

Forum: Human Rights Commission (HRC)

Issue: Ensuring humane treatment against refugees in congested migration routes from North Africa and Middle East to Europe

Student Officer: Şevval Kalkan

Position: Deputy Chair

Introduction

Prior to the appearance of fixed and strict state frontiers, roughly before the 20th century, the inhumane treatment of refugees was not considered an internationally observed human rights issue considering that the insensitivity to unlawful treatment caused by political manipulation had not aroused. In contrast to this, refugee migration is the main subject of many global political debates and academic research. According to the latest data, there are now 110 million people who were displaced and 36.4 million refugees under United Nations High Commissioner for Refugees (UNHCR). While UNHCR is responsible for most of the refugees, United Nations Relief and Works Agency for Palestine refugees in the Near East (UNRWA) is in charge of the help for palestinian refugees. Major source countries of refugees consist mainly of Syria, Ukraine, Afghanistan, South Sudan, Myanmar and DPR Congo, which means that most refugees flee from the Middle East and North Africa. As specified by the International Rescue Committee, high-income states host approximately 24% of refugees, which means that the other 76% is hosted by middle or low-income countries. Furthermore, data show that most refugees reside in neighboring countries. For example, Türkiye is considered to be the single highest host country for refugees in the world, and over 3.6 million refugees come from Syria which is a neighboring country. Likewise, Jordan holds the second-highest number of refugees per capita with more than 2 million registered Palestinian refugees and others from Syria, Iraq, Yemen, and Somalia. Nevertheless, some refugees can be in need of going long distances to refuge in a host country, such as moving to Europe or the USA. In Europe, Germany takes in the highest number of Middle Eastern refugees and asylum seekers with a number over 71,000. The list in respective order of host European countries follows: Austria, The Netherlands, Bulgaria, the UK, Greece etc. During the route of refuge process to such countries, especially during wartime in the source countries, inhumane treatment and negligence is observed in the congested migration routes, which will be specified later on.

Many international organizations aim to ensure the asylum of refugees and humane treatment towards them, trying to encourage the application of international law. With the same intentions, the Human Rights Commission will work and operate globally during this conference, in order to ensure humane treatment of refugees in the face of the consequences of shifting power dynamics.

Definition of Key Terms

Refugee: This term refers to the people who have fled their country because of various reasons such as escaping human rights violations and persecution caused by discrimination. This is not a voluntary mobilization considering that it occurs when there is a great risk to the person's safety, and their government cannot or will not protect them against mentioned dangers. Even though the words "refugee, asylum seeker and migrant" are used interchangeably, there is a legal distinction between them.

Prima facie Refugee: In case of a mass movement, individual interviews can not be conducted to determine and declare one's refugee status. It may be suitable for humanitarian crises such as wartime mass movements and massive human rights violations, so refugees in migration routes can be considered as *prima facie* refugees in the territory. *Prima facie* refugees have the same international rights as any other refugee, and they benefit from the prerogatives provided in the 1951 Refugee Convention

Asylum Seeker: An asylum seeker is someone who has fled their country for the same reasons, seeking for protection, but who has yet to be recognized as a refugee by the host country. Seeking for protection is a human right, which means that everyone has the right to ensure their safety.

Migrant: This term comprehends all individuals who have fled their country regardless of the reason behind it. Refugees are involuntary migrants.

Migration Route: Migration route is a geographical path thanks to which migrants and refugees move from their own country to another host country via hubs in transit zones.

Migration Flow: Migration flow is the mass movement of refugees to a host country. When at least two different types of migrants move collectively, it is referred to as a mixed migration flow.

Country of Transit: This term refers to the countries through which migration flows move.

Pushback Mechanisms: These are the practices that are carried out to inhibit the refoulement of irregular refugees and asylum seekers, in violation of basic prerogatives of human rights.

MENA Region: The MENA region refers to the Middle East and North African region, overall including 21 countries.

The Principle of Non-Refoulement: According to the UN, under international humanitarian law, the principle of non-refoulement guarantees that refugees or asylum seekers should be forced to

return to a country where they may face torture, persecution or other cruel treatments.

General Overview

International legal bases for protecting the human rights of refugees at all places

While many laws have been established by the United Nations in order to ensure everyone's protection, at all conditions, thus including the refugee status, specific laws have also been passed for refugees, creating the International Refugee Law (IRL).

Firstly, article 25 of the [Universal Declaration of Human Rights](#) stipulates as the following: *Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.* This clearly guarantees anyone all of the fundamental services regardless of their official status, which implies all states' responsibility to offer those services to anyone in need, also to refugees in this context.

Furthermore, The Convention Relating to the Status of Refugees, also known as the 1951 Refugee Convention or the Geneva Convention of 28 July 1951, declared the definition of the term "refugee" and only covered the rights of European refugees at the time of its first adoption. The convention implies 3 conditions for the status of "refugee" which are listed as the following: presence outside the home country, well-founded fear of persecution caused by discrimination, and the inability to benefit from the protection of one's own state from the persecution feared. This definition includes all *prima facie* refugees.

With the addition of an amendment which is now referred to as "[The 1951 Refugee Convention and its 1967 Protocol](#)", all geographical limitations were eliminated, which is why the Convention and its Protocol provide a legal basis for this issue. All countries who have signed this convention, are strictly obliged to offer protection to the refugees on their territory. Which means that even en route, everyone has the right to seek protection from a country. Lastly, this Convention should not be confused with the Convention Relating to the Status of Stateless Persons, as it was also aimed to set a protocol for refugee hosting but further covered stateless persons who are not refugees, so it does not lay out a legal ground in this context.

Background of "Migration Route Crisis" in Europe

The issue which is now referred to as *the "migration crisis"* is relatively a new agenda in Europe. The arrival of a vast amount of migrants in Greece during the past few years, became representative of European Institutions' inability to forecast and to provide the necessities for migrants and refugees en route, and the inadequate infrastructure for these types of mass movements. During this time most governmental and non-governmental organizations seemed to be absent from the field at first, but the

situation was handled with the contributions of individuals and by the effort of solidarity. Given what has been said, the European refugee crisis is an issue regarding the border management on the to and inside of Europe, and lays out serious issues both for the government and the refugees. Upon this issue, the UNHCR emphasized that the issue can not be solved by one single country, and a collective effort of all European countries and the European Union (EU) was required in order to ensure an equal share of the responsibilities.

Consequences of Unsupervised Congested Migration Routes

Because of inadequate control over the border and migration routes, refugees who are traveling are at risk and can be in the face of incidents. According to data provided by International Organization for Migration's (IOM) "Missing Migrants Project", the number for migrants who go missing or lose their life is by far the highest in the Mediterranean route, which is crossed to reach Europe. Globally, this project has recorded the deaths of 61,753 people since 2014 and the remains of 26,227 people who lost their lives en route, which could not been recovered. In addition to the unknown reasons and the incidents, some main reasons for these losses are inhumane treatments such as violence against refugees, hazardous vehicles or transport and sickness or inadequate healthcare services. As mentioned before, ensuring one's protection and access to fundamental services is a human right guaranteed by international law, thus, the aforementioned incidents constitute a violation of human rights and should be tackled.

Another report on this issue entitled "*On this journey, no one cares if you live or die*" was released by the UNHRC, the UN Refugee Agency and the Mixed Migration Center (MMC) in 2020, at the Danish Refugee Council, showing the inhumane treatment en route, in the hands of traffickers, smugglers and even government officials. The report covered the migration route from the Middle East and North Africa to Europe. At that conference, UNHCR also expressed how hard it is to collect data on irregular mixed migration flows which are controlled by traffickers and smugglers, as it is done under shadow and not under the supervision of the governments.

Nevertheless, the report shows that during these journeys, in 2018 and 2019, 1750 people have lost their lives on the migration route which illustrates at least 72 deaths per month. As mentioned before, thousands of people have also gone missing in the Mediterranean region, with the intention of reaching Europe.

Refugees who survive the mobilization, usually end up with serious mental health issues as trauma responses. Mainly women are at the risk of gender-based violence and rape particularly at checkpoints and border areas. Many people witness or go through random killings, sexual abuse, extreme violence, torture or forced labour. Additionally, refugees who try to cross borders by maritime means are sometimes disembarked and arbitrarily detained at centers of the country of origin. This is an issue that the UN aims to also eliminate as it is a violations of the [Optional Protocol to the Convention against Torture and other Cruel Inhuman or Degrading Treatment or Punishment](#) article 19, which declares the following: The national preventive mechanisms shall be granted at a minimum

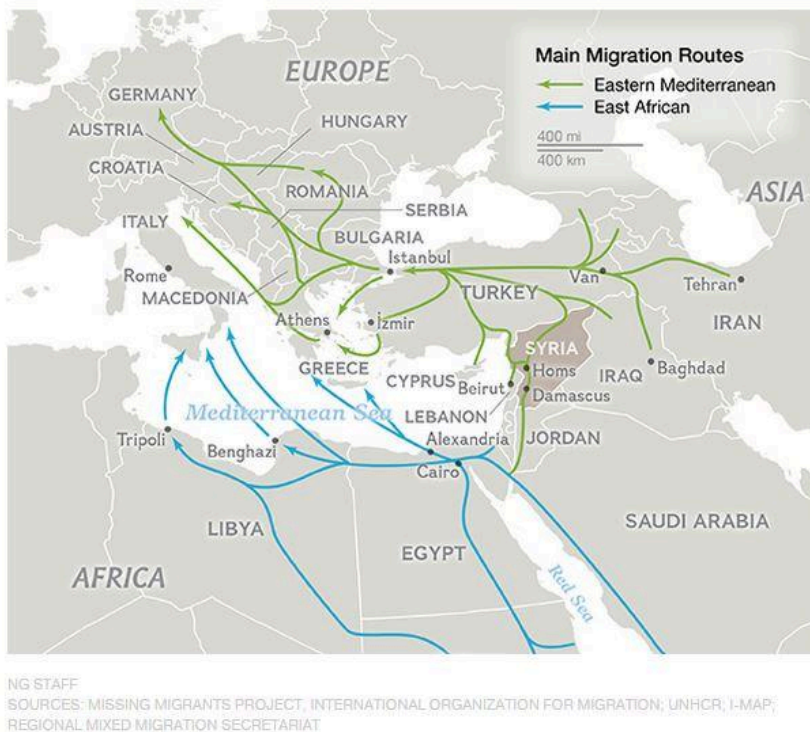
the power: (a) To regularly examine the treatment of the persons deprived of their liberty in places of detention as defined in article 4, with a view to strengthening, if necessary, their protection against torture and other cruel, inhuman or degrading treatment or punishment;

Lastly, children are under the risk of being subjected to human rights violations on migration routes. UNICEF describes “six grave violations against children in times of war” as: killing and maiming of children; recruitment or use of children in armed forces and armed groups; attacks on schools or hospitals; rape or other grave sexual violence; abduction of children; and denial of humanitarian access for children. An international effort to prevent these breaches is necessary and crucial for protecting human rights of all asylum seekers and refugees.

Congested Migration Routes to Europe

One of the largest and most congested migration routes is the “Eastern Mediterranean Route”. The passage provides a pass through Turkiye, en route to European countries. This area has become even more overflowing after the emergence of the Syrian war in 2011 and refugees who have crossed this route, adjourn to Istanbul to reach Europe. With reference to the records provided by the IOM, the Mediterranean route is the deadliest of all. In addition to this, an “East African Route” to Europe was also used by refugees from South Sudan, DPR Congo and Somalia.

Eastern Mediterranean Route



Picture 1: Eastern Mediterranean Route

Approximately, 90% of refugees arriving to Europe, come from 10 main countries of origin, which are

listed as the following: Syria, Afghanistan, Eritrea, Nigeria, Pakistan, Iraq, Somalia, Sudan, Gambia, and Bangladesh. We can hypothesize that countries of origin for many refugees are managed low-income governments that are usually involved in protracted conflicts.

In order to regulate migration flow and inhibit congested routes, the European Union has enabled its Frontex Operation. According to the data provided by their agency, in the first two months of 2024, the number of irregular border crossings to the EU has reached 31,200. In the scope of this project, they are conducting formations for border guards, for combatting document and identity fraud etc. and actively monitoring risks and crimes in such routes. They emphasize that they are adopting comprehensive approaches to filter crimes on borders to prevent further illegal activities which can affect the security of EU citizens and EU borders. Reintegration assessments are also a part of their operation. In case that the asylum seeker does not have “a legal right” to stay, the Frontex will assist the person to return to their country of origin, this might be voluntary or forced. This may provoke once again the debate around “the legal right” as it is highly controversial.

Pushback Mechanisms of Nations and Individuals

It is observed that nations benefit from their own “pushback mechanisms” in order to repel irregular migrants and asylum seekers. This term falls under the umbrella of a human rights breach, as it includes forced returns, inadequate infrastructure for deportation process, violence and degrading treatment, sometimes even from the States’ officials. Amnesty International has published numerous reports on this issue, clearly emphasizing the human rights violations against refugees en route, mostly in checkpoints and borderlines. Some countries that are mentioned in these reports are listed as the following: Croatia, Bosnia and Herzegovina, Slovenia, Greece, Malta etc.

In 2020, Greece was dubbed “Europe's Shiled” by the European Commission President at that time. This was due to the fact that the border guards were fighting of asylum seekers coming from Turkiye to Greece. On the border, sound cannons, which produce extremely loud noises, are placed on the vehicles, near the militarized fences. The seekers who crossed the borders are put in detention and then prosecuted, which is present in the absence of a stable asylum system. In the international law, such prosecutions are covered under the 31th article of the 1951 Refugee Convention which is as follows: “The Contracting States shall not apply to the movements of such refugees restrictions other than those which are necessary and such restrictions shall only be applied until their status in the country is regularized or they obtain admission into another country.” According to the report published by Amnesty International, measures taken by Greece are judged as a violation of the non-refoulement principle and right to asylum. The European Commission has not recognised the illegality of such actions, as emphasized in the same report. Furthermore, it is possible to predict some black-out zones which can not be legitimately observed, which are present in most Balkan borders.

Major Parties Involved and Their Views

Somalia

Somalia is an important country of origin for migration flow in the East and Horn of Africa. Certain influences such as conflicts and terrorist attacks, severe insecurity, low income and famine have been the cause of an irregular mixed migration for the past 25 years. Support for Somali refugees was recently discussed with the participation of European leaders and UNHCR and it was addressed as a crucial issue as the state was improving and could not afford to lose the momentum. Since July 2021, EU countries have issued more than 23,000 applications from Somali asylum seekers and granted refugee status for approximately 57% of the applicants.

Libya

The UNHCR advocates for eliminating arbitrary detention of asylum seekers, which is an active practice in Libya. Refugees who try to flee from Libya and attempt sea crossing are disembarked by the Libyan Coastal Guards and put in such detention centers where they are abused. In the process of time, responsables for the deaths and abuses have started to become arrested and punished for their crimes, which is a step for eliminating this practice. The IOM also tries to implement lawful alternatives for the arbitrary detention system in Libya, by establishing another building plan.

Amnesty International

Amnesty International has been advocating for human rights and also refugees for decades. On this topic, it has conducted many interviews with refugees who have been unlawfully detained during the migration process and those who have been in the face of pushback systems, overall announcing unlawful actions.

Lithuania

According to the interviews of Amnesty International, detention acts are frequently observed at the borders of Lithuania, which is expressed as illegal by Amnesty according to the laws of the EU and international law. State's officials declare the acts as temporary accommodation or an alternative to detention, whereas the refugees describe the conditions as brutal and similar to prison.

Türkiye

Especially after the wars in Syria and Iraq have emerged, Türkiye became a key transit hub for the MENA region in terms of the migration flow into Europe, while also being a host country for most of them. Istanbul is a key point to reach to Europe for refugees as it connects the continents Asia and Europe. According to the most recent data, Türkiye has the highest number of refugees compared to any other country in the world.

Greece

As Greece is in the east of Europe and shares a border with Turkiye, it has also seen a migration flow from mainly Syrian refugees during the past few years. On this topic, The Commission for Human Rights has emphasized its concerns about the pushback mechanisms exercised at the Greek-Turkish Border in March 2020 and the maritime pushbacks in September 2020. The Commission and the Court had already declared the acts as a human rights violation and urged all member states to act in accordance.

Ukraine

52% of the refugees worldwide under the UNHCR's mandate originate from just 3 countries, which are listed as such in respective order: Syrian Arab Republic, Afghanistan and Ukraine.

UNHCR

The UNHCR is the UN agency for refugees which dedicated itself to saving the lives of people who were forced to flee their country of origin for various reasons and to building a better future for them. It was established by the General Assembly after the Second World War to help those who were displaced. It is guided by the 1951 Refugee Convention and its 1967 Protocol. The UNHCR works in collaboration with governments and multiple NGOs to prevent continuous breaches of human rights of refugees on a global scale.

IOM

In collaboration with its 175 member states, the International Organization for Migration aims to work with governments and intergovernmental partners to promote international efforts on migration issues. It works in four broad areas of migration such as migration and development, facilitating migration, regulating migration and forced migration. It promotes international migration law and its application. The IOM further investigates the correlation between social and economic development and migration.

Timeline of Events

28 July 1951	Convention Relating to the Status of Refugees was signed, the term "refugee" was defined and rights of refugees have been recognized under international law.
1951	After the Convention, data collection on this type of migration started and UNHCR started to conduct systematic observations.

2011	Civil wars in the MENA region, more specifically in Syria have started, causing a vast migration flow to Europe as well as neighboring countries
2015	Regional Refugee and Resilience Plan (Syria 3RP) started
2018	It has been determined that a vast majority of refugees around the world came from North African and Middle Eastern countries
2020	The project “ <i>On this journey, no one cares if you live or die</i> ” was released by the UNHRC, the UN Refugee Agency and the Mixed Migration Center (MMC) at the Danish Refugee Council. Crucial fatos on the losses and incidents on migration routes have been published.

UN Involvement

Relevant UN Documents

- Human Rights of Migrants - Commission on Human Rights resolution (23 December 1994, 1999/44)
- Human Rights of Migrants - Commission on Human Rights resolution (25 April 2002, 2002/62)
- Human rights of Migrants: mandate of the Special Rapporteur on the human rights of migrants - Human Rights Council (6 July 2011, 17/12)
- Human Rights of Migrants: mandate of the Special Rapporteur on the human rights of migrants - Human Rights Council (26 July 2014, 26/19)
- Human Rights of Migrants: mandate of the Special Rapporteur on the human rights of migrants - Human Rights Council (7 April 2017, 34/21)
- Human Rights of Migrants: mandate of the Special Rapporteur on the human rights of migrants - Human Rights Council (30 June 2020, 43/6)
- Human Rights of Migrants: mandate of the Special Rapporteur on the human rights of migrants - Human Rights Council (3 April 2023, 52/20)

Treaties and Events

Universal Declaration of Human Rights: The Universal Declaration of Human Rights was adopted by the UN General Assembly on 10 December 1948 and expresses that all human beings have the same rights regardless of their status, origin or nationality. These rights include the right to seek asylum and access to fundamental services.

Convention Relating to the Status of Refugees, 1951: Designated the term “refugee” and declared their rights and obligations but only included European refugees. The convention guarantees the right to seek asylum, protection and access to adequate fundamental services.

The 1967 Protocol: The only amendment to the aforementioned convention has eliminated the geographical limitations to its scope and guaranteed the human rights to all refugees regardless of their status.

The EU-Turkey Statement & Action Plan

In order to regulate migration flow from Turkiye to Greece, the EU and Turkiye have come to an agreement which stipulates that a portion of irregular migrants from Turkiye to Greece would be returned, For every Syrian returned to Turkey, the EU would host another Syrian asylum seeker, once the irregular flow is reduced, a Voluntary Humanitarian Admission Scheme would be established and most importantly, both parties would collaborate to improve humanitarian conditions in Syria.

Evaluation of Previous Attempts to Resolve the Issue

Regional Refugee & Resilience Plan (3R Syria Crisis)

In order to further manage the migration of Syrian refugees, The United Nations High Commissioner for Refugees, the UN refugee agency and United Nations Development Programme (UNDP) co-lead this project. It offers humanitarian assistance to the refugees and covers a regional plan including five host countries, which are Turkiye, Lebanon, Jordan, Iraq and Egypt. The United Nations also aims to show its support to the involved countries in order to ensure the sustainability of this situation so that the refugees would not be compelled to move on from mentioned countries to Europe and cause congested migration routes in Europe. This project is still active, however the UN had emphasized that it was only 33% funded by 2015, which clearly shows a lack of funding.

The UN OHCHR Special Rapporteur on the Human Rights of Migrants

This special procedural mandate aimed to search for means to eliminate all disruptors of ensuring protection of all migrants at all stages of migration, which also includes refugees on migration routes. It was created by the UNHRC in 1999 pursuant to the resolution of 1999/44, and formed 2 other resolutions covering this issue. It is still carried out by the mandate of Mr. Gehad Madi and still

provides recommendations on ensuring the protection of all migrants, however it is not legally binding.

Parliamentary Assembly of the Council of Europe Resolution 2999 (2019)

This resolution was adopted by the PACE and elaborated upon pushback mechanisms and practices in states of the Council of Europe. The parliament emphasized its concerns about the increase in such practices and urged all signatory states to provide adequate support to all migrants in order to ensure their protection. It also allowed independent investigations and monitoring of pushback allegations.

Possible Solutions

Considering that the wealthiest countries host only 24% of refugees and the rest is mandated by either poor or middle-income countries, the refugee population is inclined to be perceived as a source for a states' issues, hence the pushback mechanisms. In order to reduce the imbalance and eliminate possible pushback exercises, wealthier countries should be encouraged to host refugees and fulfill their humanitarian responsibilities, which would eventually lead to a step in ameliorating the situation of refugees on migration routes.

Also, it is important to acknowledge that the abundance of unsupervised migration corridors, which is caused by limited options for legitimate migration and the administrative challenges, encourages refugees to choose irregular routes and channels of migration even if they are aware of the risks. It is crucial to reevaluate the administration of refugees to ensure that they prefer safer transit hubs

As mentioned, there are already resilience plans and projects in order to ensure the protection of refugees, however they are not effectively implemented because of the lack in their funding. Participation of numerous nations in these fundings is essential in that case.

There are several legally binding treaties and resolutions on this issue, however the success in implementation of them is disputable. With the aim of preventing this, the Courts can enforce their standing.

Furthermore, more data should be collected to fully detect more congested migration routes so that the states and relevant NGOs could take certain measures for protection of refugees such as establishing security units and sending healthcare staff to international key transit hubs.

Lastly, all nations and NGOs may organize seminars and conferences to raise awareness on this issue in order to provoke the efforts of individuals, make them more conscious on this matter.

Notes from the Chair

As touched upon in the overview of this topic, humane treatment for refugees is a collective approach, thus, it requires the efforts of governments and that of individuals. A far-reaching, comprehensive but most importantly realistic perspective should be adopted to solve this issue. Some useful links to

further gain insight on this agenda item is listed below

- <https://www.ohchr.org/sites/default/files/Documents/Issues/Migration/GlobalCompactMigration/ThePrincipleNon-RefoulementUnderInternationalHumanRightsLaw.pdf>
- <https://www.unhcr.org/sites/default/files/2023-03/background-guide-challenge-1-ensuring-the-safety-of-asylum-seekers.pdf>
- <https://www.frontex.europa.eu>
- <https://www.amnesty.org/en/latest/campaigns/2020/09/nowhere-safe-cycle-of-abuses-against-refugees-and-migrants-in-libya/>

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