Symposium Introduction: Reconceptualizing International Economic Law for Migration: Transdisciplinary and Regional Perspectives

By:

Oreva Olakpe
Amaka Vanni

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Introduction

Migration is both a root factor and an outcome of international economic rules and norms. IEL has a direct impact on migration and mobility, however, migration is an area that is still not a visible part of IEL discourse. This is partly rooted in how the phenomena of borders, national sovereignty, and the dichotomies between citizens and non-citizens, between economic migrants and other migrants, and the economic disparities between developed countries and the Global South shape how international economic rules and norms are

formed. From the relationship between EU migration governance, trade, and development in Africa, the impact of US economic conduct in Latin America and the Caribbean, to the impact of Chinese FDI on the movement of people and services between China and Africa, there are numerous ways that IEL and migration are intertwined. Liberalization of trade and the movement of capital, goods and services has become a norm, supported by international law however, migration remains an outlier.

With this context, this symposium is focused on reimagining IEL for migration, underscoring the place of migration within the larger IEL discourse and unpacking the complex relationship between IEL rules and norms and international migration. The six essays in this symposium gather original and analytical work from established, mid-career, and young academics and practitioners that focus on critical, trans-disciplinary, and regional perspectives on the intersections of IEL and migration. In addition to theoretical analysis, this symposium also showcases empirical findings on the relationship between IEL and migration

Prof Tendayi Achiume opens the symposium with an invitation to a decolonial approach of international migration. In this introductory piece, Prof Achiume highlights how the current engagement of IEL, and migration as separate fields not only undercuts the goals of promoting interconnection, but also exacerbates the continued disenfranchisement of marginalized communities in the form of illegality and economic exploitation. To rectify this, Achiume argues for a decolonial approach in international migration, which can be achieved via more emancipatory migration governance processes and policies.

The next two pieces in the symposium looks at the turn to private financing in international migration and the encoding of new migration language in economic partnership agreements (EPAs) that further entrenches inequality and uneven income distribution. In the second post of the symposium, Prof Daria Davitti reflects on the financialization of asylum and international migration. Prof Davitti notes that the turn to refugee finance marks a paradigm shift that “prioritizes and promotes a very specific understanding of ‘development’ and targeted market-led responses.” The effect of this financialisation, she argues, is the transformation of refugees into “intangible assets to be sold and traded on the global financial markets” rather than people in need of protection and

holders of rights. Meanwhile, the third contribution by Prof Jean-Pierre Cassarino focuses on mobility, circular migration and the “EU’s attempt to consolidate legal mechanisms aimed at ensuring the temporariness of international migration.” Focusing on the Partnership Agreement between the European Union and the Organisation of African, Caribbean and Pacific States (aka Post-Cotonou Agreement), Prof Cassrino underscores how the language of “circular migration” meets the needs and demands of foreign labour in European markets whilst limiting the possibility that legal foreign workers will settle permanently in the territories of host countries. This not only allow for the “expulsion of irregular border crossers and rejected asylum seekers but also paves the way for a new form of migration law where temporariness is encoded” international economic law.

Adopting an economic lens on international migration analysis, the fourth contribution by Dr. Omolola Olarinde and Dr. Nnamdi Ikpeze tackles the issue of how to harness human capital and achieve efficient labour market outcomes in Africa. Olarinde and Ikpeze use the global skill partnership scheme (GSP) of the Centre for Global Development to illustrate a possible way to match the supply and demand of labour between countries more neatly. They imagine a mitigation of the redistribution effects of migration through the compensation principle. In this conceptualization, more productive countries would compensate less productive ones by increasing the stock of productive skills in migrant sending countries.

The fifth post by Prof Amar Bhatia and Joseph Jonathan Simard reflects on the intersection of migration, Aboriginal and Indigenous law with IEL, which is characterized by multiplied marginalization that forms an invisibilized core at the center of interlinking systems of economic exclusion. Using the Mohawk (Kanien'kehá:ka) Peoples and the Canada-US Border as a case study, Bhatia and Simard underscores how the Mohawk lands have been not only been taken by an influx of settlers but also how tangible IEL structures such as borders and infrastructure projects have continued the dispossession and displacement of aboriginal and indigenous peoples on those same lands.

In the final post of the symposium, Dr Oreva Olakpe reflects on what is possible and required of us in the re-imagination of IEL for migration. In her post, Olakpe notes that to achieve a reimagined international economic law for migration requires both the active participation of states, IEL lawyers, migration scholars

& activists. For the former, this would involve active liberalization of migration both in economic and political terms. And for the latter, international lawyers and international and domestic civil society must put up the resistance needed to make international economic laws and practices become more people/ human rights centric.

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