

## Abstract

### **Between Human Dignity and Public Order: States and Refugees' Contestations and Conflicting Claims to Shared Values of Human Dignity in International Law in the Context of the Global Refugee Crisis**

The global refugee crisis driven mainly by armed conflicts is wreaking havoc on the stability of international refugee law and international law generally; thus, raising questions whether the crisis is beyond the reach of international law and the political will of States. One constant feature of the turbulent crisis is the States' and refugees' contestations and conflicting claims to the shared values of human dignity—*power, enlightenment, well-being, wealth, skills, affection, respect and rectitude* (MS McDougal et al, 1978 p. 227) vis-à-vis public order in international law (Michael Reisman, 1996 p.76), sometimes, without any clear-cut resolution. For example, States often maintain that refugees embarking on unsafe, disorderly, and irregular migration across state borders disrupt public order, and throw an international system built on the premise of state sovereignty and national jurisdiction into crisis (UK Parliament, Joint Committee on Human Rights Twelfth Report of Session 2022–23). On their part, refugees often contend that the political unwillingness of States to develop and implement value-based refugee policies that grant them greater access to these shared values of human dignity is, in fact, what undermines public order (UNCHR, 2019 p.5). Against the background of these conflicting claims, one of the primary functions of international law in the refugee world is to resolve the States' and refugees' conflicting claims to these shared values, especially in contexts where they clash with societal demands to safeguard public order. It does this by attempting to understand the arena in which the conflicting claims to these values are being pursued, the forum and mechanisms used to pursue them, and the key players involved; to then promote cooperation among actors.

The paper asks if these States' and refugees' conflicting claims to shared values of human dignity and public order in the context of the global refugee crisis undermine the capacity of States and international law to find a lasting solution to the crisis. Adopting the methodology and theory of the New Haven School of International Law which first outlined these eight shared values of human dignity (M Reisman *ibid*), the paper argues that it does because such contestations promote the flawed doctrinal understanding that these values of human dignity and public order are divergent and mutually exclusive goals of international law. The paper submits contrary to the divisive narratives in the literature (often pitching human dignity adherents against public order defenders) that the shared values of human dignity and public order are (1) mutually co-existent and inclusive goals of international law; (2) designed to function in compatibility and complementarity as opposed to divergence and fragmentation insofar as none can be realised in isolation of the other; and (3) therefore, when States are responding (in legal/policy terms) to the refugee crisis, international law should become a tool for making rational social choices aimed at engaging these actors in a constructive dialogue over value claims to promote cooperation between them and secure/strike a balance. The paper attempts to outline and define the arenas in which these shared value claims are pursued by the contesting actors, the forums/mechanisms they use to pursue them, the legal, human rights and normative basis for pursuing them, and what legal, policy and political consensus for the acceptability of those claims in a refugee crisis world would be required.

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