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# 1. Introduction to the *Handbook on Migration and Human Rights*

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## MIGRATION AND HUMAN RIGHTS IN THE CONTEMPORARY WORLD

The number of people in the world who are on the move has been steadily on the rise. Using conventional categories, be it forced or voluntary, regular or irregular, migration has increasingly grown, particularly in the last 15 years.<sup>1</sup> An estimated 281 million people, approximately 3.6% of the world's population, currently live outside their country of origin, many of whose migration is characterised by varying degrees of compulsion. Notwithstanding that many migrants choose to leave their countries of origin each year, an increasing number of migrants are forced to leave their homes for a complex combination of reasons, including poverty, lack of access to healthcare, education, water, food, housing, gender-related risks and the consequences of environmental degradation and climate change, as well as the more 'traditional' drivers of forced displacement such as persecution and conflict.<sup>2</sup> Other figures that consider only (acquisition of) nationality – and not country of origin – as the basic distinction criteria, indicate that 184 million people; that is, 2.3% of the world's population, live outside of their country of nationality. Almost half of them are in low- and middle-income countries.<sup>3</sup>

Regardless of classification criteria, a common denominator is that a lack of a human-rights-based migration governance at the global and national levels is leading to the routine violation of migrants' rights in transit, at international borders and in the countries they migrate to.<sup>4</sup> Truly, the legal and political constructions of inclusion or exclusion of migrants from the political community strike at the very heart of the cosmopolitan spirit of universal human rights.

Migrants are not inherently vulnerable. Nevertheless, their circumstances and context-determined conditions can expose them disproportionately to human rights violations. A complex interaction of factors – including but not limited to migratory status, gender, age, ethnic or national origin, religion and cultural background – can foster their vulnerability to

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<sup>1</sup> See the graph by United Nations Department of Economic and Social Affairs (UN DESA) on migration flows from 2010 to 2021, 'Global trend', in Migration Data Portal, at [https://www.migrationdataportal.org/international-data?i=stock\\_abs\\_&t=2020](https://www.migrationdataportal.org/international-data?i=stock_abs_&t=2020); and International Organization for Migration, *World Migration Report 2024*, UN IOM, at <https://worldmigrationreport.iom.int/msite/wmr-2024-interactive/>

<sup>2</sup> *Ibid.*, and UN Office of the High Commissioner for Human Rights (OHCHR), 'About migration and human rights', at <https://www.ohchr.org/en/migration/about-migration-and-human-rights>

<sup>3</sup> World Bank, *World Development Report 2023: Migrants, Refugees and Host Societies*, 2023.

<sup>4</sup> UN OHCHR, 'About migration and human rights', *op. cit.*

discrimination, exploitation, marginalisation and more broadly exclusion from the enjoyment of their human rights and fundamental freedoms. Human rights violations against migrants can include a violation of civil and political rights such as arbitrary detention, torture or a lack of due process, as well as economic, social and cultural rights such as the rights to health, housing or education. The denial of migrants' rights is often closely linked to discriminatory laws and to deep-seated attitudes of prejudice or xenophobia.<sup>5</sup> Women and girl migrants, roughly half of the overall migrant population, face particular and often disproportionate forms of discrimination, vulnerability and human rights violations, such as a higher risk of and actual social exclusion, poverty, exploitation, harassment, abuse and violence, including sexual violence. At the same time, their specific needs, challenges, voices and rights are rarely considered in the articulation of migratory law and policy.<sup>6</sup>

Turning specifically to forced migration and to the situation of refugees, one must consider that while more than 100 million people have been forcibly displaced worldwide, the majority of displaced populations are forced to remain for years in the countries least able to meet their basic needs.<sup>7</sup> From the perspective of legal obligation, States have been entrenching policies that are the reverse of the responsibility-sharing enshrined in the 1951 Convention on the Status of Refugees, whether through 'first country of asylum' rules such as the EU Dublin Regulation,<sup>8</sup> or interdiction policies in the high seas. The world's low- and middle-income countries – not wealthy States – host the most refugees (76%). According to 2023 data, 80% of the world's refugee population is being hosted by countries that together represented only 19% of the world's income.<sup>9</sup> On the side of developed host countries, recent happenings like the 2024 electoral results in the US, surrounded by debates on undocumented immigrants and asylum seekers, and the threat of them being subject to (mass) deportations, increasingly contribute to a dehumanising rhetoric that risks becoming standard practice and extending beyond US borders.<sup>10</sup> Paradoxically, despite the decline in the last years in migrant arrivals

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<sup>5</sup> *Ibid.*

<sup>6</sup> See, e.g., UN OHCHR, *Principles and Guidelines, supported by practical guidance, on the human rights protection of migrants in vulnerable situations*, 2018, p. 7; and Council of Europe, 'Protection of gender equality of migrant, asylum-seeking and refugee women' (addressing Gender Equality Strategy 2018–2023), at <https://www.coe.int/en/web/genderequality/migrant-and-refugee-women-and-girls>

<sup>7</sup> See UN, 'More than 100 million now forcibly displaced: UNHCR report', 16 June 2022, at <https://news.un.org/en/story/2022/06/1120542>

<sup>8</sup> See European Commission, 'Country responsible for asylum application (Dublin Regulation)', at [https://ec.europa.eu/home-affairs/policies/migration-and-asylum/common-european-asylum-system/country-responsible-asylum-application-dublin-regulation\\_en](https://ec.europa.eu/home-affairs/policies/migration-and-asylum/common-european-asylum-system/country-responsible-asylum-application-dublin-regulation_en) The recently adopted Regulation 2024/1351 (Regulation (EU) 2024/1351 of the European Parliament and of the Council of 14 May 2024 on asylum and migration management, amending Regulations (EU) 2021/1147 and (EU) 2021/1060 and repealing Regulation (EU) No 604/2013, [2024] OJ L2024/1351, 22.5.2024) repealed the Dublin Regulation but maintained such rules.

<sup>9</sup> UN Development Program, 'Increased support to refugee-hosting countries key to addressing rising displacement', Press Release, 12 December 2023, at <https://www.undp.org/press-releases/increased-support-refugee-hosting-countries-key-addressing-rising-displacement>

<sup>10</sup> Sabatini, Christopher, 'US election rhetoric on migration undermines Washington's soft power in Latin America', *Chatham House*, October 2024, at <https://www.chathamhouse.org/2024/10/us-election-rhetoric-migration-undermines-washingtons-soft-power-latin-america>

both in the US and in Europe, and the fact that EU governments are silently opening the door to non-EU workers to fill expanding labour shortages, within the EU anti-immigrant sentiment has also proliferated, to the point of political leaders adopting or considering harsher policies that some years ago would have been red lines.<sup>11</sup> The new EU Pact on Migration and Asylum was presented by the Commission as a way out of the political deadlock that prevented the reform of the Dublin System and as a ‘fresh start’.<sup>12</sup> The promise was to reform the CEAS (Common European Asylum System) to become a humane system of protection through strategic amendments to the Dublin Regulation and the adoption of a new solidarity mechanism. However, in relation to the long-due reform of the Dublin III Regulation, the new Asylum and Migration Management Regulation maintains the status quo; specifically, the problematic first entry criterion remains untouched, thus keeping the rule whereby the Member State an applicant has entered first (by land, sea or air) is the responsible State for examining any application for international protection.

This tension between politics and legal obligation regarding migration has polarised communities across the globe. It must be noted again that women and girls make up around 50% of any migrant, refugee, internally displaced or stateless population, and those who are unaccompanied, pregnant, heads of households, disabled or elderly are particularly vulnerable to a range of human rights violations.<sup>13</sup>

This picture raises the question of the capability of international and domestic systems of human rights protection to offer durable and effective remedies to the highlighted issues. The Universal Declaration of Human Rights (UDHR) – whose adoption was undoubtedly a watershed moment in the history of human rights protection, despite its non-binding character – recognises in Article 13 everyone’s right to freedom of movement and residence within the borders of each State, as well as ‘everyone’s right to leave any country, including his own, and to return to his country’. Since then, many other international and national human rights instruments have reaffirmed freedom of movement as a core (although not absolute) human right.<sup>14</sup> On a broader level, the last 70 years have witnessed a staggering proliferation of both global and regional human rights treaties that include migrants and refugees in their scope of application. By acceding to such treaties, States have freely accepted the erosion of their so-called reserved domain in a given field – i.e., the control of the entry and stay of foreigners on their territory – which was traditionally a stronghold of their sovereignty. As a result, States Parties to these conventions are now bound to ensure migrants’ enjoyment of their civil and political rights (International Covenant on Civil and Political Rights) as well as their economic, social and cultural rights (International Covenant on Economic, Social and Cultural

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<sup>11</sup> Gross, Jenny, Erlanger, Steven and Schuetze, Christopher F., ‘On migration, Europe warms to ideas once seen as fringe’, *The New York Times*, 18 November 2024, at <https://www.nytimes.com/2024/11/18/world/europe/europe-migration-shift.html>; and Platform for International Cooperation on Undocumented Migrants, ‘Editorial: the migrants that Europe wants’, *The Migration Papers: PICUM Newsletter*, November 2024.

<sup>12</sup> Press statement by President von der Leyen on the New Pact on Migration and Asylum, 23 September 2020 at [https://ec.europa.eu/commission/presscorner/detail/en/statement\\_20\\_1727](https://ec.europa.eu/commission/presscorner/detail/en/statement_20_1727)

<sup>13</sup> See UN Office for the High Commissioner of Refugees, at <https://www.unhcr.org/women.html>

<sup>14</sup> Article 12 ICCPR, Art. 5(ii) CERD, Art. 10(2) UN Convention on the Rights of the Child, Art. 8(1) Migrant Workers Convention.

Rights), to protect them against racial, sexual and disability-based discrimination (respectively, International Convention on the Elimination of All Forms of Racial Discrimination, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and Convention on the Rights of Persons with Disabilities), and against torture and enforced disappearance (Convention against Torture and Convention for the Protection of All Persons from Enforced Disappearance), as well as to ensure the protection of migrant children (Convention on the Rights of the Child), and to respect and protect the rights of all migrant workers (documented and undocumented) and their families (Convention on the Rights of all Migrant Workers and Members of their Families). In addition, both international treaty law and customary international law encompass an absolute prohibition of the expulsion of individuals to a country where they may suffer from persecution (within the meaning of the 1951 Refugee Convention) as well as from torture or inhuman or degrading treatment (on the basis of the Convention against Torture and applicable regional human rights treaties).

More recent milestones in the areas of initiatives from the international community regarding migration and refugees include the Global Compacts in both fields. As migration and refugees increasingly became a global issue and concern, the international community came together in 2016 to forge the New York Declaration for Refugees and Migrants. The New York Declaration included plans for the negotiation and adoption of two Global Compacts by 2018: a Global Compact on Safe, Orderly and Regular Migration, and a Global Compact on Refugees. While a political and not a legally-binding instrument, the Global Compact on Migration was the first such agreement on a common approach to international migration. It consists of 23 objectives for managing migration in a more just and efficient way at the local, national, regional and international levels. The Global Compact on Refugees provides a framework for more predictable and equitable responsibility-sharing among States and includes four key objectives: ease the pressure on host countries; enhance refugees' self-reliance; expand access to third-country solutions; and support conditions in countries of origin for return in safety and dignity.

## THE HANDBOOK'S METHODOLOGY

Despite the multiplication of human rights instruments, violations at the expense of migrants and refugees remain commonplace and omnipresent. At the same time, there seems to be a paradoxical relationship between the adoption of these human rights norms and standards by States and States' articulation of ever-more restrictive migration and refugee policies. There is no simple and all-encompassing explanation for such a significant gap between States' commitments and the reality of migrants and refugees worldwide. Yet, two general considerations provided the initial impulse for this Handbook. First, it is clear that neither 'migrants' nor 'refugees' constitute monolithic and perfectly homogeneous categories. In fact, the very boundary between voluntary and forced migration is extremely blurred (for example, persons who move to a country to work, after a period of residing and working regularly, lose their authorisation to stay and work and are not able to return home due to a non-refoulement clause included in their return order). In addition, a strict 'categorisation' approach to the human rights of migrants is complicated by the cross-cutting nature of these categories; migrant workers, refugees, trafficked persons and smuggled migrants can also be migrants with disabilities, children, pregnant women and women who have suffered sexual and other forms of

gender-based violence, stateless persons, minorities and indigenous migrants, persons with HIV/AIDS, lesbian, gay, bisexual, intersex and transgender migrants, and victims of torture. Many migrants will be or may become vulnerable on more than one ground and may have suffered abuse of more than one type. Those who are victims of violence and trauma, who are in an irregular situation as well as a situation of poverty, are more likely to be vulnerable to discrimination and exclusion. Migrants will pass through varying legal categories during their journey, particularly when migratory journeys are long and hazardous. The contributions gathered in this Handbook highlight the inadequacy of strict categories to ensure the effective protection of migrants' and refugees' human rights, while consistently applying a gendered perspective to the analysis of these issues.

Second, this Handbook is premised on a contestation of the rhetoric of crisis, which too often characterises States' responses to issues belonging to the area of migration, and more broadly, regional and global migration policies.<sup>15</sup> Without glossing over the significant difficulties that States may encounter in the management of migration and refugee flows, it is equally important to recall that the characterisation of migration as a crisis in itself obscures the reality of a permanent phenomenon, which cannot be addressed through piecemeal and emergency responses. In addition, the rhetoric of crisis shadows migrants' contributions to their origin and host societies from a demographic, economic and cultural point of view – especially if one considers diversity as a basic value of democratic societies. Real crises, in turn, expose pre-existing structural vulnerabilities affecting migrants and refugees more than actually creating new problems. The COVID-19 pandemic is emblematic in this respect. During this time migrant workers, especially those concentrating in sectors of the labour market already characterised by low legal protections, low salaries and high levels of informality and insecurity, experienced further difficulties in enjoying their social and economic rights.<sup>16</sup> Asylum seekers were significantly impacted by additional hurdles in relation to access to healthcare, employment and education, and in several countries even their right to apply for international protection was obstructed.<sup>17</sup> The COVID-19 pandemic and its aftermath held especially damaging effects for female migrant workers. UN Women estimated in 2020 that 8.5 million migrant women's jobs were at risk because of the pandemic.<sup>18</sup> The International Organization of Migration (IOM) documented in 2022 that women migrant workers were more likely to be employed without a contract and with limited coverage from labour laws. This meant that their employers could more easily exploit these women, for instance through immediate job termination, or low wages, poor working conditions, and denial of rights such as rest days or maternity leave.<sup>19</sup> The pandemic demonstrated, though, how crucial female

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<sup>15</sup> Cantat, C., Pécoud, A. and Thiollet, H. (2023) 'Migration as crisis', *American Behavioural Scientist*, <https://doi.org/10.1177/00027642231182889>; Sachseder, J., Stachowitsch, S. and Binder, C. (2022) 'Gender, race, and crisis-driven institutional growth: discourses of "migration crisis" and the expansion of Frontex', *Journal of Ethnic and Migration Studies*, 48(19), pp. 4670–4693. <https://doi.org/10.1080/1369183X.2022.2092461>

<sup>16</sup> Staiano, F. and Ciliberto, G. (2021). *Labour Migration in the Time of COVID-19: Inequalities and Perspectives for Change*. Rome: CNR Edizioni.

<sup>17</sup> UNHCR (2021) *Refugees and the Impact of COVID-19*, <https://www.unhcr.org/fr-fr/en/media/refugees-and-impact-covid-19>

<sup>18</sup> UN Women, *Guidance Note: Addressing the Impacts of the Covid-19 Pandemic on Women Migrant Workers*, UN Women, 2020.

<sup>19</sup> IOM, *The Impacts of COVID-19 on Migration and Migrants from a Gender Perspective*, IOM, 2022.

migrant workers are to society, with these women often front-line workers in healthcare, nursing, cleaning and the services industry. In this light, then, the language of ‘migration crisis’ should be discarded in favour of a consideration of actual crises as an opportunity to highlight and remedy pre-existing vulnerabilities of migrants and refugees in general, as well as of specific categories of individuals within this group who are particularly at risk of experiencing violations of their human rights.

## THE STRUCTURE OF THE HANDBOOK

The diverse contributions gathered in this Handbook explore these themes from different angles. Part I of the Handbook is devoted to crises in migration governance, rule of law crises, as well as the management of refugee flows (including from areas of conflict).

In Chapter 2, Jaya Ramji-Nogales examines the use of litigation as a method of migration governance in the United States, focusing on the effects of a litigation-based approach on federal policy coherence and immigrants’ compliance with legal standards. Ramji-Nogales explores how litigation narrows the conversation on migration, particularly regarding race, and questions its long-term effectiveness, suggesting solidarity as a potential alternative or complementary strategy for protecting migrants. Despite legal challenges, discussions around race are often sidelined in favour of technical legal arguments. A solidarity-based approach is suggested as a means to shift the paradigm as undocumented migrants continue to face the challenges of governance through litigation. Chapter 3, by Christel Querton, argues that analysing women’s asylum claims in isolation neglects critical aspects of the protection of women fleeing protracted conflicts. By adopting a gender binary lens that considers the relative positioning of women and men, Querton underscores the importance of understanding gender as a multifaceted and interconnected concept. The chapter delves into an interdisciplinary approach to analysing violence in armed conflicts from a gender perspective, highlighting how various regional refugee protection regimes may indirectly discriminate against refugee women. By shedding light on the failure to view violence in conflict as a continuum, the chapter emphasises the need for a non-discriminatory interpretation of the Refugee Convention to better protect refugee women. Michael Doyle and Dorothea Koehn (Chapter 4) tackle another aspect of the migration governance crisis by analysing the complex links between migration crises and ineffective governance strategies. Doyle and Koehn argue that a lack of a unified and efficient response mechanism has led to varying approaches in dealing with refugee crises, ultimately influenced by political will. The proposed Model International Mobility Convention (MIMC) aims to establish a global standard for protecting and managing migration, introducing comprehensive guidelines that cover a wide range of migrant categories from labourers to refugees, while also enhancing protections for vulnerable groups like forced migrants. The chapter highlights the necessity of continual refinement of MIMC to address future challenges, proposing enhancements to accommodate issues like climate change, remote work and pandemics, thereby ensuring a more effective crisis management platform for the future. In Chapter 5, Ariadna Estévez suggests that the refugee crisis rhetoric has been used to politically justify actions by First World countries to externalise their geographical borders. Estévez argues that these actions reflect what is termed as ‘International Rule of Law Necropower’. This concept implies that First World nations have utilised human rights discourses to mask the authoritarian nature of their legislation, thereby legitimising

the harsh human consequences of their management of the crisis. Such consequences include deportation, detention and extraterritorial processing of asylum claims, all done under the guise of ensuring ‘safe, orderly and regular’ migration management. The securitisation of trafficking in women for the purpose of sexual exploitation is instead the subject of Lucrecia Rubio Grundell’s analysis in Chapter 6. Rubio Grundell focuses on the intersection between security concerns and the perspectives of feminist neo-abolitionist actors within the EU. She argues that the framing of trafficked women as victims, dis-identifying them from threatening entities like organised criminals, is central to this intersection. Tracing the evolving intersection of security concerns and neo-abolitionist ideals in EU policies, she reveals how security-driven solutions often overshadow gender equality perspectives within the EU’s anti-trafficking efforts, shaping the trajectory of policy responses to this issue.

Part II of the Handbook gathers contributions on the issues encountered by States and supranational institutions vis-à-vis the management of diversity in diverse areas of migrants’ and refugees’ lives. Chapter 7, by Jacqueline Bhabha, Urszula Markowska-Manista and Vasileia Digidiki, examines local solidarity in Greece and Poland, and more specifically the impact of State policies on local communities’ capability to provide support to migrants. The authors detail how State actions within welfare agencies and municipal and federal institutions can either bolster or diminish the capacity of local communities to provide ongoing solidarity to migrants, offering valuable insights into the dynamics between State policies and grassroots support initiatives. In Chapter 8, Ramona Vijayarasa analyses CEDAW’s norms on human trafficking and argues that while CEDAW has the potential to address gender-based discrimination related to the movement of women and girls, it falls short in challenging binary divisions between forced and unforced migration. Vijayarasa focuses on CEDAW’s influence in South Asia and Southeast Asia as well as in domestic contexts such as the Philippines and Sri Lanka and suggests a deepening of divides with widely accepted regional norms potentially conflicting with international women’s rights law. Giorgia Baldi (in Chapter 9), delves into another key aspect of the crisis of multiculturalism by examining France’s management of Muslim difference and its adoption of intolerant rhetoric focused on national identity. Baldi highlights the enactment of Islamophobic legislation stemming from the disavowal of race and ethnicity as categories. Legal cases regarding the Muslim headscarf underscore tensions between secularism, women’s emancipation and religious expression, leading to restrictions on Muslim religious freedom and challenges in mosque construction. The discussion extends to recent integration policies, such as the Contrats d’Accueil et d’Intégration (CAI), which link integration requirements to residency permits and family reunions, potentially compromising fundamental rights and prioritising assimilation over the recognition and accommodation of differences. The limitations of existing legal frameworks from an intersectional angle are also highlighted by Lourdes Peroni in Chapter 10, which focuses on the human rights standards established by the CEDAW Committee and Group of Experts on Violence (GREVIO, of the Council of Europe Convention on preventing and combating violence against women and domestic violence) in the field of gender-based violence against migrant women. While their approach recognises migrant women’s unique needs, it may overlook structural factors shaping their experiences. Peroni outlines the legal basis for these standards, discusses the group-based approach to intersectionality, and identifies three strategies employed: tailoring measures to migrant women’s needs; integrating migration into gender policies; and incorporating gender into migration measures. In Chapter 11, Benedita Menezes Queiroz explores the challenges faced by LGBTQI+ asylum seekers within the Common European Asylum System

(CEAS) and examines the Court of Justice of the European Union's (CJEU) interpretation of the EU's obligations regarding asylum claims based on sexual orientation and gender identity (SOGI). Menezes Queiroz highlights the vulnerability of LGBTQI+ asylum seekers, exacerbated by the absence of procedural safeguards and intersecting factors such as gender orientation, race and religion. By doing so, she dissects how the CEAS procedures may perpetuate structural discrimination and deepen the vulnerability of this group and critically evaluates whether the EU, through the New Pact on Migration and Asylum, is taking steps towards adopting an intersectional approach in reforming the EU international protection framework. An enquiry on the Australian context is carried out in Chapter 12 by Melany Toombs and Jiaying Goh, who analyse the gendered dimensions of administrative and judicial decision-making in the fields of migration and family law. Toombs and Goh argue that the processes and outcomes of legal decisions are deeply gendered, with women often being judged based on traditional notions of the 'model citizen', family roles and motherhood. Furthermore, they contend that existing legal structures fail to adequately address the gendered experiences of relocation and family violence, perpetuating inequalities within these systems. Theories of intersectionality are also explored to illustrate how gender intersects with race, sexuality and economic status to shape distinct migration experiences. Part II ends with Veronica Federico's enquiry, in Chapter 13, of the inadvertently negative effects on migrant women's rights of efforts to promote gender equality and dignity in migration law. Through case studies on polygamous relations and the instrumental use of gender equality rhetoric to vilify non-European cultures, Federico highlights inconsistencies within legal systems and questions the compatibility of a rights-based approach to migration within the current legal landscape. Federico also explores how radical right-wing groups exploit gender equality rhetoric to fuel anti-immigration sentiments, further complicating migrant women's rights, and calls for the adoption of an EU rights-oriented legal framework grounded in the rule of law to safeguard migrant women's rights and dignity effectively.

Part III of the Handbook focuses on socio-economic, health and environmental crises. In this section, the authors highlight a diverse range of challenges encountered by migrants and refugees in the enjoyment of their human rights in these fields, including those resulting from the limitations of existing policies and legal frameworks. Chapter 14, by Vera Pavlou, sheds light on the significant hurdles experienced by migrant domestic workers in securing key socio-economic rights, despite their indispensable contributions to society, the economy and families in their host countries. Pavlou contends that understanding this paradox requires the analysis of how two intertwined crises – the crisis of social reproduction and the crisis concerning rights at work – intersect. She outlines how the complex intersections of class, gender and race biases perpetuate inequalities for migrant domestic workers, with law playing a constitutive role in upholding their disadvantage, and examines the repercussions of these crises on domestic workers' salaries, working time, and access to social security and protection. In Chapter 15, Edit Frenyó delves into another key aspect of global care chains and examines the legal and policy dynamics affecting transnational grandparents, particularly grandmothers, considering age, gender and citizenship status discrimination. She discusses issues of misrecognition and lack of acknowledgement within family policies and caregiving roles and contrasts the impacts of restrictive immigration policies with the benefits of EU citizenship for mobile grandparents within Europe. In doing so, Frenyó highlights the negative effects of intersectional discrimination, advocating for further research and advocacy in this area to address the systemic barriers faced by grandparents and their families. Chapter 16, by

Dorothy Estrada-Tanck, explores the intersecting challenges faced by undocumented migrant women and girls amidst the global backlash against women's and girls' human rights and increasingly restrictive migration policies. Estrada-Tanck highlights the crisis of the human rights rule of law resulting from this intersection, which undermines principles of universal personhood, equality and human dignity. However, she also identifies hope within the international human rights law framework, citing progressive instruments, interpretations and case law at the UN and regional levels, as well as the advocacy efforts of feminist social movements. Estrada-Tanck then proposes a gendered intersectional approach that centres the voices of undocumented migrant women and girls. The impact on international mobility of travel restrictions adopted to contain the spread of COVID-19 is instead at the heart of Chapter 17, by Lorenzo Piccoli and Timothy Jacob-Owens. Focusing on specific categories (citizens, internationally-mobile workers and asylum seekers), these authors consider the legal regulations and rationale behind the entry rights for each, and assess whether they were exempted from border closures during the pandemic using data from the CMMP project. Highlighting the gendered effects of selective international mobility rights, Jacob-Owens and Piccoli argue that the pandemic led to an erosion of international mobility rights, restricting citizens' ability to return home and reducing visa-free travel opportunities, creating a new category of 'essential workers' (often women in care roles, who faced precarious conditions with limited rights), and leaving asylum seekers vulnerable to violence, abuse and heightened exposure to the virus, by suspending international protection. In Chapter 18, Fulvia Staiano considers the limitations of international and domestic refugee law with respect to the protection of individuals internationally displaced due to climate change. Staiano discusses the potential of the broader interpretation of the non-refoulement principle in international human rights law to better address the protection needs of persons displaced due to climate change. Through an analysis of the Italian case study, she reflects on the capability of immigration law to offer complementary protection to these individuals. Human displacement caused by environmental change is also the subject of Andrea Pacheco Pacífico's contribution (Chapter 19). To address the complexities of such a phenomenon, she proposes the deployment of a human-rights-based approach, applying her Network Society Communicative Model (NSCM) and the network perspective as proposed by Stephen C. Betts' regime at a local level. By conceptualizing environmentally displaced individuals as a multi-causal construct, Pacheco Pacífico advocates for a human-rights-based approach to address the causes and consequences of their displacement, extending international refugee regimes to local implementation levels. The importance of protecting the rights of vulnerable populations in the face of climate change, while promoting solidarity and responsible governance to tackle the overarching human-environmental crises, is also stressed by John Morrissey in Chapter 20. Drawing on examples from the Caribbean and debates on migration, Morrissey proposes mechanisms for national and international governance to regulate the economic impacts of late modern capitalism and mitigate its destructive ecological and social effects. He advocates for deconstructing these delusions and adopting new discourses on securitisation that prioritise critical and responsible approaches to economic production and environment-society relations. In addition, Morrissey calls for the initiation of new governmentalities aimed at achieving planetary sustainability, stressing the urgent need to document and promote a vision of shared human-environmental security for future generations.

## COMMON THEMES, TRANSVERSAL ISSUES AND PROPOSED SOLUTIONS

This Handbook strives to contribute to current debates on the key challenges experienced by migrants and refugees in the enjoyment of their human rights, on the shortcomings of existing sources of protection of such rights, and more broadly on supranational and domestic institutions' responses to migration issues, as well as on possible remedies and ways forward. The diverse contributions gathered in the Handbook offer different points of view on these subjects from a variety of disciplinary and analytical backgrounds. Nevertheless, not only is it possible to identify common threads and themes among these analyses, but several compelling links may be established between the critical components of each contribution and the respective constructive proposals on how to remedy identified gaps in migrant and refugee protection.

A first issue highlighted by a significant number of contributions in this Handbook concerns the overlooking of the peculiarities of the experiences of specific categories of migrants and refugees – first and foremost on the grounds of sex and gender, but also on the basis of age, race, religion and SOGI, as well as migration or citizen status. A lack of awareness of such complexities – often in connection with a failure to adopt a necessary intersectional lens in the application and interpretation of existing legal frameworks – has been emphasised as a significant shortcoming in the context of refugee law (Querton), the recognition of domestic workers' socio-economic rights (Pavlou), family migration policies (Frenyó), international legal regimes aimed at preventing and repressing violence against women (Peroni) as well as border management policies (Ramji-Nogales). In some cases, existing frameworks have even been identified as an aggravating factor in the perpetuation of gender stereotypes, as well as in the misrepresentation and oversimplification of migrants' (first and foremost, women's) experiences, with the result of undermining their transformative potential (Vijerayasa; Menezes Queiroz; Toombs and Goh; Estrada-Tanck).

Another shared theme emerging from several contributions to this Handbook relates to the instrumental reference to basic values of democratic societies as a justification for the disenfranchisement or exclusion of certain categories of individuals. This phenomenon has been highlighted, for instance, with reference to gender equality as a justification for restrictions on women's religious freedom (Baldi) or access to family reunification (Federico), but also more broadly in relation to the exploitation of human rights discourses in the context of restrictive migration policies (Estévez) or to reasons of public health linked to the containment of the COVID-19 virus to justify selective restrictions on the mobility rights of specific categories (Piccoli and Jacobs-Owens).

On a broader level, the inadequacy of existing legal and policy frameworks to address the new challenges posed by human movement and displacement in the contemporary world has been emphasised by many authors. The international community appears to lack the political will to effectively remedy these issues by providing structural answers at a global level, for instance by reforming international treaties to overcome their current shortcomings or by concluding new treaties or agreements devoted to the novel challenges highlighted in this Handbook. As a result, the continuing need to fill serious gaps in the protection of migrants' and refugees' rights has prompted a reconsideration of key concepts (such as that of human security, for example, as discussed by Morrisey) but also increasingly creative – and in some cases questionably extensive – interpretations of existing sources (as shown by the difficulties of including environmentally displaced persons within the scope of the Refugee Convention,

discussed by Staiano and Pacheco Pacífico). Another effect of the described lacunae has been the proliferation of soft-law-based solutions, which in turn have generated an inconsistent and chaotic landscape governed by administrative discretion and legal uncertainty fuelled by competing interpretations of the same sources and legal concepts (Estrada-Tanck; Federico). In strict correlation with this phenomenon, several authors have highlighted the increasing disconnect between normative theories and political reality, which has given rise to unrealistic legislative proposals with no real prospects of practical application (Bhabha, Markowska-Manista and Digidiki; Doyle and Koehn).

In the face of these gaps and shortcomings, several authors propose the adoption of a globalised approach to address the diverse challenges affecting migrants and refugees – from displacement caused by climate-change-related events (Pacheco Pacífico; Morrissey) to the marginalisation of migrant women in the context of global care chains (Pavlou; Frenyó). Such an approach could also foster the abandonment of emergency responses (whose inadequacy to face structural challenges and whose negative effects on migrants' rights have been emphasised by Piccoli and Owens, and Staiano).

At the same time, a globalised approach should not translate into the homogenisation and essentialisation of migrants' and refugees' experiences. Case-by-case assessments and grassroots approaches are also crucial to ensure that the concrete needs of these groups are actually met (Baldi; Federico) and to foster durable solidarity among local communities vis-à-vis vulnerable migrants (Bhabha, Markowska-Manista and Digidiki). Such efforts should also include effective gender mainstreaming strategies, a clear identification of discrimination grounds – also from an intersectional point of view (Querton; Ramji-Nogales; Peroni; Menezes Queiroz; Toombs and Goh; Estrada-Tanck) – and an acknowledgement of the blurred boundaries between voluntary and forced migration (Vijayarasa; Rubio Grundell). Ultimately, a balance between a top-down and bottom-up approach will need to be reached in order not to compromise legal certainty and avoid arbitrariness. On a broader level, the contributions gathered in this Handbook have made it very clear that a one-size-fits-all approach is not appropriate to deal with the complexities of human mobility in the contemporary world and to ensure the rights and dignity of migrant and refugee persons. Indeed, a truly gendered, intersectional and interdisciplinary effort is required to elaborate durable, effective and just solutions to a phenomenon that – far from being an emergency or a crisis – is an enduring reality of our time.