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QUESTION

 Do you think that Developed Countries in Europe and North America are protecting the rights of refugees?

Many modern migrants are fleeing war and conflict in places like Syria, Iraq, South Sudan, Central African Republic and elsewhere. In 2015 the U.N. High Commissioner for Refugees reported that the number of people displaced by war, intrastate strife and human rights violations had reached 59.5 million in 2014, 8.3 million more than a year earlier. This was the highest number of displaced persons ever recorded. The number of deaths from conflict and disasters also remains distressingly high. In the eastern part of the Democratic Republic of Congo alone, from 2005 to 2015 over five million persons died due to conflict, chiefly from disease and malnutrition brought about by the fighting. Sadly the protection of people from severe threats to their humanity remains a distant goal.

A refugee is a person who has a well-founded fear of persecution in her country of origin. A migrant who has crossed international borders without a need for international protection may, following a fair procedure in which their individual circumstances have been assessed and their rights have been guaranteed, be returned involuntarily to their country of origin if this return can be done in a safe and dignified manner. All persons, regardless of status, have inalienable human rights.

Refugees are defined and protected in international law. The [1951 Refugee Convention](https://www.unhcr.org/3b66c2aa10.html) is a key legal document and defines a refugee as: “someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion.”

If chaos characterized the response of the EU and its member states in 2015, wrong-headed and rights-abusing policies had defined 2016. Instead of providing for safe and orderly channels into the EU for asylum seekers and refugees and sharing responsibility for them equitably, the EU and its member states have endorsed policies designed to limit arrivals and to outsource responsibility to regions and countries outside of the EU. The deeply flawed deal with Turkey and problematic cooperation with the Libyan authorities reflect this approach.

Individual member states have rolled back asylum rights at a national level and the European Commission has proposed an overhaul of the common European asylum system that is more informed by a logic of deterrence than a commitment to basic human rights. Far from ensuring the right to family reunification, over the past year numerous EU countries have restricted the right to bring family members to safety, and there is a discernible trend towards granting subsidiary—temporary—protection over refugee status. Proposed changes to the EU directives governing procedures, qualification for asylum, and reception conditions include some positive measures but also measures to punish asylum seekers for moving from one EU country to another, obligatory use of “safe country” and “internal flight alternative” concepts to deny protection, and compulsory reviews to enable revoking refugee status and subsidiary protection.

The European Commission has also advocated changes to EU aid and foreign policy that would direct them towards migration control objectives rather than improving respect for human rights. The Partnership Framework for relations with third countries represents a clear articulation of the EU’s goal, significantly re-energized, to intensify migration cooperation with countries in Africa, the Middle East and Asia with the objectives of preventing irregular migratory flows to Europe and facilitating the removal of rejected asylum seekers and other irregular migrants from EU territory.

In the same period EU member states have largely failed to implement the September 2015 emergency relocation mechanism scheme, which in spite of its limited scope stands as the only effort to date to more equitably share responsibility for the recent arrivals to Greece and Italy. As of mid-November, only 7,224 asylum seekers had been relocated.

In 2016, over 343,000 migrants had managed to reach European shores by sea, while at least 4,646 have died or gone missing at sea. A substantial proportion of those arriving come from refugee producing countries such as Syria, Afghanistan and Iraq. Such people are fleeing generalized violence, war, and serious human rights abuses. Many others are seeking to escape economic deprivation and may not qualify for asylum.

The numbers of arrivals are down from 2015, when over one million migrants and asylum seekers survived the dangerous journey to the EU. But 2016 proved even deadlier than 2015, when at least 3,671 died or went missing in the attempt. Border closures and a deeply flawed deal with Turkey contributed to reducing the numbers of those crossing from Turkey to Greece, while crossings from North Africa, particularly Libya, have kept pace with previous years.

In November 2015, Human Rights Watch urged the EU and its member states to take concrete actions to reduce the need for dangerous journeys, address the crisis at Europe’s borders, fix the EU’s broken asylum system, and ensure that EU cooperation with other countries improves refugee protection and respect for human rights. This document, years later, shows that the EU has gone in the opposite direction.

The United States continues to be the main country of destination for migrants in the world. The number of African immigrants in the United States has more than doubled during the last 10 years, reaching about 2 million. Meanwhile, migration flows from developing Asian countries to the United States and Canada continue to increase steadily.

Similarly, migration flows from most Central American and from many Caribbean countries to the United States have continued to rise steadily since 2011. A good portion of these flows are irregular. In fact, around 40 per cent of all irregular migrants in the United States, or an estimated 6 million, were born in either Central America or the Caribbean.

A particularly alarming irregular migration trend, which has grown recently in the United States, is made up of immigrant children, especially unaccompanied, originating principally from Mesoamerica (defined as consisting of Mexico and Central America).

In 2017 and 2018, President Trump’s administration has implemented immigration policies that have caused catastrophic irreparable harm to thousands of people, have spurned and manifestly violated both US and international law, and appeared to be aimed at the full dismantling of the US asylum system.

Those policies and practices have included, among others: (1) mass illegal pushbacks of asylum-seekers at the US–Mexico border; (2) thousands of illegal family separations, through which the Trump administration has deliberately and purposefully inflicted extreme suffering on families, ill-treatment which rose to the level of torture in some cases; and (3) increasingly arbitrary and indefinite detention of asylum-seekers, without parole, constituting cruel, inhuman or degrading treatment or punishment (ill-treatment) which is absolutely prohibited in international law.

Based on public statements by US government officials, those policies and practices were indisputably intended to deter asylum-seekers from requesting protection in the United States, as well as to punish and compel those who did seek protection to give up their asylum claims.

The Trump administration is waging a deliberate campaign of human rights violations against asylum seekers, in order to broadcast globally that the United States no longer welcomes refugees. Simultaneously, the Trump administration is seeking to dismantle the US asylum system, including by narrowing definitions of who qualifies for protection – in violation of international law. Setting a dangerous precedent, the US government’s abrogation of its obligations under human rights and refugee law is undermining the international framework for refugee protection, grossly violating the right to seek asylum, and is inviting a race to the bottom by other countries.

RECOMMENDATIONS

EU governments and institutions, including the Commission and Parliament, should set the EU on a new path. This should be grounded in a genuine sense of responsibility in the midst of an unprecedented global displacement crisis, adherence to the human rights values at the core of the EU, and a vision of thriving, pluralistic and tolerant societies.

Specifically, the EU and its member states should:

* Prioritize saving lives at sea through sustained search and rescue operations along the main migration routes in the Mediterranean. Renew efforts to obtain permission to operate in Libyan waters so that EU-flagged vessels can assist in search and rescue operations there.
* Ensure that any efforts to “externalize” migration management do not worsen access to protection and respect for human rights, including by:
	+ Designing, implementing, monitoring and reporting publicly on EU migration cooperation arrangements with third countries to ensure this cooperation does not trap people in abusive situations, prevent them from accessing fair asylum procedures, or lead to refoulement.
	+ Delinking development aid from migration control in those countries where this linkage appears to be in place.
	+ Ensuring that programs developed with security forces and other government agencies in countries of origin do not contribute to human rights violations.
	+ Ensuring that migration cooperation with Libyan authorities, including the training of Libyan Coast Guard and Navy officers, has a strong human rights component, with monitoring and accountability for any abuses and independent, impartial and transparent monitoring of conditions and treatment in Libyan detention centers to ensure that they meet basic standards. The EU should suspend the training program if abuses continue.

The United States Homeland Security should:

* Immediately stop turning away asylum-seekers at the US–Mexico border, both at and between official ports-of-entry.
* Discontinue all plans and actions that would require asylum-seekers at the US–Mexico border to wait in Mexico during pendency of their asylum claims.
* End detention of children, whether accompanied or unaccompanied, separated or held together with their family, as it is never in their best interest.
* Reunify, unconditionally, as quickly as possible and sparing no costs, any and all children who remain separated from their parents or guardians.
* Halt family separations in all circumstances, except following a rigorous determination of best interests of the child, which must be articulated to family members and recorded in the case files of
those affected.
* Strengthen mechanisms and procedures to ensure that the separation of children of asylum-seekers and migrants occurs only when it is in their best interest, including improved safeguards for the
determination of those best interests.

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