Hussain Hassan

17/sms09/098

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

In My Opinion, As a forthcoming scholar of International relations and diplomacy I have decided to support the aforementioned case study as to if the refugee rights are protected in North America and Europe. As well as bring forth reasons why.

**Refugees** which are victims of social dilemmas such as natural disasters, war, persecution and the likes are protected under the core mandate of the United Nations High Commissioner for Refugees (UNHCR). This action thus falls under the branch of international law.  which deals with the rights and duties States have with refugees. There are varieties of opinion among international law which scholars use as to understanding the relationship between refugee law and international human rights law or humanitarian law. The discussion forms part of a larger debate on the fragmentation of international law. While some scholars understands each branch as a self-contained regime separate from other branches, others adopt the three branches as forming a larger normative system that strives to protect the rights of all human beings at all time. The proponents of the latter conception view this holistic regime as including norms which only applies to certain situations such as armed conflict and military occupation or to certain groups of people including refugees (protected by refugee law), children and prisoners of war.

Although the Convention on the Rights of the Child lacked clarity and was not specific concerning the rights of refugee minors, it was used as the legal blueprint for handling refugee minor cases, where a minor was defined as any person under the age of 18. In 1988, the UNHCR Guidelines on Refugee Children were published, specifically enacted to address the needs of refugee children, formally granting them internationally recognized human rights.

**REFUGEE RIGHTS IN NORTH AMERICA**

In 1967, An established protocol removed the temporal restrictions, which restricted ⁸refugee status to those whose circumstances had come about "as a result of events occurring before 1 January 1951", and the geographic restrictions which gave member States party in the Convention, the option of interpreting this as "events occurring in Europe" or "events occurring in Europe or elsewhere" (The United States became a party to this protocol in 1968). However, it also gave those States involved, which had previously endorsed the 1951 Convention and had chose to use the geographically restricted definition the option to retain such restriction. Concerning the convention on the rights of the child, Despite playing an active role in the drafting of the Convention on the Rights of the Child, the United States has yet to approve the treaty, making it the only nation in the UN that is not a party to it.

It was also of note that the aftermath of World War II brought forth a refugee crisis in the Us, the large incursion and resettlement of Indochinese refugees led to the enactment of the Refugee Act of 1980. This law assimilated the International Convention definitions of a refugee into U.S. law. The law also created the legal basis for the admission of refugees into the U.S. An important part of this law is how an individual goes about applying for status. A person may meet the definition of refugee but may not be granted refugee status. If the individual is inside of the U.S. with a different status or no status, they are legally given the status of asylee but not refugee. In order to be considered a refugee in the U.S. Such an individual must possess these distinctive factors: be a non-citizen of the U.S.; be of specific humanitarian concern for/to the U.S.; be able to authenticate previous persecution or feared approaching persecution based on the discrimination towards the individual's race, religion, nationality, social class, or political outlook.

The first process of being granted such status is to receive a referral to the U.S. Refugee Admissions Program (USRAP). The person is then allowed to include their spouse, child, or other family members (only in specific situations) when applying for refugee status. After the person has been referred, a U.S. Citizenship and Immigration Services officer located abroad will conduct an interview to decide if the refugee is eligible to resettle inside the U.S. If the person is approved as a refugee, they will then be provided with various forms of assistance. These include a loan for travel, advice for travel, a medical exam, and a culture orientation. After the refugee is resettled, they are qualified for medical and cash assistance. 'The Office of Refugee Resettlement has a program called the Cash and Medical Assistance Program which completely reimburses the assistance in which states provide refugees'. The refugee is then eligible for this cash and medical assistance up to eight months subsequently after their arrival date.

In 1984, a group of Latin American governments adopted the Cartagena Declaration, which is a non-binding regional, Latin-American, instrument for the protection of refugees and added such, added more objectivity based on a significant consideration to the 1951 Convention.

**REFUGEE RIGHTS IN EUROPE**

Asylum in states belonging to the European Union (EU) also has its branch roots from the 1951 Convention Relating to the Status of Refugees, an agreement enacted on Article 14 of the Universal Declaration of Human Rights. Following the adoption of the "Schengen Agreement" on the elimination of internal border controls of signatory member states and its subsequent assimilation into the EU legislative framework by the Amsterdam Treaty,  'the EU set up a Common European Asylum System (CEAS) to unify minimum standards related to asylum, leaving up to EU Member States the discretion to establish procedures for obtaining and withdrawing international protection.' The European Union enacted the objective of introducing "appropriate measures" with respect to asylum in the Amsterdam Treaty, which required the Council of the European Union to endorse measures on asylum in line with the Geneva Convention and the Protocol Relating to the Status of Refugees in 2004, five years after the Treaty of Amsterdam came into law to all.

'The current legal bases for the EU's enactment of a harmonised legislative framework on asylum are observed in the Treaty on the Functioning of the European Union  and the EU Charter of Fundamental Rights.'  
Refugees entering Europe are expected to follow the laws in place by the Common European Asylum System (CEAS). These laws were established between 2011 and 2014, and have not since been updated due to the current state of the refugee crisis. The crisis is of an emergency state, so the major concern has been exercising asylum laws, rather than the reformation of them. These laws are in place to restrict European Union Member States from sending an individual back to where they are vulnerable to persecution, and to offer international protection to those who are granted refugee status through the backing of the law. Upon arrival in an EU Member State, individuals and families in need of refugee status are subjected to a comprehensive assessment of their life in their country of origin.

The CEAS is assigned to assessing if such an individual is truly eligible for refugee status, or if, for example, they are an economic migrant. If, through this process, an individual is deemed a refugee, they are immediately given international protection. For this status and protection to be given the potential danger and harm that could follow suit after a person's return to one's country of origin must be established. If Member States do not find this to be true of the individual's condition, they are authorized under the CEAS to return said individual to the country he/she originated from, as they have officially been recognised as an "illegal economic migrant". However, due to the lack of paperwork or documentation, it is occasionally difficult for EU Member States to actually execute this ruling, and some "illegal economic migrants" manage to continue their journey through the EU after successful evasion. If chaos characterized the reaction of the EU and its member states in 2015, wrong headed and rights violating policies have described 2016.

Instead of ensuring for safe and coordinated channels into the EU for asylum seekers and refugees and sharing responsibility for them equitably, the EU and its member states have endorsed policies enacted to limit arrivals and to outsource responsibility to regions and countries outside of the EU. The deeply faulty deal with Turkey and problematic partnership with the Libyan authorities reflect this approach. Individual member states has revoked 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 undertaking the right to family reunification, over the past year various EU countries have prohibited the right to bring family members to safety, and there has been an observable trend towards granting subsidiary temporary protection over refugee status. Proposed changes to the EU directives governing procedures, eligibility 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 denouncing refugee status and subsidiary protection. The European Commission has also supported 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 over the past 18 months, to intensify migration cooperation with countries in Africa, the Middle East and Asia with the purpose of preventing irregular migratory flows to Europe and enabling the removal of rejected asylum seekers and other irregular migrants from EU territory.

**REFERENCES**

["Reforming the Common European Asylum System: Frequently asked questions"](http://europa.eu/rapid/press-release_MEMO-16-2436_en.htm). European Commission

VALLUY Jerome [Rejection of exiles – The great reversal of the right of asylum](http://www.reseau-terra.eu/article876.html), 2009

[*"Veranstaltung mit frau Dr. Phil. Karin Waringo vom Romaverband Chachipe E. V., Luxembourg"*](http://www.amnesty-konstanz.de/Main/20121215001). [*Amnesty International*](https://en.m.wikipedia.org/wiki/Amnesty_International), [*Konstanz division*](https://en.m.wikipedia.org/wiki/Konstanz) (in German). 15 December 2012*. Retrieved 14 April 2013*

Mona W. Claussen (27 November 2013) [Slik håndterer Europa asylstrømmen](http://www.aftenposten.no/nyheter/uriks/Slik-handterer-Europa-asylstrommen-7386207.html) *[Aftenposten](https://en.m.wikipedia.org/wiki/Aftenposten" \o "Aftenposten)*based on numbers from [Eurostat](https://en.m.wikipedia.org/wiki/Eurostat). Retrieved 5 December 2013

Koskenniemi, Marti (September 2002). "Fragmentation of International Law? Postmodern Anxieties". *Leiden Journal of International Law*. **15** (3): 553–579. [doi](https://en.m.wikipedia.org/wiki/Doi_(identifier)):[10.1017/S0922156502000262](https://doi.org/10.1017%2FS0922156502000262)

 UN General Assembly, Convention *on* theRights *of the Child*, 20 November 1989, United Nations, Treaty Series, vol. 1577, p. 3, available at: http://www.refworld.org/docid/3ae6b38f0.html [accessed 10 May 2018]

["Convention relating to the Status of Refugees"](http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfRefugees.aspx). United Nations High Commission for Refugees. 28 July 1951. Retrieved 26 April2018.

[An Overview of U.S. Refugee Law and Policy"](https://www.americanimmigrationcouncil.org/research/overview-us-refugee-law-and-policy). *American Immigration Council*. Retrieved 23 February 2017

[*"What Are Refugee Rights Under International Law?"*](https://web.archive.org/web/20170404043327/http:/lirs.org/wp-content/uploads/2014/08/17.-What-are-refugee-rights-under-international-law.pdf) *(PDF)*. Lutheran Immigration and Refugee Service. Archived from [*the original*](http://lirs.org/wp-content/uploads/2014/08/17.-What-are-refugee-rights-under-international-law.pdf) *(PDF)* on 4 April 2017*. Retrieved 2 April 2017*.

United Nations High Commissioner for Refugees. ["Refugee Status Determination"](http://www.unhcr.org/en-us/refugee-status-determination.html). *UNHCR*. Retrieved 2018-03-16