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To cite this article: Howard Duncan, "Immigration Policy as Foreign Policy", *Uluslararası İlişkiler*, Vol. 17, No. 68, 2020, pp. 5-20, DOI: [10.33458/uidergisi.856880](https://doi.org/10.33458/uidergisi.856880)

To link to this article: <https://dx.doi.org/10.33458/uidergisi.856880>

Submitted: 22 June 2020
Last Revision: 28 December 2020
Published Online: 04 January 2021
Printed Version: 18 February 2021

Uluslararası İlişkiler Konseyi Derneği | International Relations Council of Turkey
Uluslararası İlişkiler – Journal of International Relations

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Immigration Policy as Foreign Policy

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ABSTRACT

Immigration policy has taken centre stage in the social sciences over the past 20 years. Despite the proliferation of articles and books in this field, very little attention has been paid to immigration policy as foreign policy. It is domestic policy that prevails in the literature, most notably about the effects of immigration on destination societies. This article distinguishes the domestic and foreign policy aspects of immigration policy, acknowledging as it does so that foreign policy is virtually always an expression of national self-interest. It concludes with observations on the realist and idealist/liberal approaches to international relations theory including with respect to the recently adopted United Nations Global Compact for Safe, Orderly, and Regular Migration and the United Nations Global Compact on Refugees. Its purpose is to draw attention to this neglected aspect of immigration policy and to encourage others to explore it in greater detail, from the perspectives of both individual states and the world's international institutions.

Keywords: Migration Policy, International Relations, Foreign Policy, Sovereignty, Managed Migration

Dış Politika Olarak Göç Politikası

ÖZET

Göç politikası son 20 yılda sosyal bilimlerde merkezi bir konuma ulaştı. Konuyla ilgili olarak yayınlanan makalelerin ve kitapların sayısının büyük oranda artmasına rağmen, göç politikasının dış politikanın konusu olmasına çok az dikkat çekildi. Literatür göçle ilgili daha çok iç politikaya ağırlık vermekte, özellikle göçün hedef ülkelerdeki etkilerine yoğunlaşmaktadır. Bu çalışma, göç politikasının iç ve dış politika unsurlarını ayırtmakta ve dış politikanın fiiliyatta her zaman ulusal çıkarın ifadesi olduğunu açıklamaktadır. Makale sonuç bölümünde yakın zaman önce kabul edilen BM Güvenli, Düzenli ve Kurallı Göç İçin Küresel Mutabakat ve BM Mültecilere İlişkin Küresel Mutabakat bağlamında realist ve idealist/liberal uluslararası ilişkiler teorileri çerçevesinde konuyu analiz etmektedir. Çalışmanın amacı, göç politikasının ihmal edilen bu alanına dikkat çekmek ve bu konuyla ilgili hem devletler hem de uluslararası kurumlar perspektifinden yapılacak çalışmalarını teşvik etmektir.

Anahtar Kelimeler: Göç Politikası, Uluslararası İlişkiler, Dış Politika, Egemenlik, Yönetilen Göç

Introduction

Some observers of international affairs, if asked to make a list of issues that fall within the category of foreign policy, would include immigration. Others would not. Few governments have a stand-alone ministry responsible for immigration, this matter more often managed through an interior ministry or home office. Most articles published in academic immigration journals look at the domestic effects of immigration whether these effects are felt by the country of destination or by the immigrants who have entered that territory. It is relatively rare to see articles that examine immigration as it relates to foreign policy or, more broadly, to international relations.¹ Here, I hope to shed some light on why we tend to treat immigration or, as some now prefer, “international migration” or simply “migration” as a domestic policy issue rather than a matter of foreign policy.²

I will not get deep into definitions here but will acknowledge that I regard foreign policy as a subset of domestic policy in the sense that the foreign policy of a state is normally to serve that state’s national interests and is, to that degree, domestically-oriented policy.³ Broadly-speaking, a state’s foreign policy is designed to influence the behaviour of other states for its own benefit, and it can exercise this influence through co-operation, coercion, or conflict, the latter being the most costly and least desirable way to exercise foreign policy. Seeing foreign policy in terms of influencing the behaviour of other states is admittedly a conservative approach most associated with the realist school of international relations,⁴ but, for the sake of simplicity, it is the approach followed here. As globalization has intensified, however, there are many non-state actors that influence policy, both domestic and foreign, some of these non-state actors operating internationally. The so-called international community is but one and one that, in the immigration field, is increasingly important as the recently adopted Global Compact for Safe, Orderly, and Regulation Migration⁵ and the Global Compact on Refugees,⁶ both agreements of the United Nations, demonstrate. In addition to the international community, however, states exercising immigration-related foreign policy need to take into account the role of international business organizations, international civil society organizations and similar interest groups, and the media including social media, now a significant international influence on policy and how it is received by the public.

Fundamentally, immigration policy is to accomplish two things, to keep people out of a country’s territory or to let people in. These are not mutually exclusive, and nearly all states that let some immigrants in exclude others from entering. It is worth noting at the outset that there is no universal international law governing immigration. The Global Compacts mentioned above are non-binding

1 I argue for this point based on my observations as the Editor of the journal, *International Migration* (2015-2019 inclusive) and my time with the International Metropolis Project (1997 – present).

2 I will use the terms ‘immigration’ and ‘emigration’ throughout, but here acknowledge that this may appear idiosyncratic. Others prefer ‘migration’ and its cognates.

3 See for example: Editors, “Foreign Policy,” 30 Jan 2020, <https://www.britannica.com/topic/foreign-policy> (Accessed 30 June 2020).

4 See for example: Sandrina Antunes and Isabel Camisao, “Introducing Realism in International Relations Theory,” 27 February 2018, <https://www.e-ir.info/2018/02/27/introducing-realism-in-international-relations-theory/> (Accessed 30 June 2020).

5 IOM, “Global Compact for Migration,” <https://www.iom.int/global-compact-migration> (Accessed 30 June 2020).

6 IOM, “Global Compact on Refugees,” <https://www.unhcr.org/the-global-compact-on-refugees.html> (Accessed 30 June 2020).

and the 1951 Geneva Convention Relating to the Status of Refugees⁷ is not universally accepted both in that not all countries have signed it and many of those who have observe it only partially. This means that when one considers immigration policy as foreign policy, there are no universally accepted codes for governments to appeal to or be restricted to operate within. To put it another way, there is no internationally legislated or enforced machinery for the global governance of immigration. States can go their own way, strike the deals that suit their interests with either other states or international bodies or global businesses. Even the European Union with its relatively free flow of people across borders ultimately leaves immigration policy in the hands of its individual member states; there is no common EU immigration policy or law.⁸

Doors Open

Why do states let immigrants into their territory when there is no obligation to do so by international law? What are the interests that are served by allowing non-nationals to enter to work and reside? The principal but not only interests are economic and demographic. Traditional settler societies such as Australia, Canada, New Zealand, and the United States have a history of sustained large-scale immigration to build their societies' populations and economies. Population growth established sovereignty over their still-sparsely-populated territories and fuelled economic development. Although in the case of these four countries, their immigration began when they were colonies of the British Empire and, therefore, the policy of colonization was a form of foreign policy, the continuation of high levels of immigration since their independence has been more a matter of domestic policy and the serving of domestic demographic and economic interests. Immigrants have, over the decades, brought with them their labour, their education, their entrepreneurship, their investment capital, and their innovation in quantities that have allowed these societies to develop rapidly and assume their positions as members of the OECD group of countries. Immigration has secured these domestic interests if not absolutely then at least more rapidly than would otherwise have taken place.

Today, many countries that are experiencing very slow population growth, if not actual decline, are looking to immigration not only to bolster their populations but to meet their domestic labour force requirements, both of which are important to maintaining economic prosperity. As the nature of domestic economies changes, the types of immigrants sought will change. This has been seen amply in post-industrial economies which increasingly select immigrants on the basis of higher education than on their capacity for physical labour. This demand for brains over brawn has given rise to an intensifying global competition for talent, such are the relative demographic trends between those countries seeking and those countries supplying immigrants.⁹ This skills shortage will persist until the education systems of countries with growing populations develop to the point that employers in OECD countries come to accept their qualifications. Among the consequences of the global

7 UNHCR, "The 1951 Convention relating to the Status of Refugees and its 1967 Protocol", Geneva, UNHCR, 2011, <https://www.unhcr.org/1951-refugee-convention.html> (Accessed 30 June 2020).

8 See for example: Anja Wiesbrock, "The Evolution of EU Migration Policies: Toward a Balanced, Comprehensive, and Common Approach?", Douglas J. Besharov and Mark H. Lopez (eds.), *Adjusting to a World in Motion: Trends in Global Migration and Migration Policy*, Oxford, Oxford Uni. Press, 2016, p. 159-187.

9 See Ed Michaels et. al. eds, *The War for Talent*, Boston, Harvard Business School Press, 2001. The term "global war for talent" was coined in 1997 by Stephen Hankin, a writer with McKinsey and Company. McKinsey and Company has continued working in this field since.

skills shortage is the rise in demand for foreign students and the comparative ease with which some countries permit people on student visas to convert their status to that of long-term or permanent residency; higher education for foreign students is another way to supplement a domestic skills shortage.¹⁰ In addition to these economic motivations towards admitting immigrants to one's territory is to bring in foreign investors and those with entrepreneurial intentions. Many countries have developed programs to select immigrants on these grounds, some making these forms of investment a condition on their admission.

Demographic factors may rise in prominence in immigration policy-making as more and more countries experience population stagnation and decline. Global fertility rates have been falling for decades.¹¹ Few countries with developed economies now have replacement fertility rates, and many have already begun to experience declining populations. Others with below-replacement fertility manage to increase their populations through immigration.¹² Low fertility is not a problem only for absolute population size. Sustained low fertility results in skewed age structures, principally with older people occupying a disproportionate share of the population. This has significant economic disadvantages as an ageing population usually means a reduced labour force and may also indicate a reduced capacity for innovation and the ability to participate in the newer high-growth knowledge-based economies. Most notable among those countries experiencing actual population shrinkage are numerous countries of Eastern Europe. Consider the following UN's projections for population decline to 2050: Bulgaria (23% decrease), Latvia (22%), Moldova (19%), Ukraine (18%), Croatia (17%).¹³ These are the most severe examples in the world today and arise from a combination of very low fertility, high emigration, and low immigration. Whether a change in immigration policy can overcome these unfortunate trends remains to be seen. For many of the world's shrinking countries, public attitudes towards immigration are largely negative.

It is not only economics and demographics that count among the national interests that states hope immigration will support. For some states, bolstering national cultures is a hugely important priority and this can mean sustained efforts to attract a country's diaspora to the homeland. Israel is the paradigm case here as their Law of Return of 1950 grants to Jews worldwide the right to enter and remain in Israel and, in fact, to acquire immediate citizenship.¹⁴ All Jews anywhere are regarded as Israeli citizens through the Law of Return, which has helped the country increase its population to the current 9.2 million, up from 1.7 million in 1955. Of these, 75% are Jews, this indicating the effectiveness of the Law of Return. From the point of view of the state of Israel, this population growth is a matter of national and cultural survival, and it contributes to Israel's claims of sovereignty over its territory (ignoring here the controversies over these claims of sovereignty and what counts as Israel's territory). Israel is not alone in seeking the return of its diaspora to maintain or grow a nation's population as well

10 See for example: Anna Platonova and Giuliana Urso (eds.), *Labour Shortages and Migration Policy*, Brussels, Belgium: International Organization for Migration, 2012, p. 11 and p. 23.

11 The World Bank, "Fertility rate, total (births per woman)," 1960-2018, <https://data.worldbank.org/indicator/SP.DYN.TFRT.IN> (Accessed 30 June 2020).

12 See for example: Philippe Fargues, "Demography and International Migration", Anna Triandafyllidou (ed.), *Routledge Handbook of Immigration and Refugee Studies*, Abingdon, New York, Routledge, 2016, p. 41-53.

13 United Nations, Department of Economic and Social Affairs, Population Division (2019). *World Population Prospects 2019: Highlights (ST/ESA/SER.A/423)*, https://population.un.org/wpp/Publications/Files/WPP2019_Highlights.pdf, (accessed 9 June 2020).

14 Knesset, "The Law of Return (5710)", 1950, <https://www.knesset.gov.il/laws/special/eng/return.htm>, (Accessed 30 June 2020).

as grow the national economy and, in many cases, degree of influence over world affairs. Countries with small and declining populations are regarded as weakening in international stature, a state of affairs that further exacerbates their population decline as demographic and economic shrinkage diminish the incentives for diaspora members to return and may increase the incentives for citizens to leave, especially those who are younger and better educated.

Finally, a country's national values as embodied in their constitutions and other legislation can create an environment that supports the entry of newcomers. Here the example of refugees and asylum seekers is more prominent for those countries with an explicit "humanitarian tradition" of resettling Convention refugees and offering rather more liberal attitudes to those seeking asylum. Refugees admitted for humanitarian reasons are offered protection by the host society. Why this is in the national interest is that it promotes a more humane society. Such expressions of humanitarianism are concrete illustrations of the values that these societies want to project and see replicated in their citizens. Countries with a long history of resettling refugees might claim a higher degree of social cohesion and societal peacefulness than countries with no such history. Canada and Australia might be cited as cases of societies that have embraced immigration and the protection of refugees; Canada, in particular, displays its attitude to refugees in the form of its program of private sponsorship of resettled refugees in which citizens and non-governmental organizations such as churches cover the costs of newly arrived refugees and their families.¹⁵ The recent arrival of Syrians showed the extent of public support for this form of humanitarianism in that the number of visas available was insufficient to meet the demand of sponsors. Canadians take a significant degree of pride in this and their associated valuing of diversity and multiculturalism. More complicated is the United States which has a long history of resettling refugees but also a history of internal violence. The 2015 opening of Germany's borders to nearly one million asylum seekers from Syria, Afghanistan, Iraq, and others was a remarkable example of humanitarianism, although one that severely tested the tolerance of the German public.¹⁶ And one must note the example of Turkey which accepted nearly 4 million Syrian refugees, referring to them early on in the crisis as brothers and guests.¹⁷ Since 2015-2016, the situation has changed and the humanitarianism of the earlier years has diminished; but it is an important recent example of how humanitarian values can motivate countries to accept refugees.

Doors Closed

Why do states want to refuse entry to those who wish to enter and reside in their territory? Again, there is no international law compelling sovereign states to admit immigrants; there is no right to immigrate in international law. The United Nations Universal Declaration of Human Rights, Article 13, recognizes a right to leave one's country of birth and to return to it, but this does not imply a right to enter another sovereign territory.¹⁸ Countries that admit immigrants do so as a matter of

15 Government of Canada, "Private sponsorship of refugees program", 10 September 2020, <https://www.canada.ca/en/immigration-refugees-citizenship/corporate/publications-manuals/guide-private-sponsorship-refugees-program/section-2.html> (Accessed 12 September 2020).

16 Lily Hindy, "Germany's Syrian Refugee Integration Experiment", 6 September 2018, <https://tcf.org/content/report/germanys-syrian-refugee-integration-experiment/?agreed=1> (Accessed 30 June 2020).

17 M. Murat Erdogan, *Syrian Refugees in Turkey*, Berlin, Konrad Adenauer Stiftung, 2019.

18 Universal Declaration of Human Rights, https://www.ohchr.org/en/udhr/documents/udhr_translations/eng.pdf (Accessed 30 June 2020).

discretion and self-interest. Even the countries most welcoming to newcomers retain and use the power to say “No” to those it does not want to admit. Territorial sovereignty is tightly protected by most states; this was on display in the reactions of some countries to the UN Global Compacts, which some criticized and refused to sign on the grounds that it would diminish the sovereignty they could exercise over their own borders.¹⁹ For this reason, the drafters of the Compacts made it as clear as they could that these agreements were not legally binding and respected the sovereignty that states held over their borders and territories. This wording, as it turned out, was not enough for some UN member states who in turn refused to sign the agreements. The decision by the United Kingdom to leave the European Union was motivated in part by the British desire to regain some of the sovereignty it had lost or “pooled” to the EU, and, during the refugee crisis of 2015-2016, we witnessed a number of EU member states re-install and actively police physical barriers along their borders with other member states, thereby weakening the Schengen agreement on free mobility of persons within the EU.²⁰

There are many reasons that states will exercise their territorial sovereignty to prevent people from entering. Among the more prominent are economic. Although we noted above the economic motivations to bring immigrants into one’s country, there are also economic reasons for refusing to do so. Principal among these has been to protect the jobs of one’s citizens. There is a common fear that by admitting large numbers of immigrants for their labour, immigrants will displace citizens from their own labour markets. The normal responses are to limit the number of immigrants admitted in a given time and to admit only those immigrants whose skills would fill gaps in the domestic labour supply. Ideally, it is argued, a labour immigration program would bring in immigrants whose skills complement those of the domestic labour force; an irrational program would admit immigrants whose skills were substitutes for those of the domestic labour force, thereby creating unnecessary competition for jobs between citizens and immigrants.²¹ Selecting immigrants for their economic contributions is a difficult business as it requires not only accurate but timely analyses of a country’s labour market conditions together with predictions regarding what skills will be needed by the local economy and in what numbers. Given the time lag between assessing need and the arrival of the immigrants as well as the inherent challenges of accurately forecasting labour need at all, getting the numbers right is not easy. Getting the numbers right often means denying a visa to many who would like one. Globally, the number of people who wish to migrate far exceeds the number of entry visas available.²² One reason for this is that most governments want to protect the economic interests of their citizens, and one way to do this is to avoid flooding the labour market with excessive numbers of workers. Labour surpluses, in general, result in higher unemployment, reduced

19 See for example: Fray Lindsay, “Opposition To The Global Compact For Migration Is Just Sound And Fury”, 13 November 2018, <https://www.forbes.com/sites/freylindsay/2018/11/13/global-compact-for-migration-sound-and-fury/#16325be5297a> (Accessed 30 June 2020).

20 See for example: Tobias Etzold and Raphael Bossong, *The Future of Schengen: Internal Border Controls as a Growing Challenge to the EU and the Nordics*, SWP 44/2018, <https://www.swp-berlin.org/en/publication/the-future-of-schengen/> (Accessed 30 June 2020).

21 See, for example: Scott A. Wolla, May 2014, “The Economics of Immigration: A Story of Substitutes and Complements” <https://research.stlouisfed.org/publications/page1-econ/2014/05/01/the-economics-of-immigration-a-story-of-substitutes-and-complements/#:~:text=Immigrant%20workers%20can%20either%20be,they%20compete%20for%20similar%20jobs.&text=And%2C%20because%20many%20immigrants%20are,for%20some%20high%2Dskilled%20workers.> (Accessed 30 June 2020).

22 Neli Esipova et al, *The World’s Potential Migrants: Who They Are, Where They Want to Go, and Why It Matters*, Gallup White Paper, 2011.

wages, and higher public costs. The national interest would seem to call for managed immigration programs that would tailor the numbers of immigrants admitted to labour market conditions.

Protecting national security is another oft-cited reason for strongly controlling the admission of immigrants by screening their applications for any risk potential their admission would present. These risks can include espionage, terrorism, other forms of criminality, dangers to national health, or hostile military activities. Although immigration restrictions grounded in security have captured the attention of academic researchers since the 2001 terrorist attacks on the United States, national security has long been a staple of border management. The defence of the nation is among the principal responsibilities of any government, and it largely for this reason that the Westphalian regime of sovereign borders came to serve as the basis for modern international relations, although it has been increasingly open to challenges on humanitarian grounds. Some now argue for open borders, allowing any and all who would want to enter a country to do so, on many grounds including ethical, economic, and humanitarian. Some economists urge that opening borders to the movement of people would dramatically reduce global poverty.²³ Other commentators have urged that distinguishing between peoples on the basis of where they happened to be born is simply morally wrong.²⁴ Yet others point to the dangers to migrants created by the systems of restricted movement including the risks that some migrants take in appealing to human smugglers to achieve the access to another country that they want. The numerous deaths in the Mediterranean Sea over the past 20 years are often cited in these arguments.

Protecting the national interest can extend to social and cultural matters. Despite growing population diversity as a result of globalization and centuries of international migration, some societies still wish to protect their historical cultures by restricting immigration and reducing what they fear would be the dilution of their cultures should people from elsewhere be allowed to live amongst them. We continue to see this across the globe from those who wish to preserve Britishness, to protect the Japanese and Korean cultures, to rid the Burmese of the Rohingya, to prevent the Islamization of European societies, to limit the Bangladeshis in India, to restrict the use of the Spanish language in the United States or of English in Quebec. In addition to the protection of a cultural heritage, some would restrict immigration to prevent an erosion of trust and social cohesion, the fundamentals upon which successful societies rest. Here, the fear is that people from different cultures simply cannot cooperate towards common societal goals because their cultures will embody radically different visions of what counts as a successful society. So strongly can these views be held that, given a choice between population decline and a culturally mixed population, decline will be chosen even if it means a noticeable decline in quality of life, too. That some societies, such as Canada and Australia, claim success as formally multicultural holds little sway for those whose cultures are perhaps of longer historical duration. Believing that a mixing of cultures will lead to societal strife may function as a self-fulfilling prophecy, however, as may be argued in the case of those societies whose politics have turned populist and anti-immigration.

Other reasons can present themselves for which states minimize immigration, but these are the basic motivations, to protect the domestic economy, to maintain national security, and to protect

23 See: "End of Poverty", <https://openborders.info/end-of-poverty/> (Accessed 1 July 2020), and see Rakotomalala, "A Radical Solution For Global Poverty: Open Borders", 27 December 2011, <https://globalvoices.org/2011/12/27/a-radical-solution-for-global-poverty-open-borders/>, (Accessed 1 July 2020).

24 See "Moral Case for Open Borders", <https://openborders.info/moral-case/> (Accessed 1 July 2020).

national historically-privileged cultures and thereby protect social cohesion. This is not the place to argue the merits or demerits of the reasons for welcoming or restricting immigrants. Here, the idea was simply to lay out what are some the reasons advanced in one direction or the other in the context of perceived national self-interest. That an immigration policy serves the national self-interest does not, however, disqualify it from being a form of foreign policy. It is equally the case, however, that just because a policy on international migration by definition involves the interests of people from outside the country does not automatically make such policies foreign policies. Here again, we will regard foreign policies as those that are intended to influence the behaviour primarily of foreign governments but, as well, of international organizations and sometimes transnational non-governmental organizations and businesses.

What Makes Migration Policy Foreign Policy?

The above reflect some of the ways in which immigration policy can further a country's national self-interest by supporting the entry of certain people and preventing the entry of others. Most countries that admit immigrants also prohibit the entry of others. There are no countries with fully open borders, and this means that all countries will say "No" to some would-be immigrants. Presupposing that governments act rationally in support of their societies, immigration policy, in supporting domestic interests, will stand as domestic policy, whether economic, demographic, or social. But this does not exclude migration policy from being at the same time a form of foreign policy. The question now is what makes migration policy foreign policy? Again, it cannot simply be that migration policy is about people from foreign countries; this is not sufficient. It is also true to say that when one country admits immigrants from another, the country of origin will be affected by the departure of its nationals, the larger the number, the larger the effects. And these effects can be both positive and negative, that is, these effects can support or damage the national self-interest of the countries of origin. Before going further along this track, let us distinguish between immigration having effects on countries of origin and whether the country of destination ought to pay attention to these effects, perhaps through acts of explicit foreign policy-making.

A frequently noted effect on countries of origin, especially lower income countries of origin is the departure of those citizens with higher education, they being the citizens most likely to be granted admission to another country on a long-term or permanent basis. This "brain drain", as it has come to be called, is a direct result of the immigration policies of the countries of destination which have as their objective to increase the degree of human capital or skills in their own labour forces. This initially appears as a zero-sum game in which one society gains at the direct expense of the other. A vast literature exists on the nature and extent of the brain drain, whether it is harmful in the short or long term, whether there are phenomena such as the sending of remittances or the creation of incentives to higher education that compensate the country of origin, whether countries of destination should be expected or required to offer direct financial compensation, and so on. Remitting funds to the country of origin, usually to family members, has also received an enormous amount of attention by scholars, national governments, and the international community; remittances mark another way in which immigration affects the society of origin, in this case in ways that are mostly, but not universally, regarded as a benefit. Remittances also represent a capital outflow from the country of destination. Such is the size of contemporary remittances that they

have received a great deal of attention by the international community including recently in the United Nations' Sustainable Development Goals and the Global Compact on Safe, Orderly, and Regular Migration, both of which urge a lowering of transaction fees and other measures designed to enhance the value of remittances to lower income countries of origin.

Over the past 20 years, the relationship between immigration and development has risen to near the top of the immigration agenda with scholars and the international community. Prior to that, a strong aspect of the scrutiny with which this relationship was regarded was in terms of the potential of development to reduce immigration flows. Although this interest remains today, more often the question is of how to manage immigration so that lower income countries of origin benefit developmentally. The Global Forum on Migration and Development (GFMD) has been testimony to this degree of interest globally. The GFMD has been an influential forum through which lower income countries have been able to make their cases to the world's wealthier nations for actions that would enhance the outcomes of international migration in their favour. This illustrates that when we speak of immigration policy and its relation to foreign policy or international relations, we cannot overlook the ways in which international migration can serve as a platform through which lower income sending countries can assert foreign policy. Doing so through the agencies of the international community has proven an effective way to have their cases heard and responded to.

It is clear that international migration produces effects on both countries of origin and destination. One way into the question of whether immigration policies stand as foreign policy is to ask whether these effects are intended? Do the countries of destination intend that their admitting of foreign nationals to their societies have these effects on the countries of origin? How do countries of destination want to influence the behaviour of the countries of origin as a result? Do wealthier countries of destination intend to create a brain drain in countries of origin, intend to have remittances flow, intend to have development effects? If so, what do they expect to gain? Do those countries of origin that manage emigration from their society intend to create benefits to the societies of destination or support the emigration of their nationals for the effects that this will have on the destination societies? What do they hope to get in return? The answer is that sometimes yes and sometimes no. This is best looked at case by case. The international relations that we are talking about are not always bi-lateral. They can be multilateral as can be seen in the situation involving the Syrians in Turkey and the agreement between Turkey and the European Union that keeps the refugees in Turkey. The point here is that, if we are to regard immigration policy as foreign policy, we must be able to see the migration policy, whether immigration or emigration, intended, at least in part, to influence the behaviour of another country. Let us turn to some examples to illustrate this general point.

Bi-lateral labour migration agreements would seem to offer clear-cut examples of immigration policy and foreign policy merging. Both countries in the agreements have their respective interests, the destination country needing workers unavailable domestically and the country of origin having surplus labour and a desire for the remittances that will likely follow from their nationals working abroad. Other interests are also served through these agreements, not least of which is the establishment of an orderly process for managing immigration and a plausible means to convince employers not to rely upon undocumented labour. In some cases, the international community has been involved as an intermediary to these agreements, specifically the International Labour Organization (ILO) and the International Organization for Migration. Some of the provisions that the ILO recom-

mends be included in these agreements illustrate the respective national interests that are taken into account in their drafting. They include:

- Exchange of information
- Action against misleading propaganda
- Administrative formalities
- Validity of documents
- Conditions and criteria of migration
- Organization of recruitment, introduction and placing
- Selection testing
- Information and assistance of migrants
- Education and vocational training
- Exchange of trainees
- Conditions of transport
- Travel and maintenance expenses
- Transfer of funds
- Adaptation and naturalization
- Supervision of living and working conditions
- Settlement of disputes
- Equality of treatment
- Access to trades and occupations and the right to acquire property
- Supply of food
- Housing conditions
- Social security
- Contracts of employment
- Change of employment
- Employment stability
- Provisions concerning compulsory return
- Return journey
- Double taxation
- Methods of cooperation²⁵

Numerous bi-lateral labour immigration agreements exist such as that between Israel and Thailand²⁶ and those between Canada and Mexico and several Caribbean countries.²⁷ In the case of the former, Israel gains the workers that it needs in the caregiving, construction, and agricultural sectors and, given the terms of the agreement, assurances from Thailand that those who come to Israel will meet conditions of employment and so on. Thailand gains from having more of its workforce employed

25 ILO (International Labour Organization), Review of the Effectiveness of the MOUs in Managing Labour Migration between Thailand and Neighbouring Countries, ILO, 2015, <http://un-act.org/publication/view/review-of-the-effectiveness-of-the-mous-in-managing-labour-migration-between-thailand-and-neighbouring-countries/> (Accessed 9 July 2020).

26 See Nonna Kushnirovich and Rebecca Raijman, *The Impact of Bilateral Agreements on Labor Migration to Israel: A comparison between migrant workers who arrived before and after the implementation of bilateral agreements*, Jerusalem, CIMI, 2017.

27 Government of Canada, "Hire a temporary worker through the Seasonal Agricultural Worker Program: Overview", 13 July 2020, <https://www.canada.ca/en/employment-social-development/services/foreign-workers/agricultural/seasonal-agricultural.html> (Accessed 30 July 2020).

and sending remittances and assurances from Israel that their nationals will be treated in accordance with the terms of the agreement. The formalized agreements require that the signatory governments behave in certain ways; in the absence of such agreements, the labour needs of Israel would be left more in the hands of private recruiters with the uncertainties that this can bring, and the protections that Thailand wants for its citizens, including from the often exorbitant recruitment fees, would be greatly diminished. The Canadian agreements with Mexico and Caribbean countries for agricultural workers function in much the same way. Canada receives the workers it needs and with assurances that they will observe the rules set out in the agreement including that they will return to their homelands on schedule. These agreements specify that those who do observe the rules will be able to return year after year, something in the interests of both Canada and the countries of origin as well as the workers who can return home safely and with the assurance that they will be able to work in Canada again the following year. This is a great advantage to, for example, the Mexican workers by comparison to their co-nationals illegally in the United States who are less able to return for home visits because of the uncertainty about returning to work in the US. The Mexican government benefits from knowing that their nationals will be treated in accordance with the terms of the agreement, including with respect to their wages which must match those offered to Canadians doing the same work. Of course, in practice, not all is perfect, and there is an ample literature that describes the shortcomings of these agreements in practice; but, governments on both sides continue to regard these agreements as valuable and worth the effort.

Foreign policy can be seen in immigration management policy through the example of decisions on entry visa requirements. Most countries have different requirements for visitor visas for different countries of origin. Citizens of countries that are trusted may not require a special visa to visit as tourists whereas citizens of countries that are not trusted may require a visitor visa to enter, even for a short time. One of the principal areas of trust is that of asylum seeking. When the number of people from a single country applying for political asylum reaches a threshold in terms of absolute numbers and percentages of claims rejected, the destination country may choose to require a visa of those who wish to enter from that country. The point of requiring a visa is to deter those who wish to enter for the sole purpose of making an asylum claim as a means to establish residency. Asylum claims can take many years to process in some countries, and this may pave the way for very long term, if not permanent, residency for those who choose this means of gaining entry. A visa requirement will inevitably reduce the number of those who arrive for the sole purpose of making an asylum claim. When the number of asylum claims to be processed grows significantly and where a high percentage of those claims will fail to meet the conditions of the UN Refugee Convention, the interests of those whose claims will be accepted are damaged if only through longer waiting times. Normally, when the number of asylum claims falls, especially the percentage of failed claims, the visa requirements are lifted.

How does this count as foreign policy when what appears to be happening is the protection of domestic interests alone? Domestic interests are certainly at play as is always the case with foreign policy-making, here to prevent what some governments consider to be an abuse of their asylum system by those who cannot find another way to enter a country for work and to prevent an overloading of their asylum case processing system. Normally, however, these measures go beyond protecting domestic interests to trying to influence the behaviours of the governments of the countries, most often by improving the economic conditions of the country of origin, by enhancing the human rights record of the country, and by informing those about to depart from their country of origin that their claims

for asylum might be rejected and that they will face deportation. Having a new visa requirement imposed on one's citizens by another country is not only embarrassing and an implicit indictment of the government's performance, including its human rights record, it can hurt the government politically at home. Imposing a visa requirement is a risk for the imposing country as it inevitably damages relations with the country singled out and may result in retaliation, if only by a reciprocal visa requirement being imposed.

Trade agreements can include labour migration provisions, the most celebrated example of which is the European Union whose members are allowed reciprocal access to residency and employment throughout the Union member states. Because the treaties and sub-agreements that comprise the European Union are highly complex and multi-faceted, the beneficial and detrimental effects of these mobility provisions are complex to analyze. Deficits in one area can be compensated by gains in others. But the open border provisions through the Schengen Agreement and later Schengen Convention mark an exceptional degree of trust amongst the signatories that the mutual gains will yield an overall positive sum game. Some countries have been hurt by these immigration provisions, notably those countries that have lost population, in particular their young and better educated people. Thousands of citizens of Eastern European countries have moved to work elsewhere in the EU, and the resulting population loss and brain drain is of grave concern to their governments who can only hope that other benefits of EU membership will compensate for this loss of human capital.

The Trans-Tasman Travel Arrangement,²⁸ which is now part of the New Zealand-Australia Closer Economic Relations (CER), allows citizens of both countries to travel, reside, and work in the other. The benefits of this economic arrangement are regarded as mutual and of high value to both countries, although the migration flows are predominantly from New Zealand to the larger economy of Australia. The CER strengthens the bilateral relationship between these countries, and the relatively free flow of people between them is an important aspect of this relationship. Somewhat by contrast, the Singapore Australia Free Trade Agreement²⁹ and the North American Free Trade Agreement (now the United States, Mexico, Canada Agreement)³⁰ offer considerably less by way of immigration provisions, allowing short term mobility of mostly professionals rather than the ability to reside and work long term. Australia and New Zealand are looking also at liberalizing citizenship rules for each other's nationals. Regardless of the specific immigration provisions in trade agreements, they do represent foreign policy directly because they are part of a package of agreements that place specific demands on the signatory governments that can be held to account.

A more controversial form of immigration policy as foreign policy is illustrated by the European Union – Turkey Agreement on Syrian refugees, which came into effect in March 2016.³¹ Through

28 See New Zealand Foreign Affairs and Trade, "Immigration status - visa, residency, and citizenship", <https://www.mfat.govt.nz/en/countries-and-regions/australia/new-zealand-high-commission/living-in-australia/moving-to-australia/immigration-status-visa-residency-and-citizenship/> (Accessed 21 October 2020) and Harriet Spinks and Michael Klapdor "New Zealanders in Australia: a quick guide", 29 August 2016, https://www.aph.gov.au/About_Parliament/Parliamentary_Departments/Parliamentary_Library/pubs/rp/rp1617/Quick_Guides/NZAust (Accessed 21 October 2020).

29 For the entire text see Singapore and Australia Free Trade Agreement (SAFTA), <https://wits.worldbank.org/GPTAD/PDF/archive/Singapore-Australia.pdf>. (Accessed 1 July 2020).

30 Office of the United States Trade Representative, "Agreement between the United States of America, the United Mexican States, and Canada Text", <https://ustr.gov/trade-agreements/free-trade-agreements/united-states-mexico-canada-agreement/agreement-between> (Accessed 20 October 2020).

31 See M. Murat Erdoğan, *Syrian Refugees in Turkey*, Berlin, Konrad Adenauer Stiftung, 2019.

this agreement, Turkey agreed to prevent the further flow of refugees from its territory to the European Union, principally to Greece and, in return, Turkey received significant cash payments as well as certain political gains in its relationship with the EU. A number of European countries who saw the arrival of well over a million migrants from Syria, Iraq, Afghanistan and elsewhere during 2015 faced not only the challenge of managing this volume of arrivals but often growing public resentment, the rise of anti-immigration and xenophobic attitudes, and a political shift favouring anti-immigrant populist parties. The agreement with Turkey allowed the crisis situation to calm, although not without controversy. Some regarded the agreement as a means of “off-shoring” Europe’s failed immigration regimes, others as a matter of Turkey holding Europe to ransom, and yet others as a matter of regarding asylum seekers as highly vulnerable financial pawns in a strategic game not of their making. At the time of the writing of this essay, EU-Turkey relations had become more complex than their usual complex selves owing to developments in Syria and migration-related disputes with Greece; the deal, which is to expire in 2021, will likely need to be renewed to prevent another migration crisis in the Eastern Mediterranean, but its terms remain to be seen.³² Yet, despite the occasional dispute between the parties, the agreement stands to this day and is delivering the benefits intended to both sides. The benefits accrue only because the authorities on the other side have had to alter their behaviour and because the stakes are sufficiently high to ensure that this happens. This is hard-nosed foreign policy-making, characterized by some as “weaponizing” immigration flows, in this case by Turkey because it has on occasion threatened Europe with a re-opening of its borders to allow millions more asylum seekers to travel there unless Europe acted in a certain way.³³

The immigration challenges in the Mediterranean region have resulted in other highly controversial agreements including that of 2017 between Italy and Libya on managing irregular immigration from Libya to Italy, which was to a certain extent a renewal of previous agreements between these two countries.³⁴ Again, the European interest was to reduce irregular immigration flows, especially those organized by smugglers that often resulted in capsized boats and many immigrant deaths. Italy and its European neighbours are to benefit from reduced irregular flows while Libya is to benefit from such provisions as concern their economic development, education and training, and support for international organizations working there. The centre of the controversy is that the agreement, in the eyes of its critics, transfers to Libya the responsibility for managing Italy’s and therefore Europe’s perimeter border, that is, it amounts to the out-sourcing of border control. Furthermore, many have expressed concern that the rights of asylum seekers will not be respected in the implementation of this agreement.

32 See, for example: Kemal Kirişci and Başak Yavçan, “Order from Chaos: As COVID-19 worsens precarity for refugees, Turkey and the EU must work together”, 11 June 2020, <https://www.brookings.edu/blog/order-from-chaos/2020/06/11/as-covid-19-worsens-precarity-for-refugees-turkey-and-the-eu-must-work-together/> (Accessed 1 July 2020).

33 See, for example: Diana Rayes, “Amid an Unfolding Humanitarian Crisis in Syria, the European Union Faces the Perils of Devolving Migration Management to Turkey”, 20 March 2020, <https://www.migrationpolicy.org/article/amid-humanitarian-crisis-syria-eu-faces-perils-devolving-migration-third-countries> (Accessed 1 July 2020).

34 Elisa Vari, “Italy-Libya Memorandum of Understanding: Italy’s International Obligations”, *Hastings International and Comparative Law Review*, Vol. 43, No 1, 2020, p. 105-134. See also: Anja Palm, “The Italy-Libya Memorandum of Understanding: The baseline of a policy approach aimed at closing all doors to Europe?”, 2 October 2017, <https://eumigrationlawblog.eu/the-italy-libya-memorandum-of-understanding-the-baseline-of-a-policy-approach-aimed-at-closing-all-doors-to-europe/> (Accessed 1 July 2020).

The United Nations' Global Compacts

Immigration policy can, then, be a form of foreign policy in that it can be used to influence the behaviour of foreign governments in the national interest. The examples briefly outlined here are cases where there is mutual benefit arising from formal agreements, whether trade or directly immigration agreements. But co-operative foreign relations via immigration policy is not the only possible way that things can go. Non-co-operative forms of influence have also taken place whether to increase unwanted immigration flows from one country to another or to punitively restrict immigration flows into a country, for example, through the imposition of strict visa requirements or outright bans. The 2019 U.S. – Mexico agreement on curtailing the flow of Central American asylum seekers destined to the U.S. is an example where Mexican co-operation was achieved largely through economic threats.

Throughout the discussion so far, the underlying assumption has been that immigration policy is developed to advance national self-interest and, in so far as it might influence the behaviour of other countries, it does so to advance national self-interest. Some might respond that this amounts to an expression of realism with regard to international relations and that we need to consider other theoretical perspectives in looking at immigration policy as a form of foreign policy. The realist assumption of anarchy as the fundamental structure of international relations is seen by some as far too pessimistic and that there are alternatives such as those expressed by liberalism/idealism that allow for international co-operation that is not necessarily restricted to national self-interest. Perhaps the best way into this possibility is through the work of the international community regarding the governance of immigration which culminated in the United Nations Global Compact for Safe, Orderly, and Regular Migration and the Global Compact on Refugees, both adopted in late 2018.

States have overtly co-operated on immigration, particularly with regard to refugees as evidenced by the 1951 Geneva Convention Relating to the Status of Refugees which has now been signed and ratified by 146 countries.³⁵ Signing this Convention does imply a pooling of state sovereignty under the principles of the convention, the most notable of which is the principal of non-refoulement, because this Convention is a legally binding treaty. Following the atrocities of the Second World War, numerous countries came to agree that refugees need protections that were not available to those fleeing persecution and terror during that war. Surely, this was an expression of a form of international idealism that demonstrates that not all immigration policy as foreign policy is a matter of advancing one's national self-interest alone. Doing the right thing remains possible even if it means a partial loss of sovereignty over one's borders. Refugees and asylum seekers cannot be turned away by those who have signed the Convention. This agreement, although it has not been adopted by all of the world's countries, was a remarkable achievement by the international community. It also stands as the last widely adopted legally binding immigration agreement produced through the United Nations system.

In reaction to the immigration problems of the last three decades of the twentieth century, problems that were dominated by irregular immigration flows, particularly into Europe and the United States, and some of them dangerous resulting in the deaths of many of those who were moving with the aid of smugglers, the international community again came together to seek ways to reduce irregular immigration, prevent needless deaths, and to protect the human rights of all immigrants. Although

35 UNHCR, "The 1951 Convention relating to the Status of Refugees and its 1967 Protocol", Geneva, UNHCR, 2011, <https://www.unhcr.org/1951-refugee-convention.html> (Accessed 30 June 2020).

not convened initially by the United Nations, such discussions as those under the Bern Initiative,³⁶ the Global Commission on International Migration,³⁷ and the Global Forum on Migration and Development³⁸ broached the subject of universal principles governing immigration management. The lubrication that brought the United Nations itself into these discussions was the link between immigration and development which formed the theme of two UN High Level Dialogues (2006 and 2013),³⁹ the development theme being easier for the UN to take on than outright immigration governance and its implications of additional pooling of sovereignty. The momentum generated by these discussions together with the extremely high refugee flows arising from the Syrian Civil War led to the two Global Compacts of 2018.

But note that the Compacts are not legally binding. It is highly unlikely that the Compacts would have been agreed to by the large numbers (154) of signatories had the intention been that they were legally binding.⁴⁰ Even though the migration Compact explicitly affirms the sovereignty of states over their borders, some remain concerned that its provisions might influence decisions of national courts. The countries that did not sign either of the Compacts refused largely on the grounds that doing so would erode the sovereignty they have over their borders or their national immigration and integration policy-making.⁴¹ Here, we see national self-interest at play, both with regard to the drafting of the Compacts and with regard to the reservations that some countries had that prevented their endorsement or signature. The UN Refugee Convention did not, in other words, pave the way to an altruistic liberal world order on immigration; furthermore, even though it is legally binding, the 1951 Convention is without enforcement mechanisms beyond public shaming, and many countries ignore its principles, interpret them to serve their self-interests, refuse to re-settle refugees, and even engage in refolement. Signing and ratifying is one thing; behaving in accordance with what one signed is yet another, and with no recognized enforcement mechanism, all the goodwill that accompanied the discussions leading to agreements and their signing can evaporate when national self-interest stands between principle and action.

Maintaining sovereignty over one's borders is among the principal obligations of a state. This is fully evident in matters of national defence and, as well, in matters of immigration. States guard vigorously their right to determine who is allowed to enter their territory and under what conditions. This is the great achievement of the 1951 Refugee Convention as its resulting pooling of sovereignty over who is allowed to enter a state's territory stood as an exception to the state's obligations with regard to its borders. Perhaps it is the exception that proves the rule. Note that the 2018 Global Compact on Refugees is not an amendment to the 1951 Convention. To have opened that Convention to revision was seen as posing a risk too great, a risk that the principles of 1951 would be forever lost. The Global Compacts were drafted at a time of enormous scepticism about immigration. That they achieved the

36 IOM, "Berne Initiative", <https://www.iom.int/berne-initiative> (Accessed 1 July 2020).

37 IOM, "Global Commission on International Migration" <https://www.iom.int/global-commission-international-migration> (Accessed 1 July 2020).

38 Global Forum on Migration and Development, <https://gfmnd.org/> (Accessed 1 July 2020).

39 IOM, "United Nations High-Level Dialogue on International Migration and Development (HLD)" <https://www.iom.int/united-nations-high-level-dialogue-international-migration-and-development-hld> (Accessed 1 July 2020).

40 See for critics: Ionel Zamfir, *Briefing, "The global compact on refugees Strengthening international cooperation to ease the plight of refugees in the world"*, June 2018, [https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/623550/EPRS_BRI\(2018\)623550_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2018/623550/EPRS_BRI(2018)623550_EN.pdf), (Accessed 1 July 2020).

41 See for example Fray Lindsay, "Opposition To The Global Compact For Migration Is Just Sound And Fury", 13 November 2018, (Accessed 1 July 2020).

number of signatures that they did is a testament to those who managed the process. But that the results were, of necessity, non-binding is a caution to those who hope to see a universal regime of global governance that would protect the rights of immigrants and ensure the maximum benefit from immigration for both societies of reception and origin. The rapidity with which states around the world, facing the Covid-19 pandemic, shut their borders and even sub-national governments shut internal borders indicates just how powerful the imperative to protect one's borders can be. It would appear that, for now, a realist approach to immigration policy as foreign policy remains most appropriate if least sanguine.

Closing Words

Should those who aspire to an international order wherein immigration-related foreign policy is designed to produce benefits for immigrants, destination societies, and countries of origin retreat in defeat? Is there no reason for optimism that in the future the international community will work cooperatively towards immigration-related global goods regardless of national self-interest? Despite the non-binding nature of the UN Global Compacts, the fact that most countries did sign the agreements could, after all, be seen as an indication that things could change, that foreign policy on migration could become less self-serving and provide benefits for the less well-off for their own sake. Such a shift would require effective incentives, stronger than simply doing the right thing. Getting agreement on what is the right thing to do is more difficult than it might sound. At the very least, international altruism requires that no perceived harms come to those countries whose accession provides the benefits to the less well off. It is here that border sovereignty immediately comes into play. Although some might argue, as many have in fact done, that well-managed immigration is nearly always beneficial for both countries of origin and destination as well as the immigrants themselves,⁴² the idea of open borders will remain a non-starter for decades to come. The sovereignty imperative remains central to today's concept of what it is to govern a state.

If the United Nations is able to maintain interest in the Global Compacts and actually have states report on their implementation, should states come to see that no harms come to their societies as a result of implementation, perhaps then confidence in such agreements can grow to the point that states are more willing to commit to legally binding agreements on migration governance that enhance the well-being of immigrants and the countries they move among. Pooling sovereignty among states is delicate as the example of Brexit has demonstrated. The United Kingdom came to believe that, in joining the European Union and thereby pooling its sovereignty, it suffered harms. For liberalism or idealism with regard to immigration-related foreign policy to be a plausible alternative to traditional realism, at the very least its supporters will need to persuade the world's states that no harms will come to them by joining such initiatives. Without this, realism and its presuppositions regarding national self-interest will continue to hold theoretical sway. Without this, progress beyond the Global Compacts will be impossible.

42 See, for example: The Economist Intelligence Unit, *Measuring well-governed migration: The 2016 Migration Governance Index*, London, The Economist Intelligence Unit, 2016.