and regional responsibility sharing initiatives, e.g., the EU’s New Pact on Migration and Asylum. This was done, among other reasons, to prevent backsliding from the objectives of the 1951 Geneva Convention by easing the burden of the overloaded states. The two UN Global Compacts and EU’s New Migration and Asylum Pact introduce clear objectives aimed at improving the international refugee protection system, but they are rather silent about the means to achieve them.

The PROTECT Consortium, whose research has been funded by the European Union (Horizon 2020) and the Social Sciences and Humanities Research Council of Canada, with additional contributions from the Research Council of Norway and 12 partner universities, endeavors to fill this gap. Observing that the main challenge of the international refugee protection system lies in an ideological struggle between *the particularistic citizen-alien paradigm* and *the universalist human-rights paradigm* (Sicakkan 2004, 2008a, and 2011), we set out to identify configurations of the legal norms, governance systems, and discourses which may spark a *transition* from the citizen-alien paradigm to the human-rights paradigm. We explore the prospects for building an opportunity structure out of the two UN Global Compacts and the EU New Pact on Migration and Asylum to realize such a transition, and we assess the resilience of the identified measures in times of crises, political turbulence, and media pressure.

Our findings suggest that a transition to the human-rights paradigm may be achieved by (1) disembedding the refugee and asylum laws, policies, governance, and institutions from those that handle other policy areas that are under national discretion, such as immigration, border, security, and development policy,¹ (2) introducing a clear distinction between conceptual tools concerning “refugees/asylum seekers” and “migrants” in citizen, civil society, and media discourses, (3) introducing new measures to protect other protection seeking migrants than those who fall under the categories specified in the Geneva Convention, and (4) implementing the Global Compacts in full. Transitioning to a human rights-based international protection does not necessitate a radical transformation of the current international order. However, it does require that international refugee protection be treated as an exception from the international order’s imperative to impose state sovereignty on nearly all matters.

Before proceeding, some conceptual clarifications are necessary. *International protection* is a broad term. It compasses all individuals whose human rights cannot be effectuated without the help of another state than their own or the international community. This includes both protection seekers who are potentially refugees in the Geneva Convention sense and those who do not fall under the definition of the Convention, including internally displaced persons (IDPs), climate and environmental refugees, people who are persecuted because of their alternative lifestyles, etc. *International refuge protection*, on the other hand, is a narrower concept; it is primarily about protecting people who fall under the categories specified by the 1951 Geneva Convention on Refugees, that is people who are unable or unwilling to return to their country

¹ This concerns only the laws, institutions, and policies regarding asylum application assessments. The implications of such separation for the rights of recognized refugees are not covered in our study.

of nationality “owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion” (*Geneva Convention*, art. 1A). Asylum seekers are those people who have applied to another country than their own, or an agency of the international community like the UNHCR, for being granted refugee status according to the 1951 Geneva Convention.

In this picture, we have three categories: *refugees*, *asylum seekers*, and *protection seeking migrants*. “Refugee” and “asylum seeker” are legal statuses that are accompanied by certain rights. A *refugee* is someone whose legal status as a refugee has been recognized by a state or a UN agency after an assessment with respect to the Geneva Convention’s criteria for defining a refugee. Refugees are to be given civil, social, and economic rights that are comparable to the citizens of the protecting country. An *asylum seeker* is someone who has officially applied for international protection but is waiting for the result of the evaluation process. Asylum seekers have the right to have their application to be fairly assessed, the procedural rights necessary for fair assessments, and at least the minimum civil, social, and economic rights that are needed during the period when their application is being processed. A *protection seeking migrant* is someone who has not been able to formally apply to a state for receiving international protection yet. This category includes both people who are seeking protection based on the Geneva Convention and *other protection seekers who do not fall under the categories that are specified in the Geneva Convention*. A refugee has received international protection; an asylum seeker has sought and applied for international protection; a protection seeking migrant has not applied for international protection yet. This study includes all these three categories because all of them are directly related to the concept of international refugee protection.

I will start my argument by discussing the two main paradigms of international refugee protection. I argue that the core challenge of international refugee protection is the different practices and path dependencies of states, who entrench their implementation of international refugee law in their own national citizen-alien paradigms. When determining who needs international protection, states selectively assign magnitude to the refugee definition criteria that affirm and nurture their own historical citizenship ideals and citizen identities, interpreting the refugee definition differently from the 1951 Geneva Convention’s intention. Such a selective approach limits the possibility of a fair implementation of the international refugee law. Next, I argue that this can be overcome by sparking a *transition from the citizen-alien paradigm to a human-rights paradigm*. Finally, based on PROTECT results, I identify the means to achieve the objective of transition and test their resilience.

1 The global struggle over shaping the international protection system²

A struggle between the proponents of the *citizen-alien paradigm* and the *human-rights paradigm* has been going on since the very first attempts to introduce an international refugee regime in 1933. While the human-rights paradigm is rooted in international human rights law, the citizen-alien paradigm is entrenched in states' various notions of citizenship and nationhood. Thus, the citizen-alien paradigm has varieties. Indeed, earlier empirical research observes not only two but four ideological constellations operating globally across national boundaries. *nativists*, *nation-statists*, *regionalists*, and *globalists* (Hooghe et al. 2018, Kriesi et al. 2006, 2008, 2012, Sicakkan 2008a, 2012, 2016, 2021, Sicakkan et al. 2022).

As Table 1 shows, these are contesting visions about the future of international refugee protection, which originate from the prevailing ideologies of world order: For example, nativists wish to base the world order on political communities consisting of native inhabitants only, imposing a very high threshold for accepting immigrants. They do not distinguish between refugees and migrants, and they want to abolish or withdraw from the Geneva Convention.

Nation-statists reject joining supranational political formations and want to preserve the intergovernmental world order, their sovereignty, and the particularity of their nation-state. Their approach to international refugee protection depends on what kind of a nation they have in mind. This may range from ethno-nationalist, communitarian, and Jacobin-republican visions to classical- or multicultural-liberal visions of the nation-state. Ethno-nationalists are similar to nativists in their approach to international refugee protection (*closed borders*); communitarians and republicans are selective as to whom to let in their country with a particular attention to, respectively, cultural or civilizational proximity (*reasonably closed borders*); and liberalists are open to the idea of international collaboration on refugee protection (*reasonably open borders*).

Regionalists envision a world order of regional supranational political entities, like the European Union. The notion of regional citizenship, e.g., European citizenship, presupposes open internal borders within the respective region and rather strict immigration policies to sustain regional integration and freedom of internal mobility. However, regionalists' approach to international refugee protection oscillates between the nation-statist, regionalist, and globalist notions. They opt for regional supranationalization of international protection regardless of policy content. On the other hand, the power of the supranational decision-makers is not sufficient to initiate a full transition from the nation-statist approach.

² In this section, the information about the different international protection notions of the citizen-alien paradigm and the human rights paradigm are adopted and updated from my extensive conceptual and comparative-empirical study of 17 European countries' citizenship models and their asylum practices in Sicakkan (2004, 2008 and 2011).

Table 1: International protection in the global cleavage system

	GROUPS IN THE GLOBAL POLITICAL CLEAVAGE SYSTEM			
	Nativists	Nation-statists	Regionalists	Globalists
What is most worth protecting?	<u>Ethnic Belonging</u> Dispersed nations' rights in terms of ethnic/diasporic identification, language, and territorial belonging	<u>National Belonging</u> Citizens' rights and duties in terms of civic culture; states' interests; and the international order	<u>Regional Belonging</u> Members' rights and interests in terms of dignity, lives, liberties, and estates in a civil society	<u>Humanity</u> Individuals' rights and interests in terms of dignity, lives, liberties, and estates in a civil society
Is it a duty or charity to protect refugees?	<u>No duty to protect others than co-ethnics</u> Constitutional asylum	<u>Protection is given as charity, not a duty</u> Convention, temporary, and constitutional asylum as legal grounds	<u>Protection is given as an entitlement, not a duty</u> Convention asylum and subsidiary protection as legal grounds	<u>Protection is duty and entitlement</u> Convention asylum as legal grounds
Minimum Criteria for protection	<u>Endangering</u> Endangering by persecution, oppression, assimilation, or non-protection by a state or non-state actors supported by a state	<u>Persecution</u> Persecution by a state; or persecution by the majority or non-state actors combined with effective state collaboration	<u>Persecution</u> Persecution by a state; or persecution by the majority or non-state actors combined with effective state collaboration	<u>Non-protection</u> Non-protection, discrimination, or persecution by a state; persecution by non-state actors combined with states' negligence
Who is responsible for protection?	<u>Co-ethnic states</u> Individual states with historical relations with their diasporas and the states where these diasporic groups reside are responsible.	<u>Intergovernmental</u> Individual states primarily, and the international community secondarily have the responsibility to protect.	<u>Supranational</u> The regional authorities primarily, and member states, are responsible for protection.	<u>International</u> The international community / the international society has the responsibility to protect.
Policies cited in discourses	<u>Ethnicization of the refugee problem</u> Territory and autonomy claims for diasporic groups; population exchanges; unilateral actions such as condemnation and intervention, and bilateral agreements.	<u>Nationalization of the refugee problem</u> Focus on root causes; preventive diplomacy, economic relief, forced / voluntary repatriation, military aid, and intervention.	<u>Regionalization of the refugee problem</u> Focus on root causes; extensions of sovereignty to stateless communities; regional devolutions; temporary collective protection; regional safe zones; repatriation	<u>Universalization of the refugee problem</u> Focus on human rights; individual protection; cooperation across borders; preventive diplomacy; economic aid and relief; voluntary repatriation.
Where to protect?	In the country of escape, or of asylum	In the country of escape or of resettlement	In or near the country of escape or of origin	In the country of asylum
How to organize?	<u>Uni-lateral or bilateral state actions</u>	<u>Voluntary unilateral, bilateral or multilateral state cooperation</u>	<u>Mandatory state cooperation</u>	<u>Global multilateral binding cooperation</u>
Governance modes and actors	<u>State-centric centralist governance</u> <ul style="list-style-type: none"> • States • Other states in bi-lateral agreement • Nativist non-state organizations • Ethnic minority organizations in refugee sending countries 	<u>State-centric corporatist governance</u> <ul style="list-style-type: none"> • States • Other states in bi- and multi-lateral agreement • National non-state organizations funded by the state • Local authorities 	<u>Region-centric pluralist governance</u> <ul style="list-style-type: none"> • Regional organizations • States • International organizations • Transnational non-state organizations • National non-state organizations • Local authorities 	<u>Global corporate-pluralist governance</u> <ul style="list-style-type: none"> • International organizations • Regional organizations • States • Transnational non-state organizations • National non-state organizations • Local authorities

Source: Adopted and updated from Sicakkan (2008a, 2021a).

Finally, globalists propose a multi-level global world order where a range of issues that are globally salient, e.g., environment, climate, poverty, and human rights, are handled at a global-supranational level. Consequently, they suggest eradicating the distinction between “citizen” and “alien” in the areas related with human rights and opting for an international refugee protection system without borders and boundaries (*open borders*). Thus, globalists fully support the idea of a globally steered international refugee protection regime.

Research conducted in PROTECT has shown that one of the most important issues of conflict between these four visions is migration and international protection (Sicakkan et al. 2023b, Mance et al. 2023, Usherwood 2022, Dutceac Segesten et al. 2022). This contestation has consequences for how international refugee law is implemented. We observe that acceptance of international collaboration on refugee protection increases as one traverses from nativism and nation-statism to regionalism and globalism. Remarkably, a human rights-based notion of international refugee protection is supported *in full* only by the globalists. Thus, while nativism, nation-statism, and regionalism can be regarded as *varieties of the citizenship-alien paradigm*, globalism appears as the antithesis of the citizen-alien paradigm. In the following, thus, instead of indulging in all possible details of the three different citizen-alien paradigms, which I have done elsewhere (see Sicakkan 2004, 2008a, 2011, 2021a, Sicakkan et al. 2023b), I will focus on the struggle between the citizen-alien paradigm and the human-rights paradigm based on their proposed legal norms, governance tools, and discourses. For, although refugee protection is a *legal issue* of international law and global governance, the challenges related to its implementation must be understood in the *political context* of the global struggle for defining the future of the world order.

1.1 The citizen-alien paradigm of international refugee protection

Despite the existence of a legal refugee definition in international law since 1951, observed notions of a refugee in the citizen-alien paradigm derive from states’ historical citizenship ideals. This is about what a state regards as worthy of protecting: persons and their autonomy, freedom, and dignity; or communities and their particular cultures; or citizens and their civic belongings; or co-ethnics and their diasporic belonging? (cf. Table 1) To put it bluntly, when determining whom to grant international protection, the nativist, nation-statist, and partly regionalist notions, do not only consider the criteria stipulated in the Geneva Convention, but they also weigh the refugees’ right to survive against the welfare and well-being of their citizens (see Sicakkan 2004, 2008a, 2011).

In line with the above, the citizen-alien paradigm introduces various sets of refugee protection instruments. Some instruments are individual protection schemes (e.g., temporary or permanent political asylum), collective protection of groups (temporary or permanent), creation of safe zones in regions close to conflict areas, efforts to eliminate the root causes of refugee flows, unilateral or multilateral preventive state actions, or diplomatic or military interventions in the conflict areas or countries that generate refugees.

As Table 1 shows, citizenship ideals valorize these tools of protection differently. For example, nativists prefer either not protecting refugees or they choose extra-territorial protection. Regarding variations of the nation-statist approach: in the ethno-nationalist variety, the preferred tools are collective protection of co-ethnics and extra-territorial and temporary protection of refugees with other ethnic backgrounds. While states with a liberal-individualist citizenship tradition usually prefer permanent individual asylum as the main tool for protecting individual autonomy and integrity, states with a communitarian-collectivist history of citizenship tend to prefer temporary collective protection of refugee groups whose cultural (ethnic and/or religious) belongings are threatened, while putting less emphasis on individual protection, and states with the Jacobin-republican notion of citizenship prioritize the protection of people whose political freedom and rights are violated.³ The regionalist approach of the EU, on the other hand, is quite vague and oscillates between nation-statism and globalism. Though, citizens who are regionalists tend to be in-between nation-statism and globalism, depending on whether they view the EU as a supranational state or an intergovernmental political entity.⁴

However, this does not mean that states ignore the international law's protection instruments that do not serve their own ends. The choices made between different protection norms and instruments are a matter of degree rather than an either-or matter. For instance, states with long liberal citizenship traditions primarily choose to protect refugees by giving them individual asylum; but they also provide collective protection when this is needed. Although states with a strong communitarian citizenship tradition put more emphasis on giving collective protection to suppressed and persecuted cultural groups, they also provide individual asylum when necessary. Ethno-national states are more sensitive towards the sufferings of co-ethnics who are citizens of other countries, and they usually have clauses in their asylum laws giving special status and privileges to their diasporas who have to flee because of persecution.

³ This theme is treated and documented in depth and at length in Sicakkan (2008a).

⁴ Regarding citizen attitudes, see Sicakkan and Van Wolleghem (2023a). Regionalist attitudes observed in social media are largely about economic and pragmatic matters (see Dutceac-Segesten et al. 2022). Concerning EU-policy, the oscillation between the nation-statist and regionalist approaches to asylum policy is observed in different sections of the migration and asylum pact.

Not only the legal norms and criteria but also the institutional frames of refugee status determination are shaped by the citizen-alien paradigm, that is, by states' historical traditions of institution-building. The long-prevailing citizen-alien paradigm has created institutional path dependencies on which the institutional architectures of asylum decision-making are based, and which nurture the diversity of national protection regimes despite the international refugee law. States have chosen to organize refugee status decision-making bodies under different ministries (Caestecker et al. 2023), depending on their own sensitivities and interests. They have organized the provision of procedural rights to protection seekers by expanding their existing national legal-administrative systems to the area of international protection (Sicakkan 2008a,b). The national institutional architectures are so deeply rooted that even the ongoing GCR and GCM do not find it realistic to propose significant changes to them. Different ways of organizing the institutional frames around refugee status determination have different consequences for the right to international protection, in conformity with the citizenship ideals that the respective states hold (Sicakkan 2008a,b, Van Wolleghem et al. 2023).

Well aware of these operational constraints of the international protection system, the global community and its international protection institutions have been using the different sensitivities and policy preferences of different states when they are needed in specific refugee situations; otherwise avoiding challenging them. Although this is a realistic approach to getting states' support, when international refugee protection is understood in the context of the citizen-alien paradigm, human sufferings that constitute the refugee condition are conceived in terms of the receiving states' particularistic citizenship/nationhood ideas and interests rather than in terms of actual human sufferings and violations of human rights. By entrenching international refugee protection in the citizen-alien paradigm, one risks detaching it from human rights.

1.2 The human-rights paradigm of international refugee protection

The concept of international refugee protection based on human rights stands in stark contrast to the citizen-alien paradigm. The question is selecting between citizens' right to the good life and refugees' claims for any kind of life at all, not between the claims of citizens and those of foreigners. By trivializing this simple fact, one compromises the basic principles of the international refugee protection system. When the choice is between a better life and no life at all (Sicakkan 2004, 2011), we are dealing with issues of human frailty, fundamental human rights, and the suffering that results from abuses of those rights (Buttle 2003; Elliot & Turner 2003).

However, it has been argued against the human-rights paradigm that it ignores the subtle differences between human rights and refugee rights. According to proponents of the citizen-alien paradigm, the Geneva Convention applies to refugees only; it is not meant to protect all individuals whose human rights are violated. Further, the human rights paradigm will lead to an expansion of the refugee concept, which may further incapacitate the international protection system (Hathaway et al. 1997). This constructed contrast between refugee rights and human rights further detaches refugee protection from human rights, much like the detachment in the citizen-alien paradigm, but this time out of concern for effectiveness and viability.

Article 1 of the 1951 Convention defines a refugee as someone who "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 [their] nationality and is unable or, owing to such fear, is unwilling to avail [himself/herself] of the protection of that country; or who, not having a nationality and being outside the country of [his/her] former habitual residence, is unable or, owing to such fear, is unwilling to return to it."

Indeed, being a settlement between states but despite its underlying humanitarian spirit, this definition is very much entrenched in the citizen-alien paradigm because it deploys state-instilled categories, including narrow interpretations of "social group belonging", to define a refugee, most of which are groups that are disadvantaged because of historical state and nation building processes. This leads to blindness toward people who are not in one of these categories even though they may be in the same destitute situation as those included in the definition.

Also, the Geneva Convention places fear at the core of the definition of a refugee. Although it may appear that fear is a less socially constructed idea than suffering, fear is not as universal a human emotion as once thought. The "universal" idea of fear raises the possibility of excluding many context-specific human sufferings. The definition of a refugee should take context into account rather than attempting to capture a universal human trait in a Hobbesian manner. The definition of a refugee should place as much emphasis on human suffering as it does on fear. A definition of a refugee that is firmly rooted in the concept of human rights places human suffering that cannot be avoided without the protection of another state at its core.

Giving suffering such a central role has several effects, the first of which is that other criteria than those which the citizen-alien paradigm recognizes (nationality, religion, ethnicity, race, social group belonging) become important when determining who the refugees are. Examples of such additional criteria are people's gender, sexuality, generation, mobility, clan, family, alternative lifestyles, new forms of belonging, and displacement.

Furthermore, rather than the particularistic interpretations of "reality" made by the states, such a model highlights the actual sufferings of individuals that can be prevented with another state's protection. Therefore, this definition of a refugee highlights the idea of non-protection or absence of protection by a state, which was more deeply integrated into the refugee concept before 1946, as well as the principle of persecution.

Thirdly, the location of people becomes meaningless when suffering is the main emphasis. People may experience extreme suffering and live as refugees wherever they are. The Geneva Convention's focus on "being outside of one's country of origin" is challenged by the human rights-based definition of a refugee, which aims to make it possible for anybody to request asylum regardless of where they are. This also shifts state responsibility: from a human rights perspective, states are not only responsible for protecting those who show up at their borders, but also those who are not able to access safe territory, a criterion that requires mechanisms of international responsibility sharing like GCR and GCM.

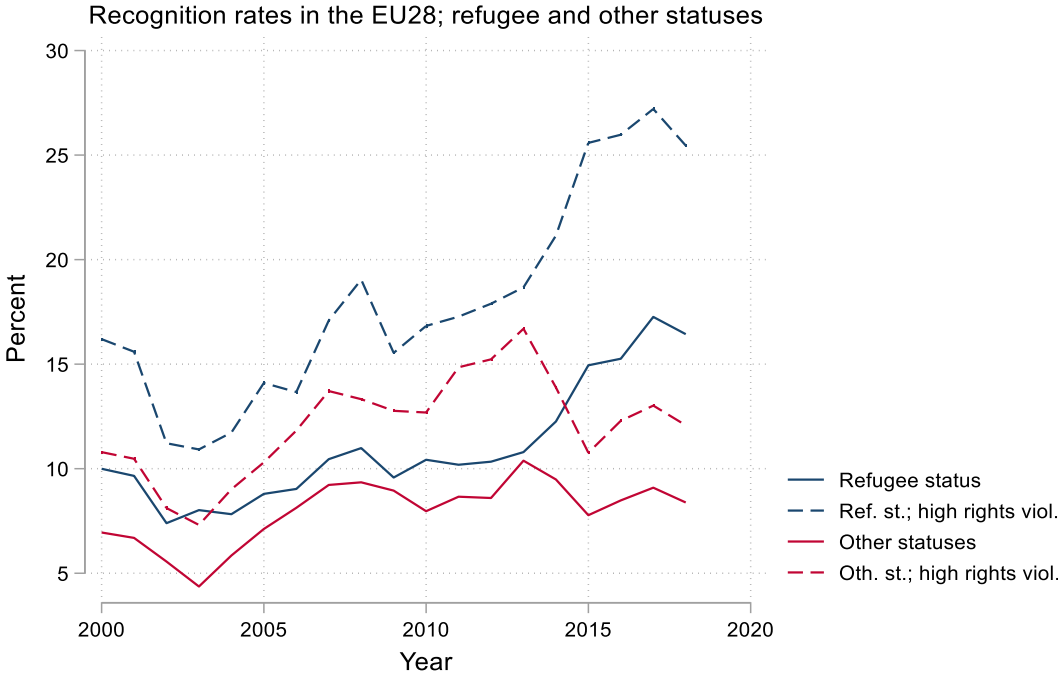
Lastly, different situations may call for different protective tenets, such as collective versus individual protection or temporary versus permanent protection. The human-rights paradigm allows for the deployment of a variety of protection instruments that may be helpful in various contexts. States have their own collections of protection measures that may be useful in certain refugee situations, even though each state views some protection measures as irrelevant. Combining the various tool-repertoires of the present states is necessary for a human rights-based approach, and the tools for protection must be used when they are appropriate. Further, the human rights paradigm offers a more comprehensive approach to protection than just saving lives. This approach includes a range of tools from preventive measures to saving lives by temporary and extra-territorial protection of individuals or groups to life-time protection through inclusion and integration in safe countries.

These arguments motivate a call for revisiting the underlying humanitarian ethos of the 1951 Geneva Convention, which is currently overwhelmed by a Westphalian master narrative. The concept of refugee within the framework of human rights is founded on an ontology that posits human suffering as the essential component of human frailty. It reinforces the fundamental principles enshrined in the Geneva Convention and protects people from arbitrary and biased interpretations of international law. It attributes international refugee protection to its proper place – transitioning from a Westphalian narrative centered on the notion of citizenship, which relies on the vulnerability of individuals as "citizens", to a human rights narrative which centers on recognizing the vulnerability of individuals as "human beings".

2 Bringing the international protection system closer to the human-rights paradigm

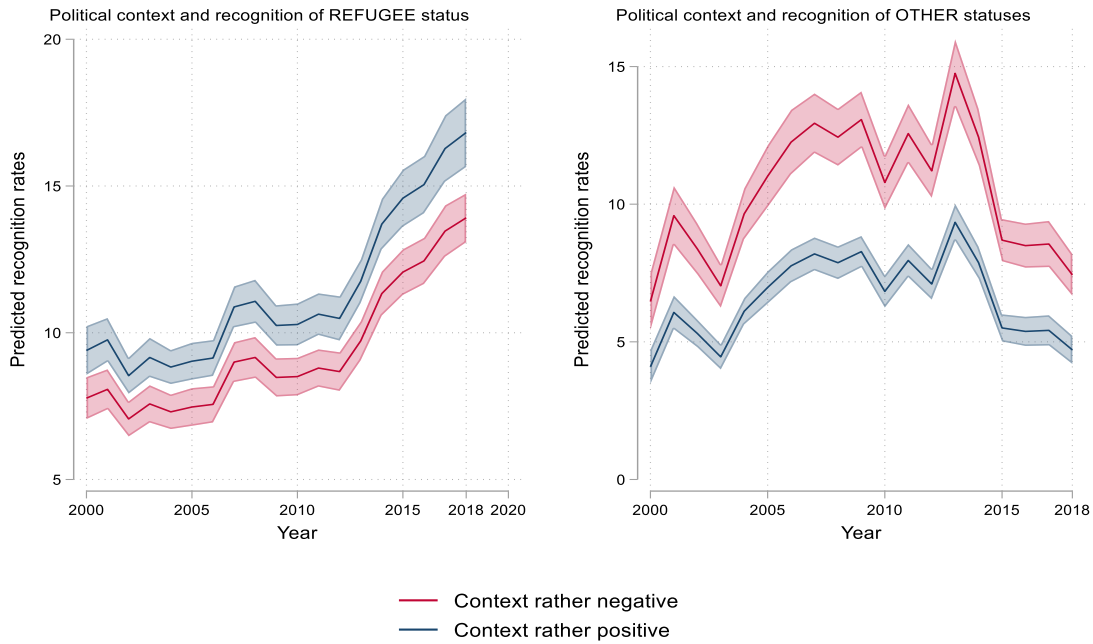
The above discussion outlined the start and end points of the international protection system’s much-needed transition from the citizen-alien to human rights paradigm. How can this transition be achieved? PROTECT’s findings indicate that such a transition can be triggered by reforming certain *legal norms and procedural principles, institutional architectures, and discourses/narratives* used in the implementation of international refugee law. Already at this stage, I should reveal that the overall transformation of the international protection system can be achieved by divorcing it from migration, immigration, security, and mobility control policies and narratives. That is, by treating international refugee protection as an exception from the state-sovereignty imperative of the current international world order. Indeed, this is what was intended by the lawmakers of the 1950s: to create exemptions from migration, security, and border rules for people whose human rights can only be guaranteed by another state than their own. Before I proceed, I will briefly map out the current refugee protection situation in Europe.

Figure 1: Asylum Recognition Rates in the EU28. Refugee versus Other Statuses



As Fig. 1 shows, since 2004, refugee recognition rates in the EU have been increasing while permits given via other statuses such as subsidiary protection have changed little. The figure also establishes that the increase is due to protection given to asylum seekers escaping from countries with high rates of human rights violations. This means that the principles of the Geneva Convention have a significant impact on international refugee protection in the EU.

Figure 2: Effects of Political Context on Protection Seekers



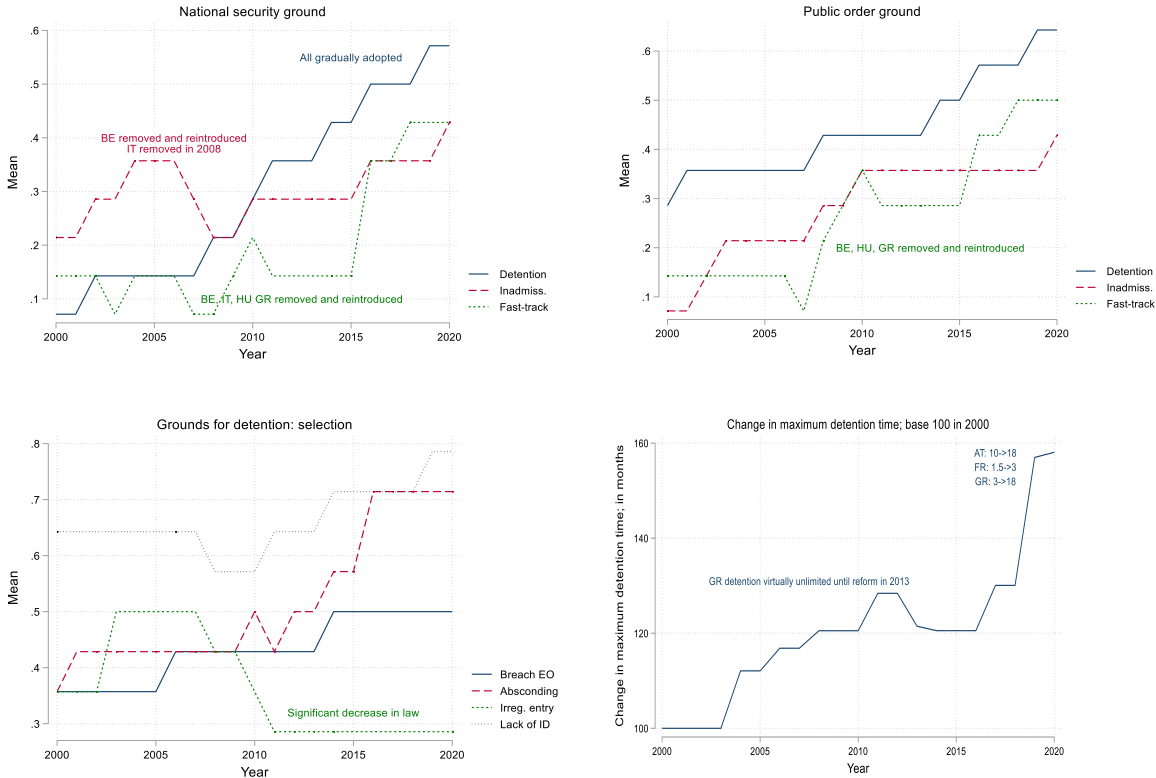
However, as Fig. 2 illustrates, domestic politics regarding immigrants and immigration policy also has a significant impact on international refugee protection. That is, countries interpret the Geneva Convention’s criteria for refugee status more strictly, and grant fewer refugee statuses, when the political climate around migration is negative, and grant more when it is positive (cf. the graph on the left). Correspondingly, the percentage of protection recognition in other statuses than refugee status decreases when the political climate on migration is positive, and it increases when the political climate is negative. This suggests that there is a trade-off between refugee status and other statuses depending on the political climate in the EU member states.

When a state grants refugee status to an international protection seeker, it loses its discretion on the respective refugee’s presence and mobility on its territory, and it must guarantee certain rights including subsistence, accommodation, health services, economic and social integration, and faster naturalization than other migrants. That is, the rights enshrined in the Geneva Convention must be guaranteed once a refugee status is granted. On the other hand, protection given on the basis of other statuses does not necessarily imply more rights than non-refoulement, which gives greater discretion to states regarding both the protection seeker’s length of stay and other rights. That is, it becomes easier for a state to reserve the special citizen privileges for its citizens. In this sense, Fig. 2 testifies to the impact of the citizen-alien paradigm on international refugee protection, and this is the point of departure for my argument.

2.1 Legal norms and procedural principles of the human rights paradigm

The citizen-alien paradigm impacts both by bringing in a trade-off element between higher and lower protection statuses and by limiting access to the asylum procedure. Limiting access is further discussed in Sections 2.2 and 2.3. Here, I focus primarily on legal criteria used to reject access to the asylum procedure.

Figure 3: Use of Immigration and Entry Rules on Protection Seekers in 14 EU Members



The Geneva Convention’s article 31 states that “The Contracting States shall not impose penalties, on account of their illegal entry or presence, on refugees who, coming directly from a territory where their life or freedom was threatened in the sense of article 1, enter or are present in their territory without authorization, provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence”. However, what we observe in Figure 3 is the exact opposite of this; EU Member States have since 2000 been incorporating laws, rules, and procedures regarding foreigners’ border entry increasingly more into their protection policies, that is, rules for punishing protection seekers based on border entry rules that apply to other foreigners. The entry rules in question are: posing a threat to national security, posing a risk for disturbing the public order, and immigration detention.

Our quantitative studies of 16 countries (2000-2020) show that these factors reduce countries' refugee status recognition rates for people who are qualified for international protection (cf. Sicakkan and Wolleghem 2023, Van Wolleghem and Sicakkan 2023). Although the total number of status recognitions has increased in the EU since 2000 (because the percentage of people escaping serious human rights violations has increased), the use of immigration and border entry rules on protection seekers is one of the factors hampering the positive trend. Thus, the first step towards a human rights-based international protection system is to comply with the Geneva Convention's aforementioned article 31 by removing from asylum procedures the legal criteria that do not have anything to do with international refugee protection, that is divorcing refugee and asylum law from national immigration and border entry laws and connecting them more tightly with the high international human rights law.

Indeed, although it is a soft law rather than a binding hard law, an original aspect of the GCR is the link it subtly aspires to create, in its paragraph B.5, between the refugee rights defined in the Geneva Convention and the later international human rights law (Bast, Wessels et al. 2023). That is, the various UN human rights instruments that came into force after 1951 such as, among others, the 1965 *International Convention on the Elimination of All Forms of Racial Discrimination*, the 1984 *Convention Against Torture*, the 1990 *UN Convention on the Rights of the Child*, and the 2000 *Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children*. Although not legally binding, this attempt of the GCR may catalyze the strengthening of the international protection system in the long term as it encourages the states to interpret the refugee rights and their responsibilities in terms of the wider human rights instruments. Thus, regarding legal norms, implementing the UN's GCR is the second step towards an international refugee protection system that is based on the human rights paradigm. The specific actions to be taken by states are (i) participation actively and truthfully in the GCR's global responsibility sharing mechanisms and platforms: the Comprehensive Refugee Response Framework, the Global Refugee Forum, and Asylum Support Platforms, (ii) accept resettlements and relocations, and (iii) provide financial, technical, and material assistance to overloaded countries to improve global responsibility sharing.

Finally, our qualitative-comparative legal studies of the impact of GCM show similar tensions between international protection and migration concerns not only in the EU, but also in Canada, and South Africa (Guild, Allinson and Busuttill 2022, Atak, Linley et al. 2023, Atak et al. 2023b, Maple et al. 2023). The role of fundamental rights, the rule of law, and the principle

of non-regression in EU law facilitate the Compacts' involvement in the sphere of migration and asylum, as these align with crucial obligations under EU primary law. Thus, the GCR and GCM represent a promising avenue for enhancing the enforcement of extant fundamental rights obligations of the EU pertaining to migrants and refugees. However, we find that the adoption of the non-discrimination principle reveals a tension between the Compacts and the EU framework. The Compacts stipulate that every individual possesses an inalienable right to non-discrimination, regardless of their nationality or migration status, with the concomitant ability to initiate legal proceedings against instances of differential treatment on these bases. Incorporating this approach into EU law poses a significant challenge due to the differentiation between discrimination based on nationality for EU citizens and the call for equitable treatment for migrants under EU primary law, a construct that diverges from the concept of non-discrimination (Guild, Allinson et al. 2022b, Guild, Allinson, Busuttill et al. 2022).

Another major challenge is efforts to prevent protection seekers' access to international protection by containing their mobility within the Global South. When people flee climate change, environmental hazards, and natural catastrophes, or when they are held back in their countries, or when they are prevented by third countries from arriving at the borders of safe countries, it may look as if we do not have a legal responsibility to protect them. Indeed, the category of protection seeking migrants, including people who haven't yet arrived at the border of a safe country, is the soft stomach of the international protection system. Our legal doctrinal studies indicate that GCM has a realistic potential to strengthen the international protection system by providing access to international protection to such protection-seeking migrants who are not refugees according to the Geneva Convention (Bast, de Oliveira et al. 2023). While the GCR addresses the protection needs of refugees, the GCM contains elements that relate to similar needs of protection-seeking migrants other than those who fall under the categories specified in the Geneva convention. In this regard, the GCM and the GCR are complementary components of the special regime governing international protection.

Hence, the third step towards a human rights paradigm in international refugee protection is the rightful implementation of the GCM. There are special measures to be taken to increase the likelihood of effective GCM implementation: The impact of the GCM on the rights of protection-seeking migrants is limited by the fact that the review process so far is dominated by states and permits cherry-picking from the various objectives. Ensuring broader stakeholder participation in the preparation of the national reports, in particular from civil society, will emphasize the relevance of migrants' human rights in implementing the GCM. Further, the

GCM review process will also benefit from an alignment and cross-fertilization with the supervisory mechanisms based on human rights treaties (Atak, Grundler et al. 2023, Bast, de Oliveira et al. 2023).

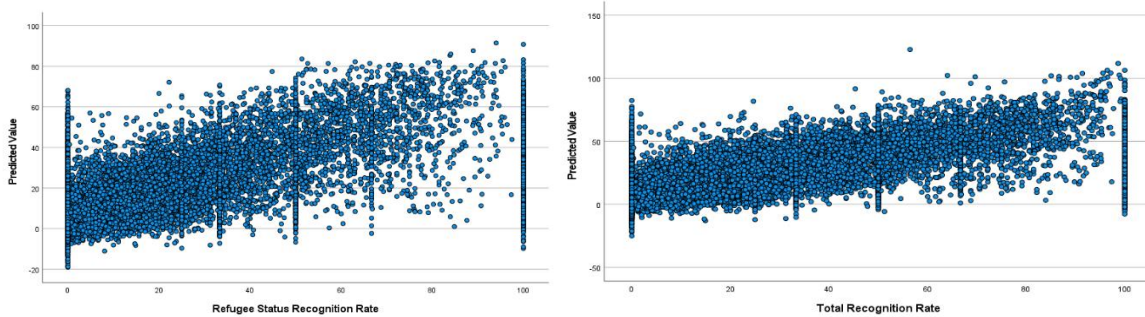
These considerations bring us to the EU's New Pact on Migration and Asylum (EUNP). Indeed, endeavoring to design a comprehensive approach, EUNP deliberately entrenches the EU's refugee and asylum policy in its migration, border, security, development, and external (foreign) policy. In addition to the fact that EUNP consists of parts related to migration, asylum, border management, and security, its accompanying documents reveal an intention to entrench international protection in legal norms related with migration and other policy areas. For example, in the European Commission's Communication to the Council and the Parliament (EC 2020), whereas "protection" appears 39 times, "return" appears 107 times, "relocation" 11 times and "resettlement" 14 times. This rather brief depiction corresponds well to the overwhelming dominance of the EU's concern for mitigating the effects of irregular migration and unauthorized entry. Considered together with the fact that the restrictive bits and pieces of the EUNP are being legislated faster and easier than the measures for responsibility sharing, such as relocation, this implies a turn towards the citizen-alien paradigm in the EU.

2.2 Institutional architectures of the human rights paradigm

Having identified the legal norms that may facilitate or hinder a transition from the citizen-alien paradigm to the human rights paradigm in international refugee protection, my aim in this part is to identify the institutional architectures of asylum decision-making that may spark such a transition. Indeed, there has been surprisingly little research about this topic although it has now come to the top of the research agenda in refugee studies. The first studies were conducted by this author (Sicakkan 2004, 2008a,b, 2011), and they are now continued within PROTECT (Sicakkan and Van Wolleghem 2022, Van Wolleghem and Sicakkan 2022).

The citizen-alien and human rights paradigms collide when it comes to how international refugee protection is to be organized at the state level. To put it ingenuously, whereas the citizen-alien paradigm prescribes centralized institutional architectures that allow a high degree of state discretion concerning the interpretation and implementation of the international refugee law, the human rights paradigm stipulates devising de-centralized and transparent institutional structures that unleash refugee status determination processes from daily politics and government interference. However, there are many nuances to this general picture, and it is not given which institutional structure serves best the international protection system.

Figure 4: Predicted vs. Observed Values for the Refugee Status and Total Recognition Rates



Source: Sicakkan and Van Wolleghem (2023a)

To reasonably argue that the individual asylum component of the international protection system is performing on the premises of the human rights paradigm, features of asylum seekers' origin countries, and how asylum seekers are affected by them, should be the only predictors of countries' asylum recognition rates. That is, destination-specific factors, including national refugee status determination systems, should have either negligibly small or no importance at all in determining countries' asylum recognition rates. However, in our studies that use different methods and approaches, many destination-specific factors turn out as important predictors of asylum recognition rates; some of them more so than the Geneva Convention-related factors.

Fig. 4 compares the recognition rates that our artificial neural network (ANN) models predict with the observed rates. The graph on the left concerns refugee status recognition rates whereas the one on the right illustrates total recognition rates for all available protection statuses in the 16 countries included in our study. The ascending slopes of the fit lines in the two graphs indicate that our set of predictors comprising both origin-specific and destination-specific factors, including how institutional architectures are designed, have predictive power.

More specifically, two origin-specific factors that imply persecution and cause fear, *casualties* and *deaths in the last five years* in the origin country, are among the most important predictors. That is, two origin-specific features with direct and high relevance for the Geneva Convention's criteria for granting international protection are the primary criteria for granting asylum in practice in our 16 countries. This is an indication that the international refugee law is being observed. However, arguably, its observation is limited by destination-specific factors.

Namely, the third most important factor predicting a country's asylum recognition rate is whether it accepts *applications from abroad* or not. Indeed, from the human rights perspective, the fact that this emerges as such an important factor is quite problematic an aspect of the current national protection systems. The Geneva Convention requires being outside one's own country of origin or habitual residence; however, it does not impose a rule on being in or at the border

of the destination country to qualify for getting international protection. The use of this rule by states weakens especially the survival chances of people who do not have sufficient resources to cross the state borders and travel to a safe destination.

The rest of the most important predictors found in our probing ANN study, confirmed later with probabilistic models, are also destination-specific: *Government's position on migration, the role of the police and local authorities in decision-making in normal procedures, and the role of the UNHCR in decision-making on detention of asylum seekers*. Thus, we encounter several predictors of asylum recognition among the most important factors, which do not have anything to do with the Geneva Convention's criteria for defining a refugee. More importantly, there are many institutional architecture related features among the destination-specific factors. In this respect, we find that (i) legal grounds other than the Geneva Convention, (ii) actors involved in decision-making, funding, and organization of the national RSDs, (iii) design of the decision-making as centralistic or pluralistic, and (iv) countries' approaches to the provision of procedural rights (universalistic vs particularistic and entitlement vs charity) are the areas that need special attention. Regarding these aspects of the institutional designs of national refugee status determination systems, there are multiple nuances to be outlined.

We have already mentioned in Section 2.1 that it is necessary to remove legal grounds related to migration and border entry from current asylum procedures. Concerning the institutional design of decision-making, our probabilistic-quantitative studies (2000-2020) show that the composition of the actors involved in decision-making matter significantly. This concerns primarily the heavy presence of the state in decision making. We find that when a multitude of state actors are in charge of decision-making in normal procedures, recognition rates decrease for refugee status but increase for other statuses, thus indicating the presence of a mechanism whereby protection of rights is reasonably ensured but granting lower standards of rights is preferred. In the appeal of such decisions, plural decision-making, which mostly consists of non-state actors, leads to higher refugee status recognition. Differently, the presence of the same actors in the appeal of inadmissibility decisions leads to lower refugee status recognition. However, it has been observed in previous studies that the heavy presence of non-state actors and the UNHCR in detention and admissibility procedures is a sign of the state's absence as capable or seriously concerned actor in these processes (cf. Sicakkan 2008a,b).

Another important finding concerns the rights granted to asylum seekers in the various stages of the procedure. Extensive procedural rights in access procedures provide more guarantees that ensure claims be examined on the basis of their substantive merits. Having

unconditional appeal rights and *suspensive effects of appeals lodged* significantly increase refugee recognition rates. Similarly, the *right to legal counsel*, both in first and second instance access procedures, raises recognition rates, both for refugee and other statuses. Extensive rights are unlikely to be effective if not accompanied by positive means to ensure their enjoyment. Our results show that positive implementation of these rights both in access and normal procedures lead to higher recognition rates for refugee status and, to some extent, other statuses.

In addition to applying legal grounds relevant to international protection, removing the irrelevant legal grounds from asylum procedures, and putting in place mechanisms for overseeing the asylum decisions being made, these findings point to the necessity of increasing the autonomy of asylum-decision-making bodies from the state apparatus. Our qualitative-comparative studies of the history of the emergence and evolution of asylum offices in 9 European countries and Canada and South Africa (1950/70-2000) found that asylum agencies are the most effective and adaptive to new conditions when they are organized outside the state apparatus and when their decisions are independent of the government ministries (Caestecker et al. 2022, 2023). Our comprehensive quantitative studies of the different ways of organizing the national refugee status determination in 16 countries (2000-2020) support this result.

The very existence of the international protection regime depends on countries' commitment to it. Because the main actors of today's world order are states, when one of them fails to respect the rights of its citizens, it falls onto the others to guarantee protection. But for protection to be effective, fair examination of claims is necessary. This means several things: i) balancing the representation of the interests of the state by associating third sector organizations to decision-making; ii) guaranteeing protection seekers, little acquainted with local legal frameworks, the necessary legal aid for them to build their case in accordance with the standards applied; and iii) providing adequate remedies to challenge administrative decisions. Thus, the institutional instruments needed for a transition from the citizen-alien paradigm to the human rights paradigm are autonomous asylum decision-making bodies, inclusion of non-state organizations in decision mechanisms and in observation of reception and detention procedures, openness to UNHCR review, proper judicial review, and extensive procedural rights.

Does the GCR have any implications or incentives for introducing such institutional architectures at the state level? Indeed, the GCR processes could be an opportunity to start encouraging the states to design their autonomous refugee status determination systems from a human rights perspective. However, the GCR is primarily about handling crisis situations, and does not offer ideas or incentives for an institutional transformation at the member state level.

On the contrary, GCR deliberately bases its functioning on the diversity of different national approaches. On the other hand, the GCR's added value is its reconciliation of the state-centered, intergovernmental status quo in the global governance of refugee protection with the transnational pluralism on the ground.

As an indication of its adherence to the established intergovernmental mode of global governance (as opposed to supranationalism or pluralism), the GCR refers to the "international community" 22 times. This discourse specifies the state as the primary constituent entity in international relations, as opposed to the pluralistic term "international society", which includes the full variety of state and non-state actors as constituent entities. This language entails an understanding of the world as a community of states, creating a hierarchy between the various players in the international arena: states are at the top, followed by intergovernmental organizations, and the non-state organizations at the bottom.

At first sight, this political language of the GCR may appear to contradict its pluralistic approach to organization of international collaboration in multi-level, multi-stakeholder networks on the ground. However, despite frequent mentions of non-state organizations with concrete and important roles in refugee protection, the GCR clearly designates the state as the core political entity that has the final word in decision-making and action-taking. Although this may sound somewhat at odds with the transnational pluralism on the ground, this contradiction between the discourse and practice is an important step towards reconciling the intergovernmental global governance system with a more pluralist approach to governance by utilizing the pluralism on the ground in refugee protection work.

On the other hand, the EUNP pronouncedly specifies the functions that a national refugee status determination procedure is supposed to perform, if not the institutional architectures around it. Indeed, identifying the goals and letting member states select the means for achieving them, that is, functional equivalence, is one of the policy integration methods of the EU. Following this method, the EU proposed a new asylum procedures directive where the functions of asylum decision-making, appeal rights, procedural rights, and more, are made mandatory. However, like the GCR, it is silent about its member states' institutional architectures of refugee status determination, e.g., it has no implications as to which compositions of actors are to be involved in decision-making in different procedures and in the first and appeal states as well as how procedural rights are to be guaranteed. Hence, a direct impact by the GCR, GCM, or EUNP on the institutional frames around refugee status determination should not be expected in the foreseeable future.

Yet, when using the functional equivalence method of international integration, the deployed means are expected to lead to the agreed goals, something which may trigger a slow institutional transformation in the long run through the elimination of some institutional asylum frames that prove dysfunctional in the process. Though, considering that EUNP merges the legal norms of international protection with migration, border, and security policy, such transformation must be expected to happen in the direction of the citizen-alien paradigm, towards regionalism.

2.3 International collaboration tools of the human rights paradigm

The rather overlooked international collaboration element of the Geneva Convention has now been operationalized by the UN in the GCR. The most substantial innovation is the introduction of new global institutions such as the *Global Refugee Forum (GRF)*, the *Asylum Capacity Support Group (ACSG)*, *Asylum Support Platforms (ASP)*, and the *Global Academic Interdisciplinary Network (GAIN)*. The GRF is convened regularly to, among other deeds, gather pledges from stakeholders and monitor the progress toward the GCR goals. The ACSG is a mechanism to enhance the capacity of the national asylum and refugee status determination systems. The ASPs are activated during mass inflows to coordinate international collaboration.

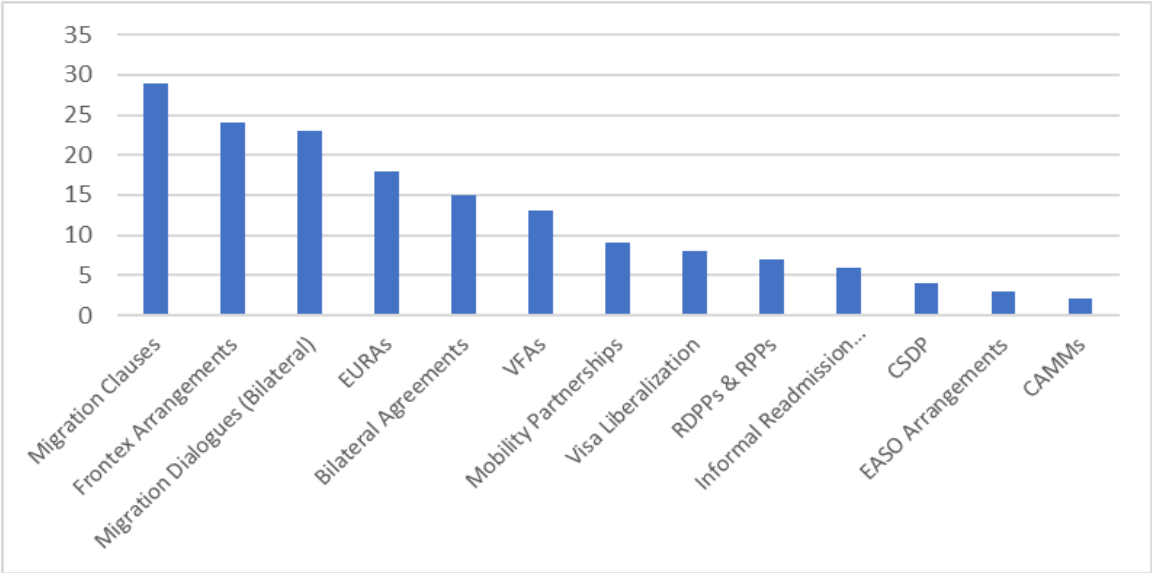
With these, the GCR invokes a network approach to international collaboration between international organizations, states, non-state organizations, as well as private enterprises. Networks of these actors are foreseen to facilitate voluntary collaboration. Pledges on (and from) such networks have already been declared by their initiators, especially by non-state actors in the framework of the first GRF in 2019. Whereas the GRF has activated permanent or long-lasting transnational networks that aim to address single issues and multiple refugee situations (e.g., GAIN and ACSG), ASPs function as temporary voluntary networks aiming to respond to multiple issues in single refugee situations, or in single countries that ask for support in connection with mass inflows and refugee crises.

In response to the call for international solidarity by GCR and the identified inadequacies of the Dublin Convention, the European Union proposed, among other things, a new approach to responsibility-sharing. This mechanism entails the mandatory contribution of all member states towards the EU's refugee protection endeavors. Member states have the option of either participating in the relocation program by accepting asylum seekers who have applied to other EU member states or by providing financial and logistical support towards returns and readmissions. The Dublin Convention assigns the jurisdiction of processing asylum

applications, and providing protection to individuals, to the member state where they initially arrive. The implementation of this system caused a disproportionate burden on the EU's border nations, resulting in substandard living conditions for protection seekers in the border regions of France, Greece, Italy, and Spain. The proposed relocation policy of the European Union has the potential to alleviate the pressure on member states located at the EU borders, while also improving the standard of living for asylum seekers and ensuring the protection of their fundamental human rights. Conversely, the present level of understanding is inadequate regarding the potential of the internal burden-sharing mechanism within the EU to facilitate the GCR's global responsibility-sharing goals beyond the EU's borders. For the relocation system to operate as a *bona fide* international burden-sharing mechanism at the global level, it is imperative that the EU's relocation policy proposal be expanded to encompass not only the EU member states but also the EU neighborhood.

However, the EU's foreign policy towards its neighbors seems to be doing just the opposite. This is observed specifically in the EU's international agreements with third countries, which contain migration and mobility related clauses. In this respect, PROTECT detected 13 key external policy tools (cf. Fig. 5) ranging from binding and formal agreements to soft or even informal relationships.

Figure 5: The External Dimension of EU migration policies: number and types of detected tools



Source: Longo and Fontana in Caestecker, Ecker, Longo et al. 2023

In our qualitative-case study of the EU's external policy, we observe that, in the EU's international agreements involving migration as either the main or subsidiary issue, political

and operational measures take precedence over legally binding instruments. Furthermore, the disparity between political/operational measures and legal instruments has been on the rise in recent times. Contrarily, a limited number of instruments address matters pertaining to international protection, asylum, and lawful mobility, in contrast to the predominant focus on managing cross-border regulation, repatriation, and combating human trafficking. One of the primary areas of focus is the handling of returns and border control. The magnitude of these concerns becomes increasingly significant over time, particularly during the period coinciding with the migration crisis.

Table 2: External Dimension Tools by Neighbor Regions

Western Balkans	Mainly formal tools embedded into a binding and ‘constraining’ cooperation framework (no informal cooperation).
South Caucasus and Eastern European countries	Mixture of formal legal tools and bilateral political agreements.
Southern Mediterranean	Bilateral political arrangements prevailing over formal legal cooperation embedded in the migration clauses of the bilateral Association Agreements
Sub-Saharan Africa and the Horn of Africa	Informality and non-legally binding policy tools; border control and return are markedly the prevailing subject areas within these countries.

Source: Longo and Fontana in Caestecker, Ecker, Longo et al. 2023

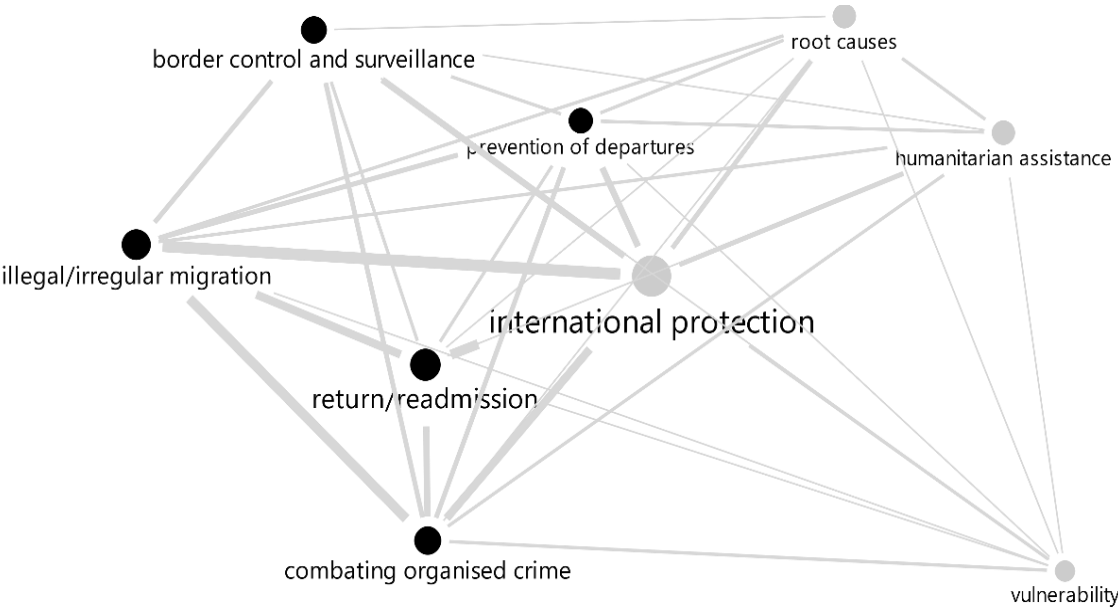
Additionally, it should be noted that a limited number of instruments make reference to the notion of "international protection". The involvement of countries of transit and origin, primarily through the implementation of enforcement measures and the process of repatriation, not only serves to restrict the movement of individuals but also facilitates a mechanism of "refoulement through remote control" (Longo & Fontana, 2022a, b). Our study documented the predominance of distinct categories of tools for different areas (see Table 2).

We conducted further investigation into the European Union's collaboration with its southern counterparts with respect to migration, as delineated in association agreements, action plans, and mobility partnerships (Longo, Panebianco, Cannata, 2023). Our study demonstrates that the external aspect of the European policy pertaining to migration and asylum has an impact on the EU's ability to adhere to the regulations laid down by the international protection regime. This is primarily because cooperation on migration flows has a direct consequence on the protection that is extended to refugees, as well as the mobility and human rights of migrants. The extant understandings with the southern neighboring countries are leading to a growing

complexity in terms of gaining entry to European borders, thereby substantially affecting the opportunity to exercise the right of seeking asylum. The impediments that prevent entry, protocols limiting access for asylum-seekers, interception measures, and repatriation of unauthorized migrants collectively pose a significant hindrance to the fundamental right to asylum and global protection, thereby creating an ingrained bias in the European Union's protection policy. Ultimately, this incongruity between the EU's discourse and behavior represents a notable discrepancy. The portrayal of migration as a security concern has led to the development of policy measures that prioritize the regulation of borders over the facilitation of human mobility.

The EU has engaged in the delegation of the management of irregular flows to neighboring countries, thereby exposing international protection to peril. This mode of operation is at odds with the EU's professed commitment to its ideals and principles as a humanitarian actor, as elucidated in official EU documentation. The consolidation of migration and asylum policy within the same chapter of the EU Treaties, regardless of whether they pertain to asylum, policing, or visa affairs, warrants serious attention. The spillover effect of securitization on international protection, and particularly on asylum, has been repeatedly evidenced. The practice of over-securitizing necessitates the implementation of measures that support safe and legal pathways, including initiatives like humanitarian corridors and resettlement practices, to appropriately address these concerns.

Figure 6: Visual map of EU talk based on framework documents concerning the external dimension of the European Migration and Asylum Policy



Source: Longo et al. 2023

As illustrated in Fig. 6, our network analysis provides ample empirical evidence for the claim that the EU breeds organized gaps between action and talk in its cooperation with its southern neighbors concerning migration and asylum issues. While relying on humanitarian discourses, the policy instruments that the EU has agreed on with its southern neighbors fail to provide appropriate means to strengthen international protection, focusing on – in parallel with the externalization of borders and border controls – “externalization of international protection”. In short, in the EUNP, the GCR’s “international solidarity” is reduced to solidarity between the EU member states rather than a broad global solidarity, to externalization of migration control and international protection rather than responsibility sharing, and embedment of international refugee protection in migration, border, and security policy rather than a pronounced commitment to a human rights-based notion of international protection.

The external dimension tools of the human rights paradigm of international protection are international solidarity, international responsibility sharing through technical, financial, material, personnel, and know-how contributions to overloaded countries, taking responsibility for protection seekers who cannot reach safe territory by accepting UN-led and EU-led relocations and resettlements, introducing humanitarian corridors and humanitarian visas, entering new international agreements that facilitate true responsibility sharing. Indeed, all these measures are mentioned and advised in the GCR.

On the other hand, if implemented, the GCM promises a big leap in international protection, especially regarding the extension of these measures to other protection seeking migrants than those who fall under the categories specified in the Geneva Convention. GCM’s explicit conceptualization of the rights of migrants complements the Geneva Convention’s existing criteria for granting international protection by including other protection seeking migrants (e.g., climate refugees) in a rights-based global migration regime.

2.4 Legal and Institutional Frames in Action in Migration Arrival Ports

The way from policymaking to seeing policy implemented on the ground is long and cumbersome, particularly when it comes to global policy implementation at national and local levels. The GCM and GCR were launched in 2018 and 2019. Our fieldwork on six sites were carried out in 2020-2022. Yet, we observed no significant effect of the Compacts on the ground. The effects that we might expect to see at this very early stage of the GCM and GCR implementation process would be (at least some small) changes in international collaboration scope and patterns between intergovernmental actors, states, local actors, and non-state actors.

Both Compacts encourage a long range of actors to be involved in the reception of protection seekers, especially in times of mass flows. Whereas the GCR designates this as a “multi-stakeholder and partnership approach”, the GCM calls it as a “whole-of-society approach”. This is further specified in the GCM as “broad multistakeholder partnerships to address migration in all its dimensions by including migrants, diasporas, local communities, civil society, academia, the private sector, parliamentarians, trade unions, National Human Rights institutions, the media, and other relevant stakeholders in migration governance” (GCM, para. 15). Indeed, a broad variety of actors are observed on the ground by our field researchers who conducted ethnographic studies in six selected migration arrival ports. The composition of actors involved varies across the sites and over time. On the other hand, it is far from certain whether these actors are able to operate on the ground, individually or in collaboration with each other, in ways that serve the goals of the international protection system. It should be emphasized that the observed systems of field level governance are not yet affected by the Compacts.

Table 2 (p. 22) suggests a theoretical typology of international protection governance with four types: (1) “state-centric centralism”, (2) “state-centric corporatism”, (3) “region-centric pluralism”, and (4) “global corporate-pluralism”.⁵ The governance model that the Compacts suggest is closest to the fourth model, “global corporate pluralism”. However, as is well known, the map rarely matches the terrain. Indeed, our field research shows hybrid structures between types 2 and 4, where states are typically dominant actors, and the *regional and global actors* like the EU, UNHCR, and IOM come into the picture as providers of norms and funds, in addition to the *states and local authorities*, which also have these functions. *CSOs*, including *faith organizations*, join the equation in multiple roles, from closing the protection gaps left by the public institutions to functioning as their hands and arms to provide protection to protection seekers. Furthermore, the observed governance models also comprise *private sector enterprises* as service providers and financial/material contributors.

Curiously, one characteristic aspect of the observed on-site governance structures is “commodification” and “marketization” of the governance of international protection through outsourcing of migration control to non-state actors, including both CSOs and private sector actors (Jacobsen&Karlsen 2023, Karlsen 2023). Regarding the former, CSOs are increasingly more involved in international protection as subcontractors. They have to relate to an

⁵ Please see Table 2 (p.4) for an overview of the actor types that are expected to be involved in collaboration in each category.

increasingly more competitive environment for getting funding from states, the EU, or global institutions such as UNHCR and IOM. This competition takes place among a large and growing number of organizations. Regarding the latter (private sector enterprises), transport companies, visa assistance agencies, employment firms, security firms, human smugglers, and non-governmental organizations are involved in international protection as service providers or stakeholders. In the overall framework of outsourcing to CSOs and private sector actors, actors' possibility to attract funding relies on their ability to control mobility (Jacobsen&Karlsen 2023).

In Europe, resources provided by the states and the EU have a central role. In Canada, governance of international protection may entail the pooling of resources among governmental and non-governmental actors. In South Africa, external funding agencies play an essential role in facilitating the funding of local action. Regardless of the funder, though, funding comes at a cost. The asymmetric power and financial relations between public funding entities and CSOs greatly affect the CSOs' goals (such as which migrant groups or vulnerabilities they prioritize helping), structure (such as putting greater focus on professionalization and bureaucracy), and willingness to challenge government policies (cf. Karlsen 2023, Vanyoro et al. 2023, and Usherwood et al 2023). The competition for scarce resources creates barriers for collaboration between CSOs. State authorities' selective outsourcing to private actors in a marketizing and commodifying international protection economy promotes states' particularistic notions of international protection. That is, outsourcing to CSOs and private sector actors has become a policy tool serving the objectives of the citizen-alien paradigm in international protection.

The liberal version of the citizen-alien paradigm does not necessarily contradict the human rights paradigm. However, combined with a marketized international protection economy, where refugee protection and refugees themselves become a commodity, even the most liberal states cannot avoid violating the human rights of protection seekers in their endeavor to "protect" people from the transgressors in their own countries. This predicament is further exacerbated by the shortcomings of the legal and institutional frames of international protection that are outlined in Sections 2.1, 2.2, and 2.3. To remind shortly, the shortcomings include use of migration clauses to reject asylum applications, lack of legal support, weak procedural rights, and centralized and multi-tasked decision bodies that are open to state influence and pressures from daily politics.

"Vulnerability" is a global policy concept where the symbiosis between the citizen-alien paradigm and the marketized international protection economy manifests its detrimental impact utmost clearly. The notion of vulnerability, or vulnerable groups or persons, as designated in

the GCR, could be an opportunity to include other suffering groups of people in the international protection system than the state-instilled groups that are mentioned in the Geneva Convention, as underlined in Section 1.2. However, at the intersection of the citizen-alien paradigm and the marketized international protection economy, the concept of vulnerability has in practice become a means for narrowing down the variety of the groups that are seen as worthy of protection. The intersection has also led to a shrinking of the existing entitlements to protection seekers. For example, many CSOs in our six fieldwork sites deploy the concepts of ‘gender vulnerability’ and ‘age related vulnerability’ to include specific groups in the support networks and protection schemes. However, this has resulted in a strengthening of the stereotypical perceptions of vulnerability, leading to unintended categorizations of protection seekers along constructed types and scales of protection-deservingness; especially concerning those who need legal and social protection. Furthermore, we observe a tendency towards vulnerability assessments through the readily available practical and strategic means, which also helps states to hide their inability to respond to everyone’s needs (Jacobsen&Karlsen). 2023).

In brief, our fieldworks in six different sites (Cadíz, Catania, Lesbos/Thessaloniki, Marseille, Musina, Toronto) in six countries show that, as a vaguely defined global policy concept, “vulnerability” takes different forms, meanings, and responses in different contexts and instances. These contextual notions of vulnerability lend themselves to serve the needs of the protection policy actors, like states and non-state actors, more than they serve the needs of the protection seekers. In the end, the states and other policy actors’ limits, shortcomings, and needs lead to a practice of international protection on the premises of the citizen-alien paradigm rather than the human rights paradigm. Specifically, “the malleability of the vulnerability concept makes it easy to adapt to logics of (neo-)liberal marketization, and the ‘nativist’ rhetoric that currently circulates in migration policy and public debate” (Jacobsen&Karlsen. 2023).

Regarding transition to the human rights paradigm, a de-marketization and de-commodification of international protection is essential. There are two aspects: (1) ensuring that CSOs do not need to compete for resources and (2) public funds are not allocated to CSOs selectively to serve purely state interests. This can be achieved, among other things, by pooling the public and private resources and managing their distribution through the UNHCR and IOM. Secondly, if the concept of vulnerability is also to serve the human rights paradigm’s goal of protecting people who fall outside today’s strict definition of refugee, it is essential to recognize that “‘vulnerability’ can be mobilized by various actors to both justify and contest exclusionary practices towards certain migrants” (Jacobsen&Karlsen 2023).

2.5 The roadmap to a human-rights paradigm of international protection in a nutshell

The above mapping represents the overall results from our performance assessments regarding whether or how effectively different national legal norms and institutional and procedural frames have been serving the objectives of the human rights paradigm, or the citizen-alien paradigm, across countries. By extrapolation, our results imply that, to facilitate a transition to the human rights paradigm, certain reforms are needed in the legal frames, institutional architectures, and procedural schemes of the regional and national protection systems.

In many countries and in the EU, such a transition requires enacting new asylum laws in order to detach refugee and asylum policies from immigration, border entry, national security, and public order laws. Legal reforms are needed to incorporate the international responsibility sharing objective of the GCR and GCM into national asylum laws, enabling governments to accept relocations of asylum seekers from other countries, accepting asylum applications from abroad, adopting humanitarian visas, and creating legal pathways as well as humanitarian corridors to safe territories.

A transition to the human rights paradigm also demands institutional reforms creating autonomous and pluralistic asylum decision systems that incorporate civil society organizations, pluralistic appeal systems, extensive procedural rights, and asylum procedures that are open to UNHCR and judicial review.

For transition to the human rights paradigm, states and the EU also need to withdraw from, or renegotiate, their international agreements that involve clauses restricting migration and mobility and enter new agreements that enable fair responsibility sharing while safeguarding the rights of migrants as stipulated in the GCM. Finally, such a transition also requires some degree of sovereignty transfer to global and regional intergovernmental institutions like the UN and the EU in the area of international protection so that international responsibility sharing can be coordinated fairly in times of crises.

Finally, it is essential to de-marketize the practice of international protection and to de-commodify international protection in migration arrival ports by pooling and managing resources in global institutions to avoid compromising CSOs and other actors' protection objectives in competition for public resources. Also, the notion of vulnerability should be used in such a way that it serves the goals of the human rights paradigm, that is, in order to create a more inclusive protection practice rather than using it as a means for further exclusion and limitation of rights and access to international protection.

3 Prospects for transition to the human rights paradigm of international protection

In a democratic setting, transformative legal and institutional reforms are feasible and resilient only if citizens support them, the civil society is willing to contribute to their implementation, and public opinion and discourses on international protection seekers are favorable. Regarding support and contribution to international refugee protection, earlier research paid little attention to the nuances between migrants, refugees and asylum seekers, and other protection seekers. We find that differentiating between these categories affects the choice of action, as evidenced in government policy, non-state organizations' work, public discourses, and citizen attitudes. That is, choice of words when referring to people who need protection decides the scope of actions that citizens, civil society, government, and the people active in public media debates are willing to take in order to protect refugees.

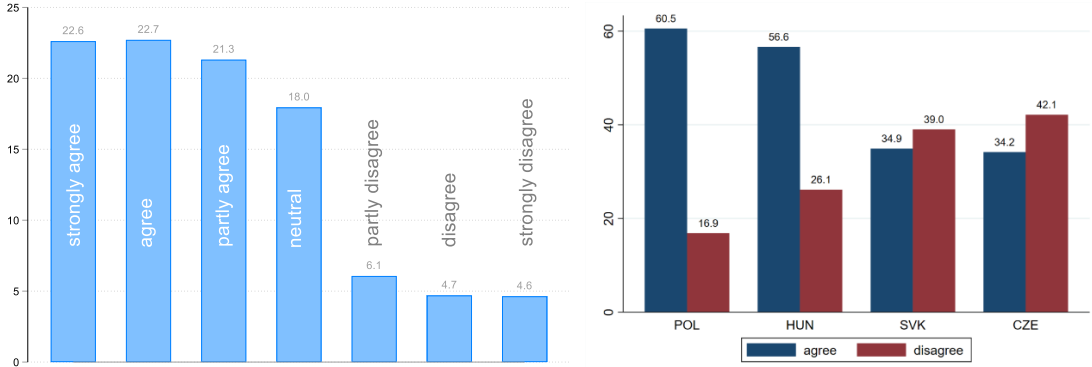
Examples of the above causal statement are abundant in our research. In our quantitative study of citizen attitude surveys in 26 countries, for instance, we find that people who think immigration is salient tend to be negative towards giving protection to refugees (Cappelen et al. 2023). Calling refugees migrants will obviously make it even more difficult for citizens to accept the broader measures implied by the human rights paradigm. Similarly, civil society organizations that see international refugee protection as a case in itself rather than as part of a broader policy area, like migration or humanitarian policy, offer a broader scope of action to protect refugees (Usherwood et al. 2022, 2023). Likewise, among social networks on internet platforms where there is a clear distinction between the notions of “migrant” and “refugee”, discourses about international protection tend to be associated more with “human rights” (Sicakkan 2012, Mance et al. 2022, 2023, Heiberger et al. 2022, Farjam et al. 2023). One remarkable observation in this respect is the difference between the social networks around the UN and EU institutions: the networks around the UN institutions clearly separate between refugees and migrants whereas those around the EU do not. Judging from both EU policy observed in the EUNP and current CEAS and in the public discourses in the EU's networks, conflation of the concepts of migrant and refugee seems to be a major problem of the EU.

As stated, attitudes and master discourses observed in the media matter considerably in policymaking. Bottom-up pressure on policymakers usually increases in times of political, economic, and public health crises. In this section, therefore, I will depict the pressure on the governments and the EU, which is exerted through public opinion, civil society, and media, regarding choice of direction in international protection policy. This will then provide an idea about the democratic feasibility of the reforms towards the human rights paradigm.

3.1 Citizen pressure on international protection policy

Governments and politicians are usually concerned about losing popular support when they must implement global policy at the domestic level. In this respect, migration and international protection policy is considered as being amongst the most controversial policy issues. However, provided that a government’s or politician’s main body of voters is not pronouncedly anti-immigration, our study finds that there are no factual grounds for losing support or votes for promoting international protection. As the graph on the left in Fig. 7 shows, 66.6 % of the voters think all countries should collaborate by all means to protect the world’s refugees.

Figure 7: Percentage of respondents agreeing or disagreeing with the statement: “All countries should collaborate and strive by all means to protect the world’s refugees”.

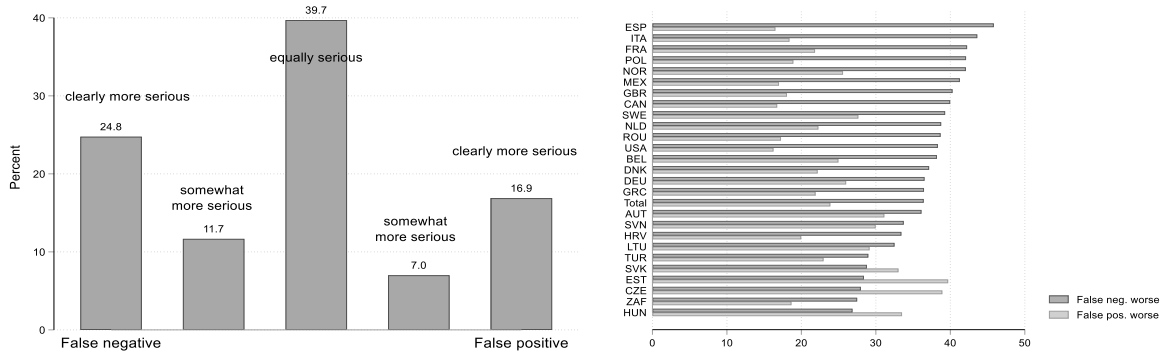


Source: Cappelen, Sicakkan, Van Wolleghem (2023a).

This pattern is similar in most of the 26 countries under study with the exception of the Czech Republic and Slovakia, which tend to present higher values of disagreement with the foregoing statement (the graph on the right in Fig. 7). This is particularly the case in Slovakia and the Czech Republic. In these two countries, there are more people disagreeing than people agreeing: respectively 39% and 42% of the respondents disagree with the statement. Except these two countries, and highly likely also except other countries that were late imperial peripheries under the Soviet Union, governments would not encounter citizen resistance if they joined international responsibility sharing initiatives, like the GCR and GCM, or the EUNP, for protecting refugees. Conclusively, there is a large support among citizens for the broader notion of international responsibility sharing suggested by the Global Compacts.

Our further studies show that, beyond this support for international collaboration to protect refugees as a general concept, there is also a large citizen support for specific institutional, procedural, and legal reforms implied in the GCR and GCM. One such measure is increasing asylum capacity, which also implies improvements in asylum procedures.

Figure 8: People’s attitudes to mistakes in asylum decision-making

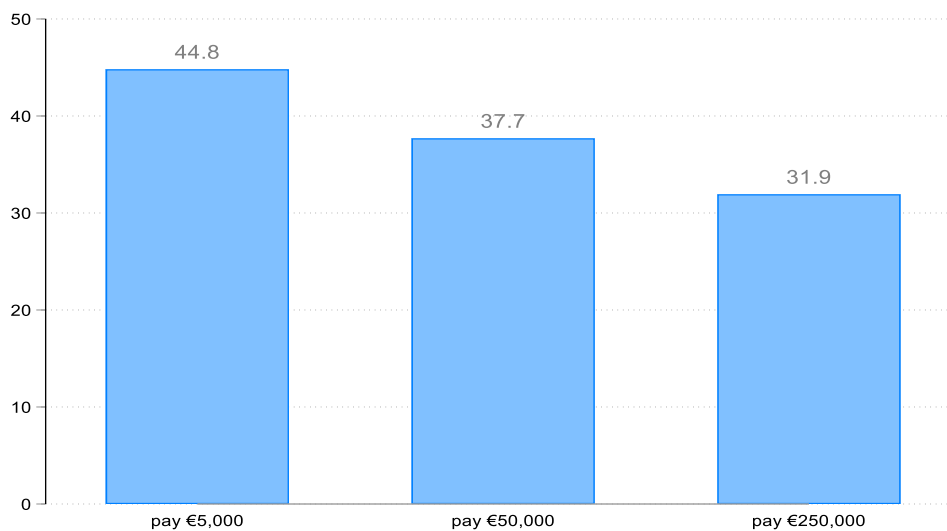


Source: Cappelen, Sicakkan, Van Wolleghem (2023a).

For example, in our survey of people’s attitudes towards mistakes made in asylum decisions (Fig.8), we find that around 40 % are in favor of minimizing errors made in asylum determination procedures. 37,5 % think mistakes that lead to rejection of qualified asylum seekers are more serious than mistakes that lead to recognition of asylum seekers who are not qualified for refugee status. This suggests that 77,5 % of the people will be in favor of institutional and procedural reforms in asylum determination devised to protect the rights of the refugees and asylum seekers. This implies support for introducing autonomous asylum decision systems that incorporate civil society organizations, pluralistic appeal systems, extensive procedural rights, and asylum procedures that are open to UNHCR and judicial review as well as removing from the access procedures the legal grounds that do not originate from the international refugee law, e.g., migration, security, and border entry, immigration detention.

The most basic act of taking on one’s own share of the responsibility for refugees is to put in place national laws, institutions, and procedures for the reception and assessment of the claims of asylum seekers who knock on our doors and ask for protection. The next level is to take measures for easing the burden of other, overburdened countries by admitting our fair share of the world’s refugees and asylum seekers, increasing resettlement quotas, accepting relocations of protection seekers applying to overburdened countries, or providing financial, technical, or material assistance to overburdened countries. The above discussion indicates that citizens prefer accepting more refugees and engaging in more international collaboration. When given a choice between admitting asylum seekers and paying other countries to protect refugees instead of admitting them, people are more in favor of their country admitting them. Further, as Fig. 9 from our survey experiment shows, the higher the amount of the cost of having another country protect refugees, the more willingness to relocate. That is, costs of paying other countries matter for the citizens, and this arises from socio-tropic concerns.

Figure 9: Percentage of respondents to pay another country to accept asylum seekers

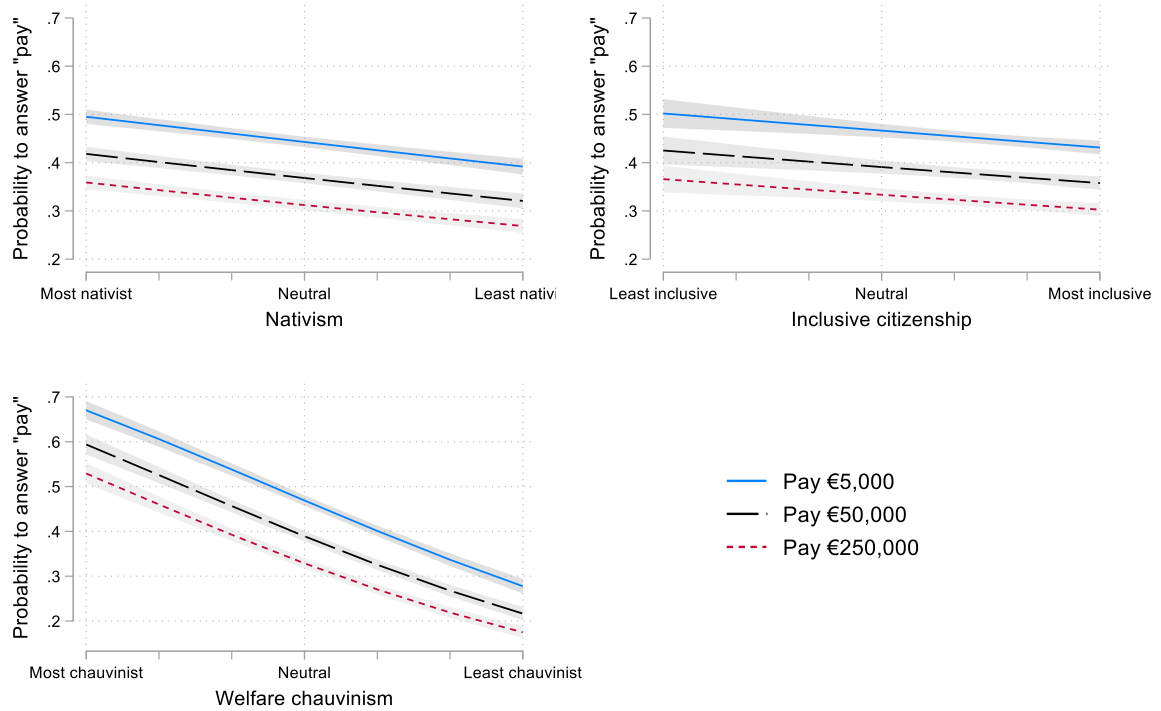


Source: Cappelen, Sicakkan, Van Wolleghem (2023a).

Further, as Fig. 10 shows, there are additional socio-tropic concerns that affect citizens' attitudes to the relocation method of international responsibility sharing. The probability of the preference for "paying one's way out" decreases as the degree of nativism, welfare chauvinism, and restrictive citizenship notions decreases. I will come back to this point later as well: the only parameter that is easy to change in this causal mechanism is the cost of paying one's way out. The other determinants of citizen attitudes are outcomes of historically rooted and gradually changing nation-state characteristics and the global political struggle over deciding the future of the international world order.

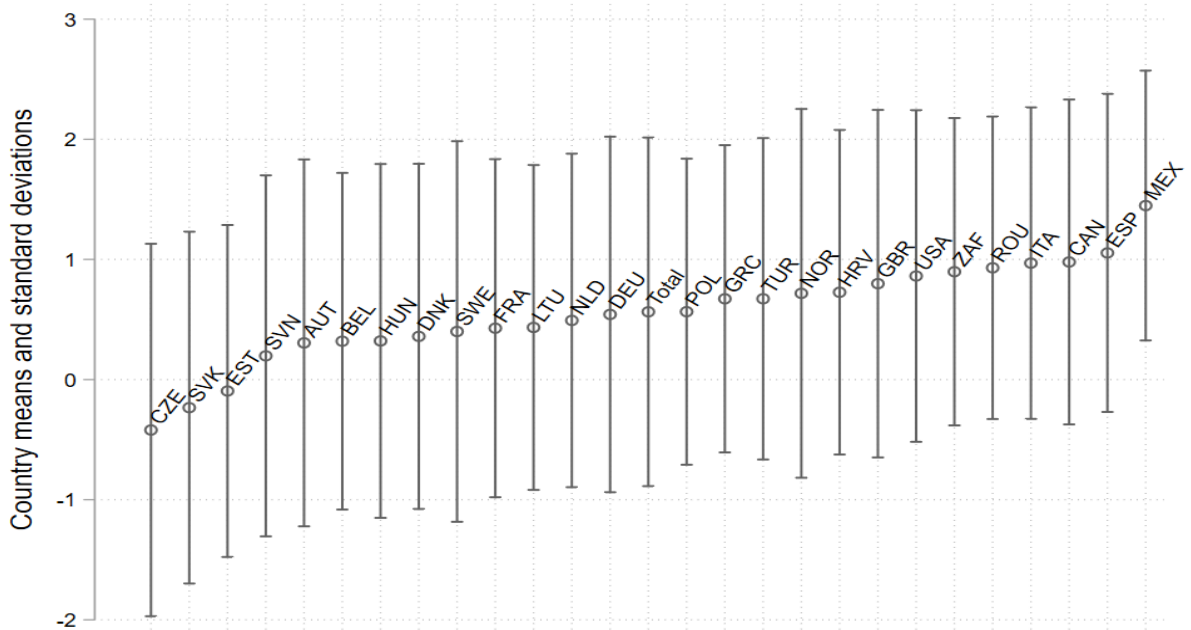
This brings us to the ideological divides, conflicts, and contestations in the international political scene, which I shortly call global cleavages. Indeed, we find that citizens' proximity to one of the four global ideological groups, that is, either to the nativist, nation-statist, regionalist, or globalist group, is the most important determinant of their attitude to international protection (Sicakkan et al. 2023b). The empirical pattern that we find largely follows the conceptual depiction that I introduced in Section 1 regarding the global struggle between the citizen-alien and human-right paradigms over shaping the international protection system. In other words, the prevailing global cleavages play a tremendous role in the formation of people's attitudes towards international refugee protection; a regression model that we created to test hypotheses that are derived from the cleavage theory (Lipset and Rokkan 1967, Sicakkan 2021a) robustly explains around 60 % of the variance in attitudes to international refugee protection. This is a remarkably high explained-variance value generated by a single theory.

Figure 10: Nativism, inclusive citizenship, welfare chauvinism, and willingness to pay a financial contribution to avoid accepting more asylum seekers



Source: Cappelen, Sicakkan, Van Wolleghem (2023a).

Figure 11: Support for International Refugee Protection by Country



Source: Sicakkan and Van Wolleghem (2023b).

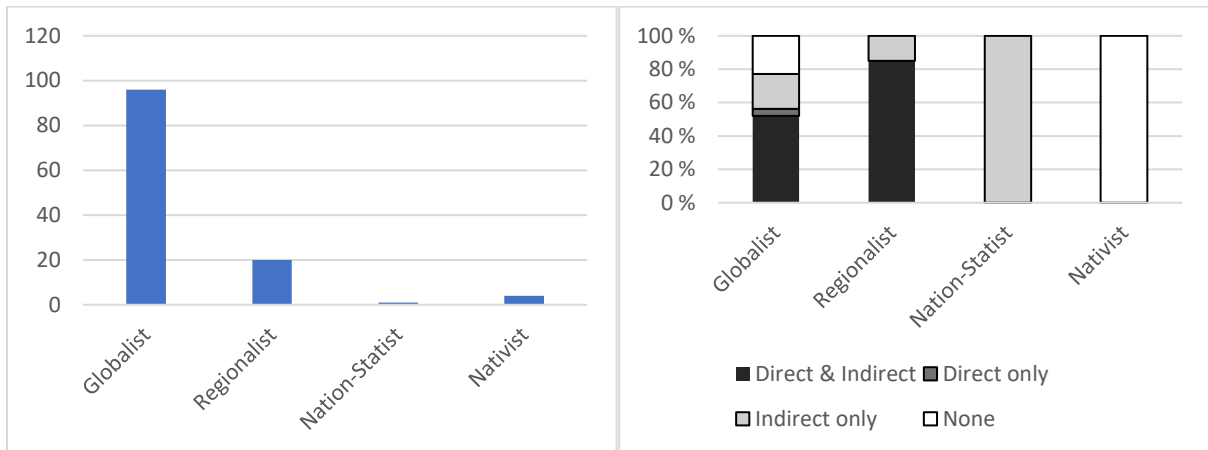
Regarding the prospects for transition to the human rights paradigm, one aspect of the overall findings in our citizen surveys in 26 countries is noteworthy: the strongest determinants of citizen support for the specific legal, institutional, and procedural frames that can facilitate a transition are factors that change very slowly – such as the global cleavage system, including the globalist, regionalist, nation-statist, and nativist factions in it. These are historically rooted factors and features that have emerged as a consequence of global historical junctures like the French Revolution, Industrial Revolution, Russian Revolution, World Wars, and Digital Revolution. Although some nation-statist factions still involve restrictive notions of national citizenship and welfare chauvinism, the general picture is very positive. Since the causes behind today’s citizen attitudes are not likely to change in the foreseeable future, citizens’ preferences are expected to remain positive for a long time, unless the world experiences a new sudden historical juncture. Thus, the currently positive citizen attitudes towards the means of transition to the human rights paradigm increase prospects for such a transition.

3.2 Civil society pressure on international protection policy

Civil society organizations (CSO) are foreseen to have a key role in both refugee protection and international responsibility sharing. However, while the GCR and GCM use ample space for the CSOs, the EUNP devotes little space to them. Indeed, within the GCR’s comprehensive response framework, both transnational and national non-state actors are given a massive role. Our research on the role of CSOs in international refugee protection has furnished a substantial body of evidence regarding the range and character of CSOs’ engagement with and influence over global protection efforts. The highly valuable and specialized resource base that CSOs possess serves as an essential component of contemporary refugee protection, particularly given the declining reliability of states as effective partners in upholding Convention obligations.

In this sense, CSO pressure on policymaking has the double effect of spreading a human-rights-based notion of international protection and acting as a driver of the human rights paradigm. This emerges from the fact that most CSOs working with refugee protection advocate the human rights paradigm. The number of nation-statist and nativist CSOs are negligibly small. As seen in the graph on the left in Fig. 12, our survey shows that a dominant majority of CSOs are globalists, which conceptually and empirically corresponds to the human rights paradigm. In contrast to the regionalist ideology of the EU, CSO-regionalism corresponds to the human rights paradigm in search of a bottom-up built EU (cf. Sicakkan and Heiberger 2022).

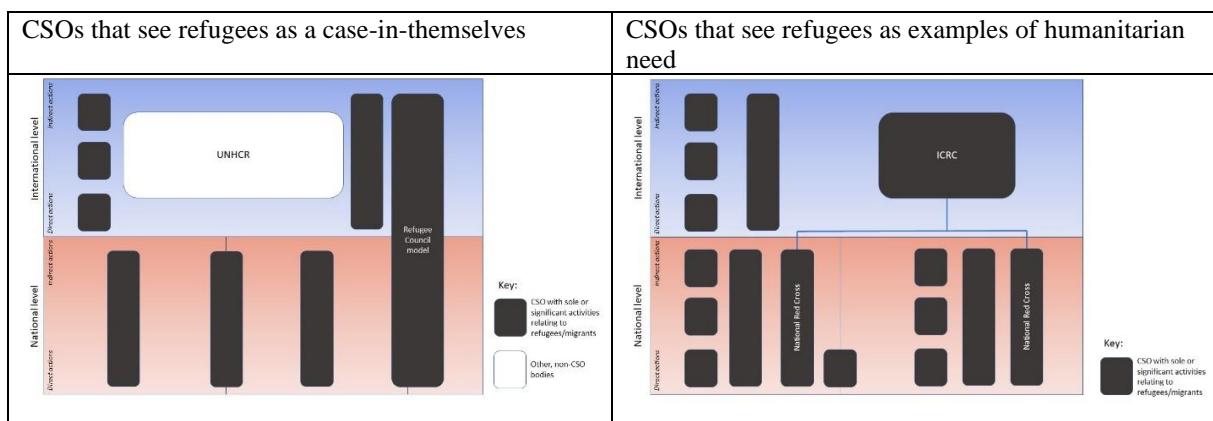
Figure 12: Civil Society Organisations with observable positions in the international protection cleavage model and Their Action Scopes



Source: Usherwood et al. (2023)

There is a crucial contrast between CSOs that view refugees as a case in themselves versus those that regard them as instances of a humanitarian exigency. These groupings diverge in their perception of priorities and in their approach to fulfilling their respective duties. Fig.13 shows CSOs' national and international reach. CSOs based in one country are in the red box. Those with limited cross-border operations are placed across state borders while globally oriented CSOs are in the blue section. Though, we observe two deviations: ICRC has global central authority and independently operated national branches. National refugee councils like the Danish one aid refugees with both national and international efforts. Activities within each boundary differ: while CSOs that see refugees as a case in themselves are more inclined to perform a broad range of both *direct and indirect* actions to help refugees (e.g., emergency aid, case work, lobbying, campaigning), CSOs that see refugees as cases of a broader notion of humanitarian need offer a narrower scope of *indirect* action (e.g., lobbying, campaigning).

Figure 13: The organization of Globalist and Regionalist CSOs



Source: Usherwood et al. (2022)

As the GCR and GCM recognize, international protection relies heavily on the collaboration and involvement of CSOs, who bridge refugees, larger communities, and public institutions. CSOs emerge from the efforts of the people who choose to invest their energy and resources into organizing and taking action towards a cause they deem valuable. The result is the formation of motivated groups with exceptional expertise and resources, which are highly advantageous for policy implementation, in our case within the area of international protection. Therefore, measures and policy instruments that facilitate their involvement in international refugee protection promote the human rights paradigm. In this respect, there are four features that are important to note:

Firstly, as emphasized above, our study has brought attention to the fact that not all CSOs mobilize equally in regard to international protection. It appears that only those who hold global or regional perspectives on the subject are more prone to forming organizations that prioritize the matter in their efforts.

Secondly, there is a crucial differentiation between groups that perceive refugees as the unique focus of their work and those that view them as part of their broader humanitarian project. These two factions hold distinct perspectives on the priorities and methods required to address the issue at hand. As emphasized above, CSOs whose sole focus is refugees perform a broader scope of direct and indirect actions in international protection.

Thirdly, CSOs are critical of the GCR and GCM. However, they also exhibit strong positive reinforcement towards the objectives of GCM and GCR. Also, GCR and GCM for CSOs are not as legally potent as the Convention and therefore the primary focus of CSOs remains on utilizing the Geneva Convention. The lack of involvement from the majority of CSOs in the development and execution of the Compacts cannot be easily explained as disinterest or indifference. Notably, there is proof that these organizations are ready to further develop the Compacts if states exert real effort in fulfilling their obligations, which could encourage CSOs to participate in enforcing and executing them.

Finally, obtaining resources is vital. Our data conveys a strong point that the success of CSOs depends largely on their resource pool. As public funding cannot completely solve the problem of unpredictable revenue flow from other sources, finances is a CSO vulnerability, which should be recognized in collaborative situations. Effective communication, mutual reliance, and comprehension among public agencies and civil society organizations are pivotal to success.

Regarding transition to the human rights paradigm, with their human rights-based attitudes to international protection and their motivation and broad scope of action, globalist and regionalist CSOs can have an impact on the implementation of the GCR and GCM. In this sense, and especially in contexts where states are reluctant to be involved, CSOs and their involvement both within and across borders is a vital tool for an effective transition to the human rights paradigm. However, the effect of CSO involvement will be more visible if accompanied with state partnerships and increased state involvement in international protection.

3.3 Media pressure on international protection policy

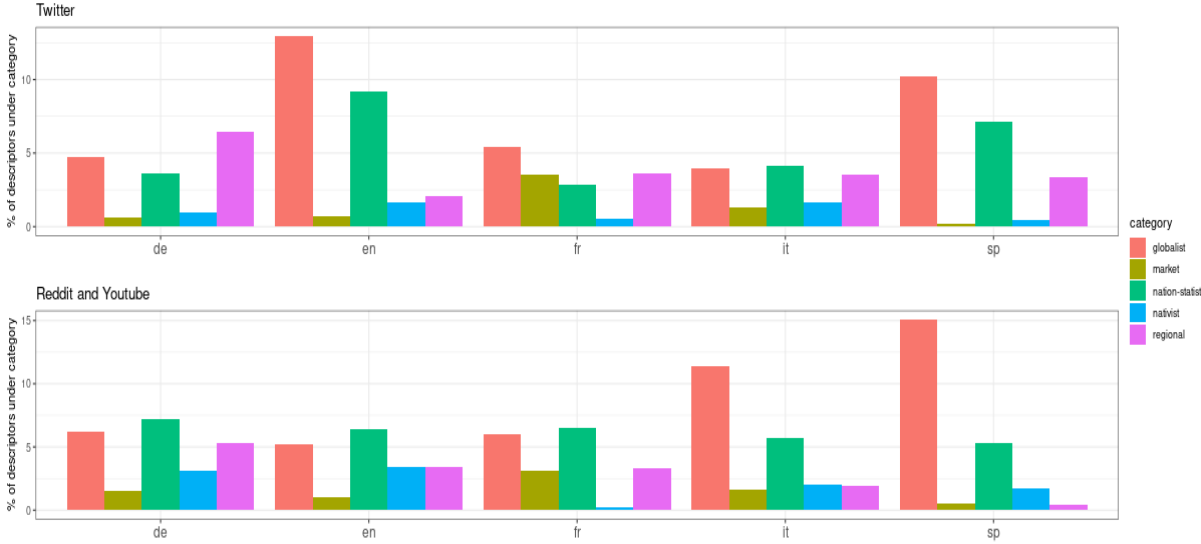
A global political cleavage system is clearly discernable in media narratives and discourses. Earlier research has empirically established the presence of the global political cleavages within and outside the media sphere (e.g., Kriesi et al., 2006; Sicakkan, 2016; Hooghe and Marks, 2018; Zürn, 2019; Ford and Jennings, 2020; Gethin et al., 2021, Piketty et al., 2021, Sicakkan and Heiberger 2022). To assess the features of media pressure on policymaking, we have studied how these cleavages manifest themselves on the issue of international protection in social and traditional media in multiple languages.

The divides between the nativists, nation-statists, regionalists, and globalists emerge as a global struggle between the citizen-alien and human rights paradigms about the future of international refugee protection. Should international refugee protection remain contingent upon states' migration policy objectives? Should it be left to the discretion of individual states with the minimal binding international law of the Geneva Convention? Should it be steered by global institutions according to the broader international human rights law?

In the legal and institutional spheres, we discovered that conflation or separation of laws, institutions, and procedures of international protection from migration and border entry laws and institutions, is what distinguishes the two paradigms: the citizen-alien paradigm conflates, and the human rights paradigm differentiates between migrants and refugees/asylum seekers. As I will delineate in the following, a similar finding features in our research about cleavages, discourses, and framings in traditional and social media. In media, the discursive element that distinguishes between the citizen-alien and human rights approaches is the use of the words “migrant” and “refugee” when referring to refugees, asylum seekers and other protection seekers. Based on this, I will assess the extent to which social and traditional media discourses may facilitate or hinder transition to the human rights paradigm.

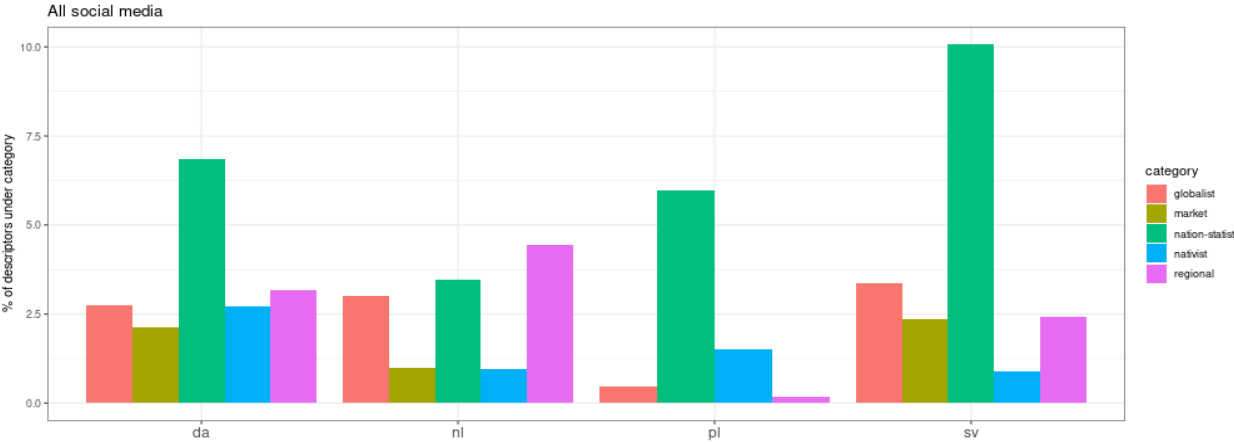
Figures 14 and 15 show the presence of five global ideological groups in the big social media data (2014-2020) that we collected and used. In addition to the groups mentioned above, the social media analysis identified the presence of a market-oriented globalism, which is distinguishable from the human-rights globalism with its focus on economic globalization.

Figure 14: Distribution of cleavage categories for the five largest languages. For those languages, Twitter was analyzed separately from the other social media



Source: Dutceac Segesten and Farjam (2022)

Figure 15: Distribution of cleavage categories in the four smaller languages in which posts from all social media were analyzed jointly



Source: Dutceac Segesten and Farjam (2022)

As Fig.14 shows, globalist, regionalist, and nation-statist discourses and narratives are prominent in big languages, while Fig. 15 indicates the nation-statist discourses dominate in smaller languages. It is important to point out that the small languages analyzed are Danish,

Dutch, Polish, and Slovak. In our attitude surveys and experiments, Poland and Slovakia also emerged as having populations with restrictive attitudes to international refugee protection. While social media posts in Danish follow a pattern similar to the nation-statist dominance in Polish and Slovak, regionalism (Europeanism) emerge as the dominant approach in the posts in Dutch.

Table 3: Topics that are associated with refugees and asylum seekers by cleavage category

	Globalist	Regionalist	Nation-statist	Nativist	Marketist
Crime & violence	3	0	25	26	0
Economy & job-market	5	0	4	1	130
EU politics	11	56	30	1	1
Global politics	83	1	5	2	0
Humanitarian compassionate attitudes	129	0	11	3	1
Limiting & anti-migration	8	1	96	68	3
National politics	7	3	36	4	1
Refugee characteristics	2	0	3	43	0
Refugee crisis	11	40	8	0	0

Source: Dutceac Segesten and Farjam (2022)

Table 3 shows the topics of focus in each cleavage category. The pattern is clear: while nation-statist and nativist groups associate international refugee protection most with limiting migration and crime and violence, and nativists are in addition very much occupied with refugee characteristics (e.g., religion, nationalist, ethnicity, race etc.), regionalists and market-oriented globalists talk mostly about, respectively, EU-politics and economy/job-market related aspects of refugee issues. As we also observed in our attitude surveys, the globalist groups post messages that communicate compassionate humanitarianism and the global policy dimension of refugee protection. On the other hand, regionalists and market-oriented globalists in social media do ‘politics’ and ‘business’ as usual in relation to migrants and refugees, which is another, subtle way of merging the two categories. Hence, we observe a discursive struggle in social media between those who conflate “refugee” with “migrant” (nation statist) and those who distinguish between them (globalists). In this respect, a separate study of the Twitter networks around the EU and UN demonstrates the difference between globalism and regionalism: while the social networks around the UN distinguish very clearly between “migrants” and “refugees”, the networks around the EU institutions do not (Heiberger et al. 2022).

Figure 16: Examples of prominent events in the most relevant peaks of media coverage in the Netherlands, Austria, France, Germany and United Kingdom (1/1/2014-31/12/2019)

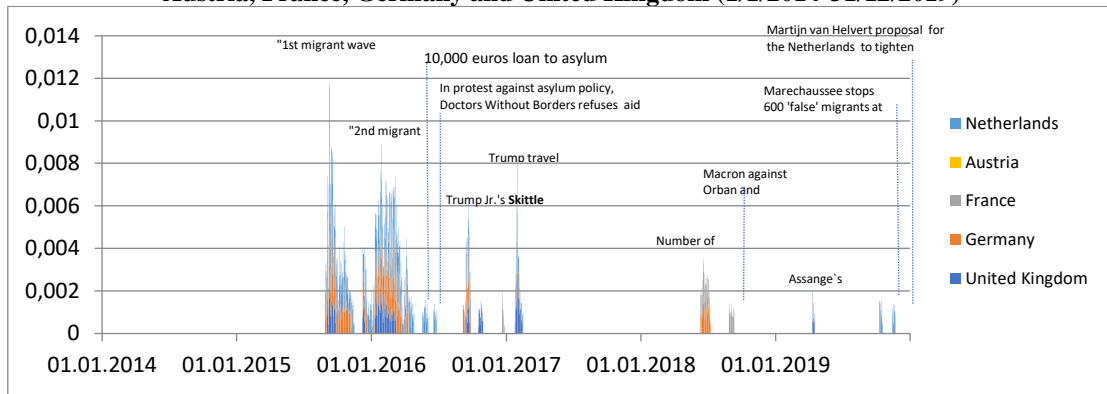


Figure 17: Examples of prominent events in the most relevant peaks of media coverage in the Czech Republic, Poland, Slovenia, Greece, Hungary, Italy and Spain (1/1/2014-31/12/2019)

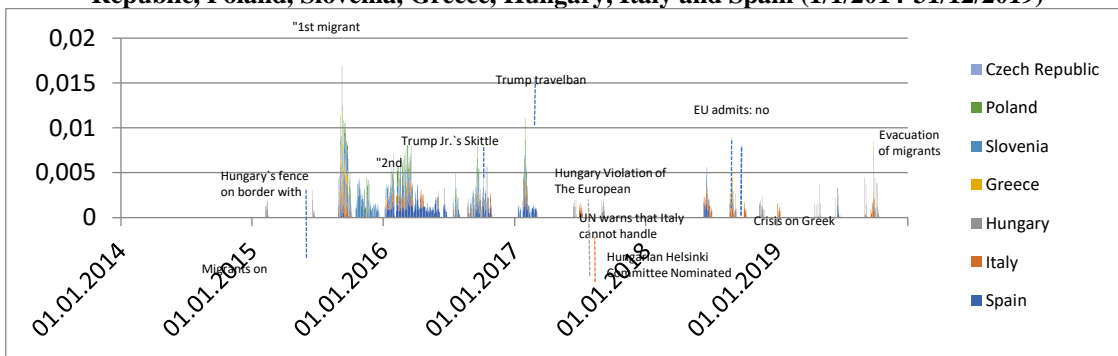


Figure 18: Examples of prominent events in the most relevant peaks of media coverage in Norway, Denmark and Sweden (1/1/2014-31/12/2019)

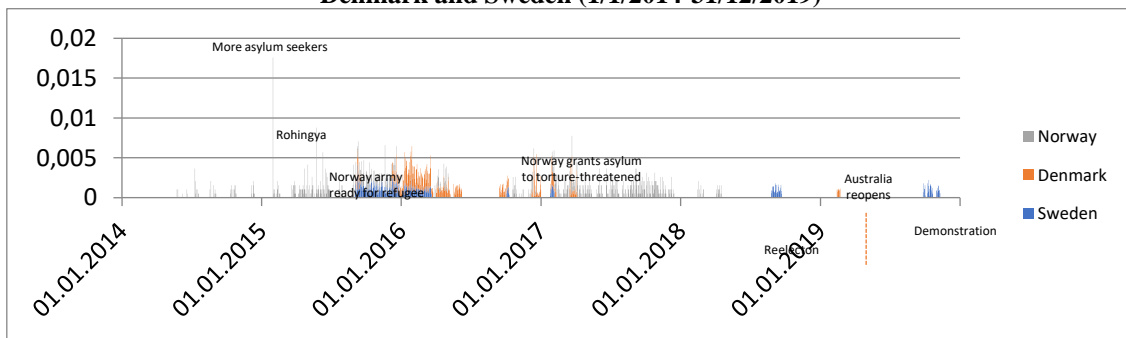
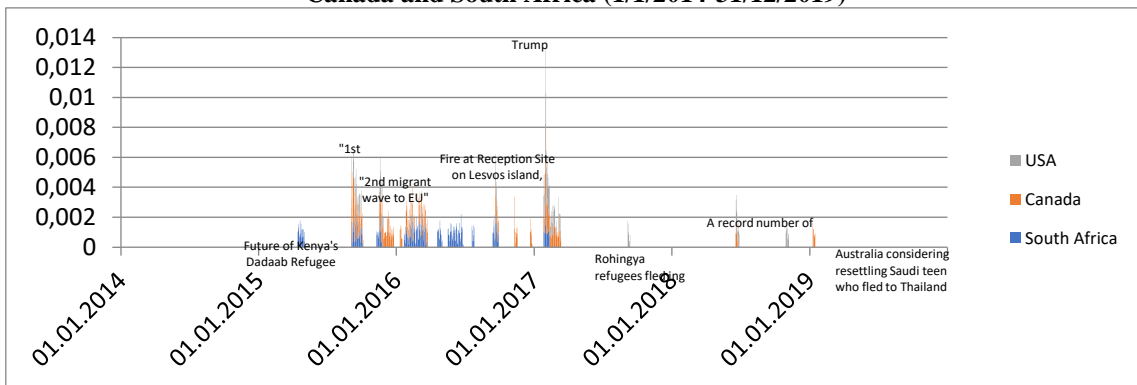


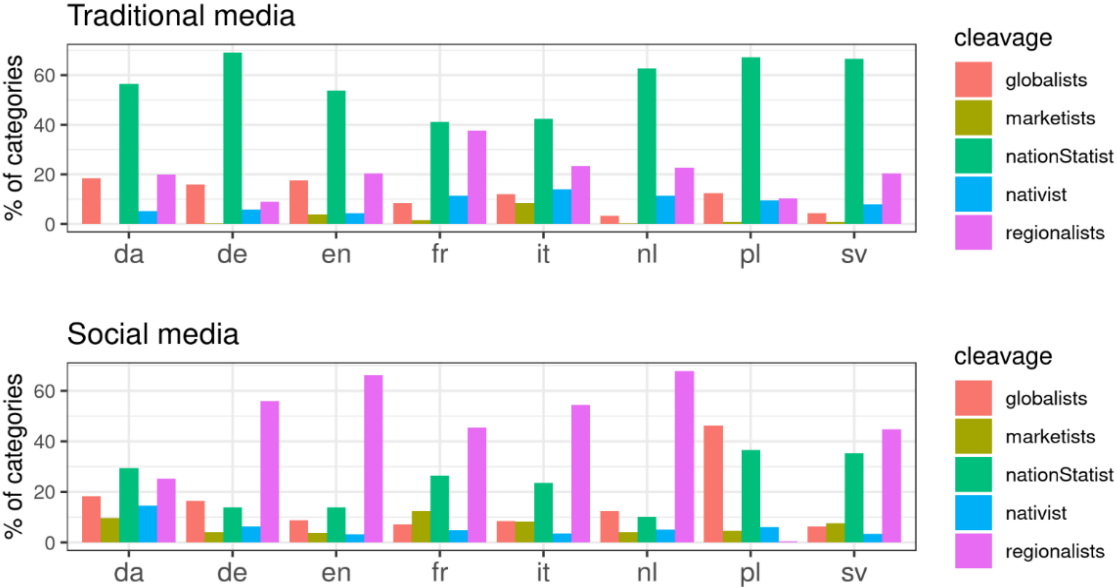
Figure 19: Examples of prominent events in the most relevant peaks of media coverage in the USA, Canada and South Africa (1/1/2014-31/12/2019)



As seen in Figures 16-19 from our big media-data study, news reporting about migration and international protection in *traditional media* happens mostly in connection with specific national policy initiatives or international migration and refugee flows of magnitude. Even in this very generic depiction, traditional media discourses appear to be dominated by nation-statist discourses about international refugee protection.

Our comparisons of the cleavage structures that are observed in traditional media with those in social media on topics common to both media types confirm this impression. Fig. 20 illustrates that traditional media is much more nation-statism oriented than social media regarding international refugee protection (Farjam et al. 2023). Although we found a dominance of globalist approaches in big languages in social media (when topics that are the most frequent in social media are studied) (see Fig. 14), regionalist approaches emerge as more prominent in social media when topics common to traditional and social media are studied.

Figure 20: Comparison of cleavages found in traditional and social media



Source: Farjam et al. (2023)

These findings testify to the fact that there are different kinds of media pressure on policymaking on international refugee protection. Firstly, in traditional media, nation-statist approaches, that is, the citizen-alien paradigm, are strong, something which puts pressure on governments’ implementation of the human-rights oriented GCR and GCM. On the other hand, as Fig. 14 shows, the social media discourses on Twitter, Facebook, Reddit, and YouTube push in the opposite direction of globalist and regionalist approaches. Regionalism is but another version of the citizen-alien paradigm that extends the notion of citizenship to a regional

jurisdiction like the EU. In this sense, the media discourses on international refugee protection are oscillating between the citizen-alien and human rights paradigms, posing a discursive challenge to transition to the GCR and GCM's human rights paradigm. However, since young people use social media and internet platforms more, the traditional media's current pressure on policymaking will not be felt as strongly in the future as now.

3.4 Crisis constraints assessment: The case of global Covid-19 public health crisis

The international protection system has ceaselessly been exposed to crises throughout history. Some examples in the postwar era are the exodus of Hungarian opponents following the government's crush of the Hungarian Revolution in 1956, the Oil Crisis of 1973, the long civil wars in the Former Yugoslavia and Rwanda in the 1990s, the global financial crisis that started in 2007, the global democratic backslidings of the 2000s, the mass protection-seeker flows in the 2010s, including arrivals from Afghanistan, Syria, sub-Saharan Africa, and South America.

We can distinguish between two types of crises: (1) origin-country related crises that produce mass refugee movements and (2) host-country related crises that demotivate or prevent safe countries from helping protection seekers. Regarding the first type, the most recent examples are the Syrian civil war and Russia's invasion of Ukraine. Although financial crises are typical instances of the second type, the most recent example is the global public health crisis that was triggered by the Covid 19 pandemic that started in late 2019. When type-1 and type-2 crises occur simultaneously, a third type emerges: (3) *refugee protection crisis*.

PROTECT studied the state of international protection during a refugee protection crisis that arose as a consequence of multiple overlapping crises. The launch of the project was in early 2020 when people still felt the impact of the European Sovereign Debt Crisis, which was followed by the Covid-19 public health crisis and accompanied by the arrivals of protection seekers from Syria, Afghanistan, sub-Sahara, Ukraine, and South America. Although some call it a migration crisis, I choose to designate it as an "international protection crisis" or a "refugee protection crisis". How social phenomena are named has implications for how challenges and solutions are conceived. For some, the challenge is to stop the mass movements or contain them outside our borders; for others the challenge is to protect people in need of protection. Following the flows of protection seekers in 2014-2017, the international community sought solutions to the challenge of refugee protection. Indeed, the GCR and GCM are primarily meant to be soft-law instruments for promoting international responsibility sharing and a human-rights-based approach as key solutions to protection challenges during such mass movements.

However, we find that during the refugee protection crises of the 2020s, the citizen-alien approach was significantly strengthened in the European Union, Canada, and South Africa. Although the Compacts, CEAS, and the national legal frameworks of Canada and South Africa affirm the right to international protection and human rights, Covid-19 was instrumentalized in order to limit access to both international protection and human rights and other basic rights of the protection seekers in practice (Guild et al. 2022a, Atak, Grundler et al. 2023).

Our ethnographic fieldworks in six sites in the EU, Canada, and South Africa document that, despite the sharp decline in the number of asylum applications due to mobility restrictions and Covid-19 certificate pass requirements, the political asylum systems in these three political systems were all characterized by border closures, increase in detentions and imprisonments in some countries (see below), suspensions of access to asylum procedures, digitalization and thus closing of the physical venues and offices of asylum institutions, discontinuing of registration and reception, large backlogs in asylum claim evaluations, increased arbitrariness in provision of legal and social rights, increased absence of cooperation between the public authorities and non-state actors, reductions in CSOs' personnel and work capacities, and discrimination of protection seekers in health services and vaccination programmes (Atak et al. 2022, Cavatorta 2023, Exadaktylos et al. 2023, Jacobsen 2023, Jacobsen et al. 2022a, Karlsen 2023, Vanyoro et al. 2023). CSOs providing legal and social assistance closed or reduced activities, making access to healthcare and basic needs harder. The COVID-19 pandemic is commonly regarded as having exacerbated vulnerabilities and accentuated deficiencies within the asylum and reception systems, highlighting their limited capacity to address such challenges (Jacobsen and Karlsen 2023).

In the same vein, our legal study finds that, during the pandemic, South Africa exhibited a notable upsurge in the arrests and imprisonments of migrants for minor criminal offenses. Also, there was a concomitant escalation in the detention, arrest, and expulsion of undocumented protection seekers. The rationale presented for these measures was to restrict the spreading of the virus, despite the likelihood that widespread deportations might propagate the contagion. Immigrants were not adequately incorporated in the preventive measures implemented in prisons and detention centers during the Covid-19 outbreak in South Africa. The Covid-19 pandemic also resulted in a significant curtailment of legal representatives' entitlement to access facilities of immigration detention. Throughout the Covid-19 pandemic, an extended break in the operations of Refugee Reception Offices (RROs) and Department of Home Affairs (DHA) rendered numerous asylum-seekers and refugees incapable of obtaining

or updating their documentation, ultimately placing them in highly dire circumstances (Atak, Grundler et al. 2023, Maple et al. 2023).

In Canada, similarly, our legal comparative study finds that the advent of the pandemic brought into focus the critical susceptibility of individuals in detention to the hazards of Covid-19. In April 2020, some detainees were released; however, a remaining cohort was subjected to solitary confinement as a measure to impede the propagation of the virus. Canada employs solitary confinement independent of the pandemic and employs maximum security prisons for housing immigrants subject to detention. Amidst the Covid-19 pandemic, the United States and Canada arrived at a provisional accord which authorized Canada to return all undocumented asylum-seekers arriving in Canada from the United States at official points of entry. Consequently, asylum-seekers who engaged in irregular entry into Canada were deemed ineligible to submit an application for refugee status. This constitutes a reversal of the previous policy which had granted such authorization (Atak, Grundler et al. 2023, Atak, Linley et al. 2023).

Our comparative-legal study of the EU finds that *the EU* member states turned to extensive protectionist measures during the COVID-19 pandemic with some exceptions like Spain and Portugal. Several Member States continued to practice immigration detention while halting their registration processes for asylum-seekers. This varied from full suspension in Belgium, Greece, and Poland to almost total suspension, except for the most at risk, in France and various other places. Some Member States did not adjust their rules regarding time restrictions for seeking asylum and submitting complete applications in response to Covid-19 precautions. As a consequence, individuals seeking asylum were unable to fulfill the requirements of their legal status. Certain countries also neglected to establish mechanisms that allow individuals seeking asylum to extend the legitimacy of their registration papers and abide by the law. The pandemic made it even more difficult for asylum-seekers to register their claims, worsening existing challenges (Atak, Grundler et al. 2023, Guild et al. 2022a).

In the GCM, states are committed to ensuring certainty and predictability in migration procedures. As a result of COVID-19 measures many Member States fell short of this obligation. They failed to take into account their duties towards migrants, refugees and asylum seekers to ensure certainty and predictability in the processing of their applications. Access to the territory, procedures, reception conditions and substantive determination of their applications has been made fragile by COVID-19 measures, and in some cases frustrated entirely. Times of pandemic increased pressures on public administrations to deliver services

to everyone on their territory. But these increased demands cannot justify the failure to comply with internationally accepted and EU-binding obligations to migrants, refugees, and asylum seekers (Guild et al. 2022a).

Many countries in the EU did not adhere to the EU law concerning the handling of refugees and those seeking asylum while fighting COVID-19. This goes against the agreement made in the Compacts to uphold the principles of the rule of law. The GMC signatories vowed to guarantee reliable and expected international protection processes. Due to COVID-19 regulations, several Member States did not fulfill this responsibility. Some neglected their responsibilities towards migrants, refugees, and asylum seekers, resulting in an absence of reliability and foretelling in regard to the handling of their requests. The COVID-19 measures have had a detrimental impact on protection seekers' access to the territory, procedures, reception conditions, and their applications' substantive determination. In some instances, access has been entirely impeded (Guild et al. 2022a).

The sweeping shift towards the citizen-alien paradigm during the Covid-19 pandemic is evident by the fact protection seekers were subjected more to immigration and border entry rules even though the Geneva Convention clearly requires that they will be exempted from these rules. Beyond a strict application of migration and mobility rules irrelevant for international protection, the Covid-19 measures were instrumentalized to deny access to basic human rights, including health services, to protection seekers, occasionally imperiling their lives. As Fig. 3 shows, application of immigration and border entry rules was not only a matter of strict rule implementation, but also of systematic changes in asylum procedures by including migration, border, and security rules and concerns about immigration control in access procedures. Fig. 3 also shows that there was a previous wave of incorporation of migration and border entry rules into international protection around 2014 and 2015, a period which coincides with mass protection-seeker flows into Europe through Mediterranean crossings and otherwise. That is, the current instruments of the human-rights paradigm of the GCR and GCM are not immune to acute global crises, that is, *refugee protection crises*.

This begs the question of creating mechanisms to avoid backsliding from the human rights approach in times of crises. Regarding the legal instruments needed for bringing the international protection system closer to the human rights paradigm, we have already mentioned in section 2.1: (i) broader stakeholder participation in the preparation of the national reports, in particular from civil society in order to avoid cherry-picking approach by the states and (ii) aligning and cross-fertilizing the GCM review process with the supervisory mechanisms based

on human rights treaties. It is evident that measures beyond these two proposals are needed in times of crises. In this respect, we find that the following measures are essential:

GCR and GCM reviews should explicitly address immigration detention, access to asylum procedures, and access to health care in sufficient detail. Currently, the GCM reviews contain only broad references to immigration detention, as stated in the International Migration Forum (IMRF) 2022 progress declaration. While the GFR review papers do suggest enhancing and streamlining the asylum systems and protocols, they fail to investigate the current barriers to obtaining asylum. The European regional GCM review provides a concise mention of pushbacks being used as a means of blocking access to asylum, alongside a recognition of the significance of enhanced procedures for determining asylum applications.

4 Conclusion

A transition from the citizen-alien paradigm to the human rights paradigm is urgently needed to repair the deficiencies of the current international refugee protection system. For this to happen, the national and EU laws, institutions, and procedures that handle international protection policies need to be divorced from those that are devised to implement the national migration, security, border, and foreign policies. How this can be done and the specific areas of focus regarding such separation are outlined in the previous pages of this essay. However, it should be noted that none of the protection tools, be they the tools of the citizen-alien paradigm or of the human rights paradigm, do not work as efficiently in times of crises. We have also identified some measures that need to be taken for them to work during crises.

Yet, the separation of the international protection laws, institutions, and discourses from those that handle migration, border, security, and public order do not imply that, as long as we treat international protection seekers fairly, it is legitimate to deny mobility rights to people, criminalize migrants, externalize and securitize the management of migration. As indicated throughout the text, the human rights paradigm of international protection is concerned with all protection seekers, both those who fall and those who do not fall under the categories specified in the Geneva Convention. Thus, securitization, externalization, criminalization, and limitation of migration and mobility is the main hindrance for transition to the human rights paradigm in international protection. A true transition to the human rights paradigm cannot be complete before the human rights of, not only protection seekers, but also all migrants are recognized regardless of migration status, in the spirit of the Global Compact on Migration.

If governments opt for taking on more responsibility sharing for the refugees and being more involved in global collaboration on international refugee protection, by undertaking such transition and implementing the Global Compacts in full, the discourses on social media in the majority of the countries studied will largely be positive to such reforms while citizens will significantly support the legal, institutional, and procedural reforms needed to initiate the transition. Some opposition may come from national traditional media as well as political and civil society actors that are categorically against losing sovereign control over immigration. On the other hand, the positive citizen attitudes that I outlined above rely on historical-structural factors that change very slowly, which means that such reforms will have citizens' support for a very long time. This also includes the transfer of some decision power on international responsibility-sharing to global institutions like the UNHCR and IOM during crisis situations that involve mass inflows of protection seekers and public health emergencies.

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