

# Pitting Sovereignty Against Migration: The Case of the Venezuelan Refugee Crisis

**Manav Johar**

Woodstock School, Mussoorie

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## INTRODUCTION

Within the field of political science, the concept of state sovereignty is usually associated with how states protect their borders or security during war or conflicts between or within states (intra or interstate conflict). However, the conflicts of neighbouring states resulting in migration flows may also play an integral role in a state's own sense of sovereignty. During an ongoing migrant crisis, a host state may be unable to uphold its own sovereignty. This may be due to two reasons. One, the obvious literal crossing of state borders by migrants, and second, the undermining of sovereign authority as state migration laws may not be followed, and borders may be illegally passed. His paper considers different approaches to protecting state sovereignty in Latin America - specifically Colombia and Ecuador in wake of migration from Venezuela. Where Colombia's strategy was to develop a clear migration plan, Ecuador's strategy was to, in effect, ignore Venezuelan refugees. The main resultant difference between the two states was the vast difference in documentation of migrants. In Colombia, there was a higher percentage of documented migrants, whereas in Ecuador, a vast majority of migrants were undocumented - hence Ecuador acts as a perfect example of a state whose approach to sovereignty was limited and ineffective. Using this case study as an illustration, this paper argues that the way to uphold sovereignty during the migration crisis is through effective migration policy and regulation.

## SOVEREIGNTY AND STATEHOOD

The concept of sovereignty is extremely relevant in the 21st century due to ongoing issues on immigration globally. The modern concept of sovereignty was first quoted by Jean Bodin in the 1500s (D. Lee 2021). However, since the term has been coined, the definition of sovereignty has been interpreted and defined differently to suit the context. The word "sovereignty" has many definitions. Both Tilly and Philpott explain the concept of sovereignty as comprising two key aspects: control over territory and control over population (Tilly 1985; Philpott 2011).

Tilly defines a sovereign state as having four main functions: war making, state making, protection and extraction (1985, 181). All four of these functions relate to territory and borders because, per Tilly, it is the duty of the sovereign to protect subjects from violence from other entities. Tilly's definition emphasizes the importance of borders and protection of territory – he defines a national state as, "relatively centralized, differentiated organizations the officials of which more or less successfully claim control over the chief concentrated means of violence within a population inhabiting a large, contiguous territory" (1985, 170). Note the emphasis on the control of the territory and of a population within a state. Philpott synthesizes multiple definitions of sovereignty into one, flexible definition being the "supreme authority within a territory" (2011, 561). He emphasizes the existence of a supreme authority over a population and the fact that it is impossible for a state to be called 'sovereign' without the existence of authority over its affairs. Based on these widely accepted definitions of state sovereignty, the following two concepts are integral to the idea of sovereignty: (i) defining borders, (ii) legibility over population. I built on these two concepts below.

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## **BORDERS AND TERRITORY**

To effectively uphold its sovereignty, a state must be able to define its own borders around its territory. From the early Middle Ages, land (territory) has been a crucial asset, with the feudal system using territory as a reward in exchange for work. According to Mann, a state is defined as a “territorially democratic area, over which it exercises” complete authority (1984, 112) Paying close attention to the word, “territorially,” Mann’s definition is a clear reference to the physical borders of a state, used to define the territory within which a sovereign exercises its authority.

Conflicts between sovereign states are often over territorial integrity. Paul Huth, a scholar of international relations (IR), cites borders as one of the biggest reasons for conflicts between states, highlighting the importance of territory in the interest of national security (1996). He claims that, “international conflict stems from the clashing national security interests of countries” and that there have been more than 100 territorial border conflicts between states since after World War II (Huth 1996, 15). Borders are, therefore, key to protecting territorial integrity. Mark Zacher, another prominent scholar of IR, also argues for the importance of territorial control for the survival of a sovereign state (2001). He quotes the UN charter, signed by 50 countries, to support the importance of territory. The charter “affirmed states’ obligation not to use force to alter states’ boundaries” (Zacher 2001, 7). The charter further states that “any attempt aimed at the partial or total disruption of the national unity or territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations” (Zacher 2001, 7). Zacher draws on the charter to emphasize that borders are a key component of the sovereignty of a state. If a state’s borders are violated, it would lead to a violation of the state’s national interest. Zacher claims that it is extremely relevant to the “globalizing economy” in order for a “state power to enforce its rules” (2001, 32)

## **POPULATION LEGIBILITY**

In addition to defining borders, a sovereign state must also be able to define its population in order to enumerate and categorize its citizens. James C. Scott terms this quality legibility and posits it as the main reason why a state must have knowledge on its population (1998). Legibility is the “breadth and depth of the state’s knowledge of its citizens and their activities” (M. M. Lee and Zhang 2017, 119). Scott states that by defining its population, a state would be able to “administer and to police” its population (1998, 55). The ability to conduct such an exercise is fundamental to the notion of sovereignty, as articulated by sociologist Michael Mann (1984). He posits that for a state to be sovereign, it must possess control or authority over its recognized population. ‘Despotic Power’ or ‘power of autonomy’ (Mann 1984, 113) is crucial for a state as it establishes authority over multiple societal groups. By defining the state’s population, the sovereign would be able to exercise authority and control internal affairs of the state. The importance of legibility is further emphasized by Lee and Zhang as it would allow a state to maintain “an efficient social order” (2017, 118). This reinforces the notion that legibility over the population is central to the idea of sovereignty.

The loss of the ability to define its population would lead to a decline in a state’s authority. Scott emphasizes that by defining its population, the state would be able to regulate and tax the population efficiently, maintaining social order (1998). Lee and Zhang argue that a state with information about its population would be able to “monitor opportunistic behavior and enforce fiscal rules, thereby sustaining cooperative outcomes” (2017, 120). This literature shows that the ability to define its population is crucial for a state’s sovereignty. It is through defining its population that a sovereign would be able to effectively enforce authority and regulate legislation the sovereign sees appropriate for its population, maintaining consensus within the state. Scott highlights that illegal or forced migration should be considered as loss of control by the sovereign (1998). Thus, if the state were unable to define its population, it may not be able to perform its key functions effectively.

To effectively define its population, a sovereign state must be able to control mobility over borders. Reinforcing the importance of authority over population to sovereignty, Baldwin-Edwards views illegal or forced migration as a violation of a state’s sovereignty (2008). He argues against advocates for open borders, who claim that migration controls are “a phenomenon of the 20th century” (Baldwin-Edwards 2008, 1450). Instead, he stresses the historical importance of migration controls and cites the feudalistic period, in which a sovereign “exercised absolute control over its subjects” (Baldwin-Edwards 2008, 1450). This, according to him, protected a state’s sovereignty as control was maintained by the sovereign. Lee and Zhang support this point as without monitoring mobility, the state will not be able to monitor behavior, which is important to defining its citizens (2017). Furthermore, the monitoring of borders

ensures the state would be able to control internal affairs as well as enforce legislation specific to its defined population.

### **MONITORING MOBILITY**

If the state is unable to monitor mobility, such as control over migrants, the state's ability to carry out functions such as regulating and taxing population would be complicated. The importance of mobility was clear in the Feudal period according to Baldwin-Edwards where, “the two guiding principles of the feudal period appear to be, at the local level, the retention of skilled workers (with restrictions on emigration) and restrictions on entry, to avoid mobility of the poor (Baldwin-Edwards 2008, 1450). However, in the 21st century, due to globalization, human rights have arisen to be central to the idea of international relations. Organizations and agreements such as the Geneva convention of 1949 have come up with regulations to protect the rights of migrants to seek refuge in states. This reinforces the importance of mobility monitoring in order to protect the idea of sovereignty in a state, protecting both its territory and a sovereign's authority.

### **FORCED MIGRATION AND SOVEREIGNTY**

Forced migration into a state can be considered a violation of that state's sovereignty. Migrants, while entering into states, cross the physical borders established by the state. As a part of ‘territory’ being a major aspect for sovereignty in this essay, unauthorized migration compromises the ‘sovereign state’. Dionigi takes the example of the Middle East in 2011, arguing that ‘forced’ migration is changing the traditional Westphalian definition of sovereignty and borders (2017). He described borders as ‘thick’ when defining the territory of a state; however, post-migration, he evaluated them as ‘thin’ (Dionigi 2017). This in other words, is in reference to how so many migrants cross borders without proper legislation, which undermines the state's authority. As mass crossings occur, borders become easier to cross. As a result, state legislation on borders is undermined, resulting in the borders being described as ‘thin.’ The magnitude at which borders are crossed leads to the borders becoming thinner and thinner. Furthermore, while migrants enter state territory, new laws and regulations must be established for them to live within the borders of the state, this ‘forces’ state authorities to change and enforce new policies, meddling with the internal affairs of a state.’ Hence, this not only violates the state's physical borders and territory but also its authority.

### **FORCED MIGRATION**

There have been many significant yet different arguments made regarding migration and receiving states. There are many reasons for forced migration. Few of them include, population growth and density, economic vulnerability, economic debt, sociocultural issues, ecological disasters, social networking, government migration policies and regional economic integration (Baldwin-Edwards 2008, 1543). Baldwin-Edwards mainly talks about ‘illegal’ migration, which is “migration that occurs outside of the legal–institutional frameworks established by states” (2008, 1449). However, in the 21st century, per the United Nation's Universal Declaration of Human Rights, the right to leave one's home country is now legally acceptable. One of the major reasons for an international refugee crisis is an “increased reluctance of states to provide asylum to large numbers of refugees” (Boswell 1999, 1).

### **FORCED MIGRATION IN THE RECEIVING STATE**

Forced migration can have a variety of impacts on the receiving state - including political and economic ramifications. Betts argues that forced migration affects the interests of the elites in the state receiving migrants (2013). The ability for a sovereign to take decisions regarding its state is crucial for sovereignty. Hence, Betts' point is in reference to the fact that forced migration could affect the state's internal affairs as its interests are diverted. Furthermore, forced migration could affect public opinion about migrants negatively. Research conducted by Hatton, shows that “at the individual level, concerns about both legal and illegal immigration are positively correlated with the opinion that there are too many immigrants and that immigration is more of a problem than an opportunity for the country” (2017, 19). This relates to the perception that forced migration means that the native population of the country would have fewer jobs and economic activities. Weakening migration policies also lead to public concern that there would be more immigration in the receiving country. However, increased migration could also mean demand for more jobs in the receiving country. Forced migration would lead to a higher population growth of the receiving country, hence could lead to a higher demand for jobs, in the long run increasing the standard of living in a country.

In this paper, we will discuss yet another effect of forced migration on the receiving state - that of its sovereignty. When migrants are forced out of their country, they flee to other countries, often to countries that share borders with their own. In doing so as refugees, the receiving state is legally and morally obliged to take them in. This may violate their sovereignty as sovereigns have limited authority over who enters their borders, violating both its territorial integrity as well as its authority in defining its population. Furthermore, the sovereign is also relatively unaware of its population as refugees can easily move in and out of the country. This affects the state's legibility and sovereign control. Refugee rights which violate state sovereignty are protected by international doctrines such as the Geneva convention and article 14 of the UDHR which allows refugees the right to asylum.

### **UPHOLDING SOVEREIGNTY IN THE FACE OF FORCED MIGRATION**

While dealing with forced migration, the UNDP argues that the best way for a state to uphold its sovereignty is to enforce effective migration control (Bitar 2022). Effective migrant controls are policies enforced by the state to accommodate and protect the rights of incoming migrants within its territory. An 'effective' migrant control is one that controls migrant inflow successfully without affecting the states sovereignty. By doing this, the state would monitor and restrict its population, therefore establishing 'legibility,' which according to Scott, "provides exact information of the movement of the population, thus avoiding unauthorized migrations, hiding taxpayers, and other abuses" (1998, 70). Thomson further emphasizes the fact that developing migration control and laws does not violate the sovereignty of state, instead it actually promotes it (2013). Migration controls essentially reinforce the state's power over its internal affairs. Through migration controls, a state has "the power to determine the admission of non-nationals into their country, detention of migrants and removal or expulsion of non-nationals" (Thompson 2013). By upholding this power, the state may choose whom it were to admit into its territory. As a result, it retains control and authority over its internal affairs and population. An aspect of a state's sovereignty is to uphold its 'legibility' over its civilian populations, including ensuring the rights of its population. However, the protection of human rights, specifically when it comes to migrants, may mean violating a state's sovereignty as the state is forced to adjust its existing legislation to accommodate migrants.

### **UNDOCUMENTED MIGRATION AND SOVEREIGNTY**

Undocumented migration compromises the sovereignty of a state as it undermines both the territorial integrity as well as the sovereign authority, as migration regulation is not followed. Migration control has come due to globalization and the introduction of international law. International law ensures cooperation between countries to form joint agreements to allow citizens through and within the borders of its territory. According to Hatton the "capacity to host resettled refugees must be expanded through enhanced cooperation" (2017, 22). This undermines the sovereignty of a state as the state does not exert complete authority over its borders. Furthermore, the aspect of migration control discussed above is solely when it comes to documented, legal migrants. Undocumented migration "is an affront to sovereignty because it is evidence that a nation is not in control of its borders" (Dauvergne 2004, 598). Undocumented migrants cross borders to a state without the complete knowledge of a state, hence by doing this, the state is not fully aware of its population, therefore may not be able to control its internal affairs.

### **MIGRATION CONTROLS AND SOVEREIGNTY**

A key prediction based on the existing research is that migration control policy would uphold the sovereignty of a state. An issue regarding state sovereignty and migration is a lot of migration happens illegally without the knowledge of the sovereign. Hence, these crossings occur without the following of proper legislation, therefore undermining state authority. As defined earlier, a key aspect of sovereignty is the sovereign's authority over its borders as well as the physical territory of the state. Through these crossings, migrants often undermine the authority of the state, therefore violating the first aspect of sovereignty, as well as cross borders into the physical territory of the state. This violates the complete definition of sovereignty. Therefore, we can expect that when a receiving state has proper migration control, the violation of sovereignty is to be less likely as there would be fewer illegal crossings, therefore the state would cede lesser sovereignty. However, when there is lesser migration control, or inadequate quality of migration control, there is likely to be more illegal crossings - therefore the sovereignty of a state is more likely to be undermined.

## THE VENEZUELAN REFUGEE CRISIS

The Venezuelan refugee crisis is one caused by long term political and economic conflict. Venezuela, being a petrostate, meaning a state highly dependent on income from fossil fuels, recently suffered economically due to ineffective governance by President Nicolas Maduro. The reasons for such a huge crisis are not solely political but rather a mixture of different matters. According to the United Nations, the crisis was “motivated mainly by the lack of integration opportunities and cases of intolerance and xenophobia, as well as the desire for family reunification and the perception of an improving economic outlook in Venezuela” (Kirschenbaum 2022). Many fled to places like Colombia, Peru, Chile, and Ecuador, in order to escape the ongoing situation of Venezuela’s economy. Countries have generously opened their borders, in order to accommodate the forced migration. Migrants have fled to places all around the world for a more secure political and economic background. Around 5.1 million migrants have fled to different Latin American countries and around 6.1 have fled worldwide as of April 2022 (Kirschenbaum 2022).

## SOVEREIGNTY OF RECEIVING STATES IN THE VENEZUELAN REFUGEE CRISIS

Based on our analysis of the literature, we can make the following prediction regarding the Venezuelan refugee crisis. A receiving state in Latin America, must in order to retain sovereignty have effective migration control. An effective policy is one that enhances a state's legibility, allowing sovereigns to ‘know’ their population and control it accordingly. This paper will use two states - Colombia and Ecuador, to discuss the effectiveness of policy in regards to upholding sovereignty. Here, Colombia implemented proper policy, hence retained its sovereignty, whereas Ecuador did not, therefore undermining its sovereignty.

## COLOMBIA’S POLICY OF MIGRATION MONITORING

In response to the Venezuelan refugee crisis, Colombia enacted effective migration controls. Colombia has accepted a large population of Venezuelan refugees, approximately 1,500,000 migrants in 2021. In 2011, both the governments of Venezuela and Colombia established migration control to allow the “free transit of citizens of both countries to border cities and municipalities” (Bitar 2022). This allowed Venezuelan migrants to freely move within the borders of both territories, reinforcing the concept of “open borders” in the international system where all citizens are to an extent allowed to freely move all over the world. Furthermore, the government of Colombia in 2017 implemented the Special Stay Permit for Venezuelan citizens who traveled within the country regularly. This scheme not only ensured national security, and therefore sovereignty for the state, but also guaranteed Venezuelan migrants certain rights. National security for migrants within the state was ensured as they had guaranteed stay for a period of time as they went through proper legislation. Furthermore, this upholds the state's sovereignty as the migrants admitted through proper legislation are ‘known’ to the state. The state is completely aware of its population, hence can enforce proper regulation based on legibility. This assures that national security of migrants are protected as well as upholds the state's sovereignty.

Through implementing such policies, the government was able to control its borders - In other words, the migration controls allowed the Colombian government to admit and reject migrants based on the government's authority - despite international regulations forcing them to accept migrants. As a result, the Colombian government retained authority and control over its borders. According to Gandini, the entry of illegal migrants was significantly less than before effective legislation was imposed (2023).

As Colombia was able to enforce migration control, it was able to uphold sovereignty. By enforcing such controls, Colombia retained control, reduced the number of illegal migrants, hence upholding its sovereignty through border control. Gandini further states that management of migrants was not solely through migration policy but the state also enforced other strategies like “imposition of visa requirements” to overall control Colombia’s population and uphold sovereignty (2023, 30).

## ECUADOR’S POLICY OF TURNING THE OTHER WAY

In Ecuador, the amount of effective migration control imposed is significantly less in comparison to other Latin American countries. Ecuador has approximately 400,000 Venezuelan migrants present due to its ongoing humanitarian crisis. To control this issue, the government of Ecuador issued an informal policy of essentially turning

the other way with regards to illegal migration. has implemented some migration control, though there is a lack of coherent policy (Beyers and Nicholls 2020). In 2014, Ecuador issued decrees as restrictive policy for migrants, however, the total number of migrants within the country significantly increased, showcasing the failure to uphold coherent policy.

Ecuador's implementation of less migration control was an active decision by the state. According to Beyers and Nicholls, their decision not to pursue controls may be "understood as making sense from the perspective of state power" (2020, 643). In other words, through strategically examining the economics of enforcing policy, the government came up with 'strategic rationality' to lessen migration control. As a result, through not putting in place legislature and policies around migration controls, Ecuador was exercising its state power to implement less migration controls as a strategy. This was the state's strategic response to dealing with the crisis. However, this policy led to a lot of illegal border crossings, potentially undermining the territorial integrity of the state (Beyers and Nicholls 2020).

Not only was Ecuador's decision to enact less migration control detrimental to its territorial integrity, but it also compromised the state's ability to have legibility over its population. In order for a state to maintain its sovereignty, the state has to be aware of its existing population. To add to the concern of legibility, Mitchell Dean states that "not engaging in the production of knowledge about a specific object of government entails failing to construct a coherent policy" (2010, 38). By not enacting policies allowing Ecuador to manage migration from Venezuela, the state ended up with less knowledge about the Venezuelan refugees within its borders.

Since Ecuador's policy was ineffective at controlling borders and retaining legibility, the sovereignty of the state is compromised. Furthermore, the ineffectiveness of Ecuador's policy to control migration is clear from that fact that an estimated only 15 percent of Venezuelan migrants in Ecuador were documented with legal status in the country (World Bank 2020). In other words, this means that approximately 85% of Venezuelan migrants have entered state borders without following proper legislation implemented by the state. This violates the state's authority or control over its internal affairs as well as shows a lack of legibility as the sovereign is more or less unaware of its population. This overall, violates the sovereignty of a state.

## **ANALYSIS OF THE TWO RESPONSES**

When looking at the examples of Colombia and Venezuela, it is crucial to note that the main difference between the two was the amount of effective policy enforced. In the case of Ecuador, the government did not enforce much migration control. By taking the sovereign decision, Venezuela exposed its border to many illegal immigrants who crossed territory without proper authority or regulation. This undermined its sovereignty. However, while looking at Colombia as a state with adequate migration control, the sovereign had authority over who to admit hence retaining its sovereignty as migration control was effective in allowing sovereigns to exercise authority.

## **CONCLUSION**

From the above paper it can be concluded that one of the most effective ways for states to uphold sovereignty during spillover conflicts from other neighbouring states is through enforcing effective migration policy. This allows states to protect the two main aspects of sovereignty - authority and borders. Through the implementation of effective migration policy, the state would have authority over who enters its borders hence having control over its population. Such an approach also allows state sovereigns to have legibility, as through migration control the state is aware of who enters its borders and the state's population is therefore known. Ineffective or no migration policy, allows for illegal entrance of migrants, therefore undermining the sovereign's authority as well as the state's physical borders. This approach also undermines sovereignty as the state is unaware of its population. This paper allows for governments to understand ways to uphold sovereignty during ongoing crises from other states, which can potentially affect the host state. The paper also provides readers examples of migration policy that has worked and has evaluated statistics on why/why not it has/has not worked which allows governments real life situations on what policies to implement. This paper can act as a catalyst for future research as it allows implications for what can be considered 'effective migration controls or policy.' It can serve as a base to what components must be considered while evaluating whether or not the policy is effective.

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