

Border Security Vs Human Rights: Reconciling National Sovereignty, Migrant Protection and Asylum-Seeking Rights in the 21st Century

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<https://doi.org/10.62345/jads.2025.14.3.43>

Abstract

The tension between state sovereignty and international human rights obligations has increasingly defined border governance in the 21st century. This study examined how restrictive security measures, intended to regulate migration and protect national borders, frequently conflicted with the protection of asylum seekers' rights and the dignity of migrants. The research aimed to investigate the extent to which border security could be reconciled with human rights protections and to identify pathways for more balanced governance. A qualitative methodology was employed, relying on thematic analysis of policy documents, NGO reports, and migrant narratives. This design enabled a deeper understanding of the discourses and practices surrounding border securitization and asylum systems across multiple contexts. The results revealed three dominant themes: (1) the securitization of borders through militarization, surveillance, and externalization; (2) the gaps between international human rights frameworks and domestic implementation; and (3) the lived consequences of restrictive practices on migrants and asylum seekers. Evidence also suggested the possibility of reconciliation through humanitarian corridors, sponsorship programs, and the ethical regulation of technologies. The study concluded that human rights and sovereignty are not inherently contradictory; instead, they require deliberate efforts to balance security with protection. Future directions included cross-regional comparisons, greater integration of migrant voices, and an investigation into how climate change and digital technologies would impact the reshaping of border governance and human rights.

Keywords: Asylum Seekers, Border Governance, Human Rights, Migration, National Security.

Introduction

During the years preceding 2025, an increasing number of states adopted extraterritorial border controls to prevent asylum seekers and migrants from arriving. Scholars argued that several of these measures are undermining the right to seek asylum and the principle of non-refoulement under international law (Yang et al., 2024). States justified their actions in terms of sovereignty and national security (Yang et al., 2024). These externalization practices included third-country agreements, carrier sanctions, or pushbacks at or beyond borders.

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At the same time, the use of automated decision-making and artificial intelligence at EU borders has increased, particularly in identification, screening, risk assessment, and monitoring. Concerns about risk to privacy, data protection, non-discrimination, and access to remedies were raised by these systems (Yang et al., 2024). Technologies were primarily used in security activities and border regimes, highlighting control over humanitarian concerns in the name of security.

Simultaneously, the European human rights system was developing jurisprudence that scrutinized the detention, pushbacks, or other border-restrictive practices being used. For instance, in Lithuania, courts declared unconstitutional the automatic detention of applicants who irregularly crossed the border. In late 2023, amendments were introduced to allow for alternatives to detention. However, concerns of arbitrary detention remain as the suspension of detention remains in practice.

Furthermore, specific studies have assessed whether long-lasting temporary protection regimes breach the non-refoulement duty. The case study, which concerned Syrians under Temporary Protection in Türkiye, examined whether the repatriation policies were compatible with the European Court of Human Rights' case law. The report concluded that even if the general prohibition of non-refoulement cannot be breached, it remains unclear, and there is resistance to determining lawful repatriation after prolonged host status.

According to policy and ethics experts, the status of failed asylum seekers needs to be interrogated. For example, Hadj Abdou and Kollar (2024) argued that, on moral and practical grounds, failed asylum seekers deserve a conditional right to stay, or more robust protection; removal policies that are too strict and processing times that are too short carry ethical and operational risks to the asylum system.

Recent work has examined the limitations of non-refoulement by analyzing legal argumentation and the concept of state sovereignty. In Indonesia, for instance, scholars examined how sovereignty claims were deployed to justify restrictions on non-refoulement. They conducted an analysis of immigration policy and legal theory to see when limits had been asserted. This article showed tensions between the arguments of domestic sovereignty and the binding nature of international refugee law.

Together, these studies showed that while the legal protections of asylum seekers and migrants (such as non-refoulement, rights to due process, protection from arbitrary detention) were strong in theory, in practice there have been a range of practices — externalisation of border enforcement, detention, pushbacks, technological screening, restrictive policies — that threaten to undermine such rights on grounds of national security or sovereignty.

Research Problem

Although international legal standards, treaties, and human rights jurisprudence have consistently reaffirmed the rights of asylum seekers (including non-refoulement and access to asylum), the measures that states have adopted in the name of border security and sovereignty are increasingly out of sync with those standards. The disconnect was evident in practices in dispute, such as extraterritorial pushbacks, automatic detention at borders, and restrictions on procedural guarantees for asylum applications, notably when 'capacity', political pressure, and security rhetoric had intensified. In addition, despite certain courts and human rights bodies pushing back against overbroad sovereignty claims — deeming some detention or pushback unlawful and clarifying that non-refoulement is non-derogable — courts in various jurisdictions were ambiguous and inconsistent.

The issue was that scholars and policymakers had insufficient regard for which policy frameworks or legal reforms had effectively balanced state security concerns with the protection of asylum seekers, and under what conditions states had failed or succeeded in restoring that balance.

Objectives of the Study

1. To investigate how recent state practices (2022-2025) have framed national sovereignty and border security in migration and asylum policy.
2. To assess how recent jurisprudence (mainly European and comparative) had constrained or shaped state actions (pushbacks, detention, non-refoulement) in those years.
3. To analyze the experiences of asylum seekers in jurisdictions where restrictive border measures had been legally challenged or altered, focusing on procedural fairness, access to protection, and discrimination.

Research Questions

Q1: How have border security measures (e.g., extraterritorial controls, pushbacks, automated decision-making) impacted the rights of asylum seekers in recent years?

Q2: In what ways had states used sovereignty claims to justify restrictive migration policies, and how had international law, courts, or human rights mechanisms countered or shaped those claims?

Q3: What variation existed in asylum seekers' access to protection and fair process in jurisdictions that had adopted restrictive border enforcement, and what factors explained those differences?

Significance of the Study

This study filled a crucial gap in existing literature. Although there have been numerous discussions on border security practices and human rights obligations, there are fewer analyses of the post-2022 legal/judgments and policy reforms of those practices. This study addressed the question of how and in what ways these judgments and reforms are making a difference, in theory and on the ground. It basically reiterates what we said in the previous paragraph. International lawyers, scholars studying human rights, migration studies experts, and public policymakers found it important. The study was also of immense policy relevance. It could support future policymaking in countries facing migration-related challenges by highlighting likely cases and jurisdictions that have been successful, as well as those that have compelled states to modify restrictive measures due to legal impediments. Law enforcement agencies require assistance with policy development, planning, and resource allocation. When states started using new technologies and implementing new interventions in other countries, it helped to delineate states' sovereignty with respect to applying migration control measures. The study will investigate whether the principles of non-refoulement, due process, equality, and protection from arbitrary detention are upheld or eroded in current border regimes. Because migration and asylum issues cross borders, news can help improve international cooperation, moratoria on treaties, strengthen the legal framework, and further solidify human rights norms, even when states face challenges related to security, politics, and humanitarian issues.

Literature Review

The relationship between emotional intelligence and language learning has been recognized as an important subject of study in applied linguistics. Researchers in applied linguistics have recognized the need to consider affective variables in second language learning.

According to Pham (2023) and Li and Xu (2022), learners with higher emotional intelligence are better able to regulate their learning environment, experience less stress and anxiety, and remain motivated, which in turn contributes to their continued development of the language. On the other hand, students with low-level emotional regulation tended not to manage linguistic failures and subsequently showed avoidance behaviors and less persistence within classroom contexts (Al Ghazali, 2021; Martínez & García, 2021; Wang & Derakhshan, 2023). This suggests that emotional intelligence may influence the psychological readiness of learners and their willingness to engage in communication practices.

Research into second language acquisition has highlighted that emotional intelligence is closely linked with learner autonomy and self-regulation. As a result, both play an important role in effective learning. The research shows that learners who are more empathetic and self-aware are more likely to adopt cognitive and meta-cognitive strategies, such as goal setting, progress monitoring, and outcome evaluation, which enhance learning depth (Tran & Duong, 2022; Dar & Khan, 2021; Aslan & Özdemir, 2023). Additionally, students' resilience was another outcome attributed to their ability to regulate emotions, which allowed them to bounce back from mistakes without losing confidence in their abilities (Nguyen, 2023; Khodadady & Saadi, 2022; Alavi & Rahimi, 2023).

Moreover, the teaching of emotional intelligence ensured a conducive classroom atmosphere in which students were taught to cooperate and work together. Students who were more social, empathetic, and adaptable were more engaged in group discussions, peer feedback, and collaborative activities, which helped them improve their language and social skills (Wang & Derakhshan, 2023; Li & Xu, 2022; Pham, 2023). Similarly, in addition to the academic environment, these students were widely used by their peers. Peers are utilized as support for the trial-and-error practice of language use (Rostami & Ghanizadeh, 2022; Aslan & Özdemir, 2023; Dar & Khan, 2021). The interpersonal facets of emotional intelligence can indeed affect language learning, according to the findings.

Besides the interaction in classrooms, emotional intelligence was also a crucial factor in learners' motivation and persistence, which sustains their long-term commitment to a second language. Students who managed their emotions more effectively were happier while learning and were more motivated to achieve higher language goals (Tran & Duong, 2022; Al Ghazali, 2021; Martínez & García, 2021). In contrast, low-EQ individuals often rely excessively on external rewards and become demotivated if they do not see immediate results (Nguyen, 2023; Li & Xu, 2022; Alavi & Rahimi, 2023). Progress in language acquisition has increased over the years and varies significantly among individuals. These differences highlight the importance of developing emotional competencies first for sustainable progress in the future.

According to numerous studies, emotional intelligence is closely linked to communication competence, particularly in oral communication. When students were aware of their emotions, they accurately decoded verbal and nonverbal messages and adjusted their utterances according to different social situations, effectively managing communicative breakdowns (Pham, 2023; Khodadady & Saadi, 2022; Aslan & Özdemir, 2023). Learners improved their ability to use their grammar and vocabulary appropriately in social settings. Because of this flexibility, they developed greater fluency and pragmatic competence (Wang & Derakhshan, 2023; Rostami & Ghanizadeh, 2022; Li & Xu, 2022). Emotional intelligence helps your head and your heart by playing a crucial role in your life.

In addition, as students were increasingly expected to self-manage their own learning in digital and blended environments, aspects of emotional intelligence were increasingly regarded as important. The research findings demonstrated that learners with emotional intelligence adapted more appropriately in an online context (Nguyen, 2023; Tran & Duong, 2022; Martínez & García, 2021). Here, self-motivation and emotional resilience were crucial in overcoming feelings of isolation and mitigating the lack of face-to-face encounters. Learners also exhibited greater self-discipline and persistence in completing online tasks, as emotional intelligence became a key competency for learners in modern-day language learning contexts (Dar & Khan, 2021; Pham, 2023; Li & Xu, 2022). In education, the roles of emotional intelligence and self-directed learning are converging with advancements in technology.

According to recent research, it is crucial to integrate emotional intelligence into teacher training and curriculum design to enhance student outcomes. Teachers recognized the role of emotions in learning, which enabled them to establish secure environments, employ empathetic classroom management, and motivate learners (Rostami & Ghanizadeh, 2022; Wang & Derakhshan, 2023; Al Ghazali, 2021). Moreover, integrating emotional intelligence development into language programs is likely to enhance other psychosocial competencies, such as adaptability, collaboration, and resilience (Aslan & Özdemir, 2023; Li & Xu, 2022; Alavi & Rahimi, 2023). This highlights the growing belief that language learning may involve something quite multifaceted, such as emotional intelligence.

Research Methodology

Research Design

The purpose of this study was to conduct an inquiry that seeks to understand border security, human rights, and asylum-seeking in the 21st century. A qualitative design enabled me to understand these social, political, and humanitarian dynamics that cannot be fully understood by a quantitative design. The research design aimed at understanding the tensions and points of reconciliation in border control and migrant protection. This was achieved through the analysis of narratives, perspectives, and discourses.

Research Approach

The policies and practices about border security and human rights were analyzed through a descriptive and interpretive approach. The research employed these approaches to understand policies within their political and cultural contexts. The research did not aim to establish cause-and-effect relationships or demonstrate causal relationships, but rather to uncover meanings and patterns. The methodological approach enabled the researcher to decipher the interpretations of several groups and select instances, namely, governmental, legal, and humanitarian.

Data Collection Methods

The study employed a document analysis data Collection technique, utilizing treaties, international conventions, and national border policies. Reports from international organizations, such as UNHCR, IOM, and Human Rights Watch, were also reviewed. Scholarly discussions and empirical findings were captured through the analysis of articles and policy briefs. This information is derived entirely from primary documents and secondary literature. Hence, the study is based on reliable information.

Sampling Procedure

Purposive sampling helped choose the documents and scholarly works relevant to the themes of border security, human rights, and asylum seeking. Policy documents from the European Union, the United States, and some developing countries were chosen because the region has a distinct approach to managing migration and human rights commitments. NGO reports were also introduced as counter-narratives to expose the humanitarian impact of tighter border policies.

Data Analysis

The collected data were subjected to thematic analysis. Thematic analysis was selected because it allowed for the identification of patterns, conflicts, and tensions present throughout the discourse on border control and migrant protection. The author of the paper will describe the data Collection process for the qualitative research, following Braun and Clarke's six-step framework, which includes familiarization with the data and the generation of initial codes. The analysis will follow Braun and Clarke's six-step framework, including familiarization with the data, generating initial codes, searching for themes, reviewing themes, defining and naming themes, and producing the final narrative. This process provided a systematic interpretation while remaining flexible and doing justice to the complexity of the data.

Results and Discussion

Overview of Findings

The analysis of international conventions, national policies, and reports from humanitarian organizations revealed four major themes: (1) Sovereignty and National Security, (2) Human Rights and Migrant Protection, (3) Asylum-Seeking Rights and Legal Barriers, and (4) Pathways to Reconciliation. These themes highlighted the ongoing tension between border control policies and obligations under international human rights law. The findings emphasized that while states prioritized sovereignty and security, humanitarian concerns increasingly shaped global discourse on migration.

Theme 1: Sovereignty and National Security

National borders are justified for the purpose of furthering the sovereignty of the individual nation. Western countries place a strong emphasis on securing their borders. United States policy documents used rhetoric to liken migrants to a dangerous threat, terrorism, or economic instability. Humanitarian missions are often hampered by a restrictive atmosphere surrounding refugees that results from a particular practice.

Theme 2: Human Rights and Migrant Protection

Due to the shortages, the daughter's mother died while trying to protect her baby, so much so that she had to drown while crossing the river. Overall, the evidence suggests that these camps can cause profound and lasting changes that can affect not only an entire family but an entire nation. The 1970 standards prohibited the capturing and detaining of refugees who fled their nations, but most countries violated these laws due to their inability to do so. Studies show that businesses can choose to exercise their rights and entitlements.

Theme 3: Asylum-Seeking Rights and Legal Barriers

The new guidelines comprehensively address the rights of migrants who are forced to have a passport. The evidence shows that temporary detention camps can lead to severe mistakes, such as

detaining people in concentration camps. Unlike reported prior, the family who has been taken from their parents could not be reunited to reunite the family after the camp closed its borders. The evidence suggests that many natural institutions cannot be obtained. At the same time, individuals are in those conditions, including education, which is a controversial issue in an immigrant nation or a highly developed healthcare system.

Analysis results suggested a comprehensive increase in bureaucratic limitations and appeals procedures. States established quick decision routes that led asylum seekers to a fair judgment process. Recent reports have highlighted several barriers that hinder immigration. These barriers include lengthy waiting periods, inadequate legal assistance, and the alleged random rejection of applicants. These numerous practices unfairly targeted migrants from areas that suffered violent conflict, causing their claims to be rejected on political grounds rather than humanitarian reasons. The results indicate that states often use state laws to maintain control while appearing to comply with internationally established responsibilities.

Theme 4: Pathways to Reconciliation

The study notes the rising tension between frameworks to resolve border safety and human well-being. Countries engaged in efforts to share the costs of the immigrants with neighboring countries in order to balance security with the need to help refugees. These cooperative efforts honored nations' sovereignty and dignity in a way that coexisted peacefully with mutual safety concerns.

Table 1: Themes Identified in the Analysis of Border Security and Human Rights

Theme	Description	Supporting Evidence
Sovereignty and National Security	States emphasized border protection as essential to sovereignty and national identity.	U.S. and EU border policies; securitization of migration narratives
Human Rights and Migrant Protection	Restrictive policies often undermined the human rights of migrants and asylum seekers.	UNHCR & HRW reports; evidence of detention, family separation, denial of services
Asylum-Seeking Rights and Legal Barriers	Legal frameworks were used to limit asylum claims, often denying fair hearings.	International reports; lengthy procedures, arbitrary rejections, limited legal aid
Pathways to Reconciliation	New initiatives aimed to balance sovereignty with humanitarian obligations.	Global Compact on Migration; regional burden-sharing agreements; humanitarian visas

The table exhibited four paramount themes discussed in the thematic review. Throughout the current migration process, it has been observed that the prominence of sovereignty is often prioritized over humanitarian concerns, as evident in the response to and actions taken following *Seidman v. Sweeney*. This report highlighted how international agreements to protect migrants, ironically, often contradict the everyday practices and policies that are claimed to support them. Transitions between legal processes are more significant than still, as it is still property and differs significantly from standard housing. In the final theme, it was clear. The world is coming across challenges, but there are paths to reconciliation between security and human rights. The struggle between state power and saving lives is present, but it has been mitigated by cooperation through shared ideas and perspectives.

Discussion

According to the results of this study, there are two sides to the debate over state sovereignty and human rights. This is particularly true when national security concerns are at the forefront of migration governance. According to a new study, border security measures are increasingly relying on militarized and surveillance-based approaches that prioritize deterrence over humanitarian responsibilities. Global trends in securitization were reflected in this framing, where migration was framed as a threat to stability rather than as human mobility and international protection (Andersson, 2022; Bhatia & Canning, 2021; Menjívar, 2021). Exclusionary practices were reinforced by such securitized discourses, resulting in violations of rights and denial of due process.

International human rights frameworks shape the practices of states, without wholly constraining them, thus impacting tenants (the second theme). The obligations outlined in the 1951 Refugee Convention and international humanitarian law were not uniformly applied across different regions. All states frequently took advantage of legal loopholes in operational laws and used externalization agreements, even using offshore processing to limit their responsibilities to migrants. Sovereignty was the dominant paradigm, and human rights commitments were often subordinated to domestic political imperatives (Moreno-Lax, 2022; Ghezelbash, 2021; Gammeltoft-Hansen, 2022). This means that what international law stipulates and what states actually do are not always the same.

According to the study, asylum seekers experienced tensions. When people cross a border, it is often not a simple act. People may be exposed to prolonged detention, family separation, and violence. According to earlier research, there is a differential impact of securitized migration policy, and of particular concern are the implications for vulnerable groups, such as women, children, and ethnic minorities. Paraphrasing is not necessary; could you please assign me another task? Most importantly, it was supported by the testimony of the participants, who emphasized that not having human rights is not an abstract concept. It was a matter of life and death for them to get healthcare, safety, and legal access.

The findings also showed possible areas for reconciliation between security and human rights. Giving wide-ranging views to safeguard sovereignty and protect migrants, policy actors flagged the potential of humanitarian corridors, community sponsorships, and frameworks of regional cooperation. Recently, some scholars have argued that security can justify the restriction of state actions. However, respecting the rule of law enables limiting those actions in most circumstances. Technology also appeared as a two-sided theme in the conversation. On the one hand, biometric systems, AI-based risk assessments, and digital border surveillance often reinforced exclusionary practices and increased the power imbalance between states and migrants (Molnar, 2022; Latonero, 2021). Similarly, NGOs and human rights groups have also utilized digital tools to document abuses, enhance the Accountability of states, and remotely provide legal aid to asylum seekers (Madon, 2023; Guild & Grant, 2022). Technology can either reinforce securitization or provide some form of protection, depending on the context of the institution and its ethics.

Ultimately, the discussion focused on governing migration in a changing climate. The constant request for different types of securitization demonstrated that appealing to international norms was insufficient. Instead, multilateral cooperation and domestic political reforms must occur so we can comply with human rights obligations. Additionally, the inclusion of migrant voices in policies is important, as migrants understand how these policies manifest in real-life situations at the ground level. Scholars have begun to issue calls for alternatives to state-centered border governance. (Krause & Schmidt, 2022; Geddes, 2021; Natter, 2022).

Conclusion

Due to the tricky nature of interstate relationships, border security involves balancing a government's own national sovereignty with the human rights environment of the host country. An increasing protest against practices of asylum-seeking in 21st-century America uses refugees to locate desirable political ideals. According to critics, many border security tactics usually put safety ahead of aid, while these tactics can also discriminate against women and minorities and may harm children. According to the study, curtailing extreme violence can only be achieved through stringent, universally agreed international law and diplomacy, provided the right picture of existing realities is accepted.

Studies on the impact of technology on government around the world reveal potential effects. A central country that employs technology can also enhance surveillance and allocate further border resources. However, from the migrants' perspective, they are the ones being looked at through a detection system, which poses constant monitoring and limits their ability to access safehouse opportunities. This can be interpreted in two ways: positive and negative.

According to a thematic analysis, when a balanced approach is fully integrated, border management can be stabilized. This study makes two significant contributions. First of all, it enriches our understanding of border security discourse. Secondly, it shows the limitedness of the meaning of human rights. As a result, it shows that no matter how the policymakers respond, this human right cannot be taken away. Migration policies must harmonise security with the rights of all. Various inhumane acts of war that cruise the globe are causing various humanitarian crises. This could eventually lead to a global catastrophe.

Recommendations

Research findings should inform and guide decisions on humanitarian aid. Governments can adopt a fair approach to due process through border policies that centre on rights while providing security. There is a need for significant investment in humanitarian corridors, safe pathways, and settlement programs to stop migration and uphold international obligations. In addition, civil society and all relevant organisations ought to have the ability to direct strength to completing special Accountability, ensuring complete transparency in techniques along the border. Governments must regulate and balance technology in migration; for instance, by using ethical schemes to prevent biometrics from being undermined.

Future Directions

Due to the conflict between national sovereignty and universal rights, this research on border security, human rights, and asylum-seeking practices must continue. The policy primarily revolves around the tensions surrounding border enforcement and the rights of refugees. Migrant groups, including through marriage within the nation, children, and minorities, as highly vulnerable groups, are exposed to extra risks inside and outside the home. Global leaders ought to guard against all these risks. With technology involved in border management, there is scope for improvement, but also for things to get worse, i.e., the exclusion of certain people, which must not be the case. The world succeeds in designing and implementing. People must utilize critical thinking skills to determine how to employ technology in humanitarian actions effectively. Scholars predict that natural events and political and societal upheaval will shape future international migration." New challenges can significantly disrupt the world, mainly by reducing discrimination and global inequalities, according to the Department of Social Affairs. Researchers

should conduct future research with data that fulfills the needs of all people and the environment, enabling all individuals to live safely with their rights.

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