Migrants and Justice Remittances: How the Movement of People Across Borders is Enabling the Spread of Universal Jurisdiction Cases

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The year 2022 has seen a plethora of high-profile universal jurisdiction cases worldwide. In January, a German court found Anwar Raslan — a former security official in Syrian President Bashir al-Assad's regime — guilty of crimes against humanity. In April, a Dutch court sentenced Abdul Razzaq Rafief to 12 years in prison for war crimes he committed in an Afghan prison in the 1980s. And a Swedish court will soon announce a verdict in the prosecution of Hamid Nouri, an Iranian charged with committing war crimes in Iran in 1988.

But why are German, Dutch, and Swedish domestic courts prosecuting crimes committed by foreign nationals against other foreign nationals on foreign territory? The legal justification of these cases is well-known to international lawyers. The principle of universal jurisdiction was originally developed as a tool for domestic courts to punish maritime pirates, who committed crimes on the high seas, outside of the territorial jurisdiction of any state. Israel began a legal trend in the early 1960s when it used universal jurisdiction as a tool to investigate and ultimately prosecute Adolph Eichmann, a Nazi official who oversaw the Holocaust in Europe, years before Israel even existed. Other states slowly began to mimic Israel's arguments, and the use of universal jurisdiction has surged in recent decades.

What is less understood by international lawyers is: why are *specific* states (e.g. Germany, the Netherlands, and Sweden) invoking universal jurisdiction over crimes committed in other *specific* states (e.g. Syria, Afghanistan, and Iran)? As a counterexample, we might ask: why isn't Germany hearing cases about the persecution of the Uighur people in western China? Or why isn't Argentina—which has used universal jurisdiction various times to investigate and prosecute serious international crimes—hearing cases about crimes in Syria?

How Migration Drives Universal Jurisdiction Cases

Our research suggests that migration may be driving universal jurisdiction cases through multiple causal pathways. Many migrants are victims of or witnesses to atrocities in their home state. Others are the perpetrators of such atrocities. After migrants arrive in a new state, they have several ways to seek justice for the violence that they sought to escape. First, they can report crimes to police and prosecutors in their new home state and assist in investigations. Universal jurisdiction cases often rely on migrants to provide evidence, locate witnesses and testify in trials. Second, migrants can mobilize public opinion in their new home state by informing the public about crimes that occurred elsewhere. Third, migrants frequently seek meetings with elite officials — including judges and legislators — to persuade them to act. They use their personal narratives to humanize conflicts in faraway places, such as Afghanistan, Iran, and Syria. And fourth, many states allow individual victims to launch private prosecutions. This power is mostly unknown in the United States, where only public prosecutors can file charges and serve as the prosecuting party in criminal proceedings. However, a number of states allow the alleged victim of a crime, a private citizen or certain nongovernmental organizations to be a party in the criminal process together with, or instead of, public prosecutors.

To see these causal pathways in action, consider the three recent cases in Germany, the Netherlands, and Sweden. Anwar Raslan — a former security official in Syrian President Bashir al-Assad's regime — fled Syria shortly after the outbreak of the Syrian Civil War and ultimately settled in Germany in 2014. During this same period, Syrian migrants in Germany organized to promote prosecutions. They created their own nongovernmental organizations and worked with local groups to inform the German media and public about atrocities in Syria. Various alleged victims of Raslan's crimes, who were also migrants, saw him in Berlin and reported him to German authorities. Testimony from these and other Syrian migrants convinced German officials to issue an arrest warrant for Raslan in 2019, ultimately yielding his conviction in January 2022.

In the Netherlands, Dutch authorities were tipped off by a series of blog posts that Razzaq Rafief—who had arrived as a refugee from Afghanistan in 2001 and had become a Dutch citizen—was living in his new home country under a false name. Afghan migrants living in different countries testified at trial, several of whom identified Rafief as the chief of the prison where many abuses were committed. The judges relied on this migrant testimony, among other elements of proof, to reject Razzaq Rafief's defense of mistaken identity.

Finally, the case against Hamid Nouri was launched after a source contacted Iraj Mesdaghi—a former Iranian political prisoner living abroad—that Nouri was planning a trip to Sweden. Mesdaghi then contacted Kaveh Moussavi—a British-Iranian human rights lawyer that he knew—who filed a complaint with Swedish authorities. Coordination by these migrants ensured that Nouri was arrested when he arrived in the Stockholm airport. Mesdaghi, among other Iranian migrants, testified at Nouri's trial. During the trial, Iranian migrant groups protested outside the courthouse in Stockholm. The verdict in the case is expected in July 2022.

Are these idiosyncratic examples, or do they reflect a broader pattern? To test our hypothesis that migration patterns drive universal jurisdiction cases, we examined how many migrants moved to each state, along with the characteristics of their home states. We found that a receiving state that received larger numbers of immigrants from a specific sending state tended to have more universal jurisdiction cases against nationals from that sending state. This relationship was especially strong for migrants from home states with a long history of human rights abuses. In addition, we found that universal jurisdiction cases are unlikely to be launched against a state's military allies. Our statistical analysis controlled for numerous alternative explanations, including colonial relationships and the economic capacity of states.

Universal Jurisdiction as a Tool for Justice Remittances

Migration scholars have long recognized the diverse economic, social, and political effects of migration on the sending state. Migrants do not break ties with their home country, but instead serve as conduits between their home and host nations. They create trade ties and increase investment by providing knowledge of opportunities between the two states and creating trust. They also send money back home, what are known as remittances, to the tune of almost $600 billion in 2021, which provide a critical safety net for millions. It's not just money or knowledge of deals that are passed by migrants; Peggy Levitt coined the term "social remittances" to describe the information about different government structures, corruption, and politics and different norms of behavior passed from migrants to their friends and family back home. These social remittances can help foster democratization.

Our interdisciplinary research suggests that the principle of universal jurisdiction allows another form of transnationalism: *justice remittances*. Migrants bring awareness and evidence of a crime, create the political pressure needed to move cases forward, and in some cases even bring the case themselves. When justice is not possible at home, migrants serve as agents of justice.

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