



emun

ESSARP MODEL
UNITED NATIONS

2018

**Human Rights Council – Protection of
the human rights of illegal migrants**

Index

Introduction.....	3
Definition of key-terms.....	5
General Overview.....	7
Major parties involved and their views.....	10
Timeline of important events/Documents.....	13
UN involvement.....	14
Possible Solutions.....	15
List of Sources.....	16

Forum: Human Rights Council

Issue: Protection of the human rights of illegal migrants

Student Officers: Matias Molinolo

Position: (Deputy) President Committee

Introduction

Illegal migrants have been a long-standing issue between nations. Whether due to wars, religious, political or racial persecution, or just looking for a better living standard, people migrate to other countries, sometimes legally (acquiring the necessary visas or citizenships) and sometimes illegally. Those illegal migrants are an at-risk group in society, due to the fact that many times, their basic human rights are not guaranteed nor respected.

According to the United Nations, “An unprecedented 65.6 million people around the world have been forced from home by conflict and persecution at the end of 2016. Among them are nearly 22.5 million refugees, over half of whom are under the age of 18.” (2017, para. 1)

Many times, peoples’ minds go to the migrant crisis ongoing in Europe, which is an extremely complex sociopolitical issue involving many countries and national and international security.

According to the European Parliament, “in 2015 and 2016, more than 2.3 million illegal crossings were detected.” (2017, para. 10)

This migrant crisis is also sensationalized in the media, with news outlets covering each and every move made by the migrants. It is very common to hear that “many drowned crossing the Mediterranean in a dinghy” or “refugee boat capsizes – no survivors”. In fact, “2,257 people are thought to have lost their lives in the Mediterranean in the first six months of 2017 alone (as of 28 June 2017). In 2016 5,022 lives were estimated to be lost in the Mediterranean and in 2015 3,771.” (European Parliament, 2017, para. 1). Furthermore, media also covers the fact that governments are reticent to help migrants due to possible breaches of their national security since some migrants are in some way radicalized (i.e.: affiliated with terrorist groups).

However, there have been great successes regarding the migratory crisis, for example, the massive effort carried out by Fridtjof Nansen, who “in the spring of 1920, the League of Nations asked Nansen to undertake the task of repatriating the prisoners of war, many of them held in Russia. Moving with his customary boldness and ingenuity, and despite restricted funds, Nansen repatriated 450,000 prisoners in the next year and a half.” (Nobel Prize, 2014, para. 11). Furthermore, in 1921, while managing the League of Nations’ High Commission for Refugees, he invented the “Nansen Passport”, which allowed hundreds of thousands of stateless refugees to return home. (Nobel Prize, 2014, para. 12).

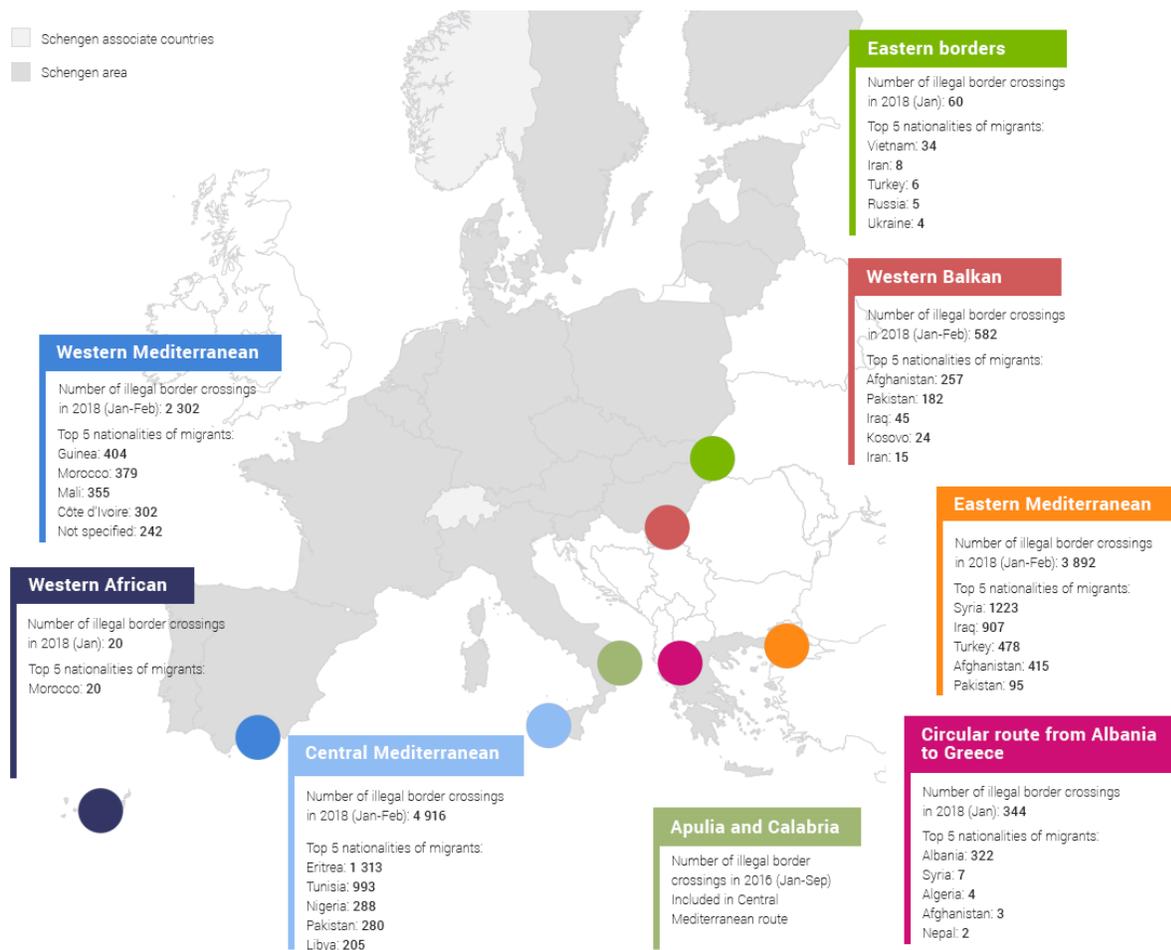


Figure 1: EU Migration Map. From “Migratory Map” by FRONTEX, 2018, <https://frontex.europa.eu/along-eu-borders/migratory-map/>. Copyright [2018] by FRONTEX.

Definition of key terms

Asylum seekers

“are people who make a formal request for asylum in another country because they fear their life is at risk in their home country.” (European Parliament, 2017, para. 4)

Refugees

“are people with a well-founded fear of persecution for reasons of race, religion, nationality, politics or membership of a particular social group who have been accepted and recognized as such in their host country.” (European Parliament, 2017, para. 5)

Human Rights

“rights inherent to all human beings, regardless of race, sex, nationality, ethnicity, language, religion, or any other status. [...] Everyone is entitled to these rights, without discrimination.” (United Nations, n.d., para. 1).

Illegal Immigration

Illegal immigration takes several forms, four of which are the most common:

1. Undocumented/unauthorized entrants: These are nationals of one state who enter another state clandestinely. [...]
2. Individuals who are inspected upon entry into another state but gain admission by using fraudulent documents: The fraud in question may involve the person's identity and/or the documentation in support of admission. [...]
3. Violators of the duration of a visa: These include individuals who enter another state properly but 'willfully' overstay their period of legal stay, thus lapsing into irregular status.
4. Violators of the terms and conditions of a visa: Nationals of one state who enter another state with the proper documents and procedures, but at some point violate the terms of their visa. The most frequent such violation is the acceptance of employment. [...] (Papademetriou, 2005)

Statelessness

According to the United Nations High Commissioner for Refugees' Convention relating to the Status of Stateless Persons, one is stateless when one "is not considered as a national by any State under the operation of its law." (UNHCR, 1954, p. 1)

Migrants

According to Gabriela Rodriguez Pizarro, Special Rapporteur of the Commission on Human Rights, the following persons should be considered as migrants:

- (a) Persons who are outside the territory of the State of which they are nationals or citizens, are not subject to its legal protection and are in the territory of another State;
- (b) Persons who do not enjoy the general legal recognition of rights which is inherent in the granting by the host State of the status of refugee, naturalized person or of similar status;
- (c) Persons who do not enjoy either general legal protection of their fundamental rights by virtue of diplomatic agreements, visas or other agreements. (Rodriguez Pizarro, as cited in UNESCO, August 9, 2002, para. 5-8)

However, "this broad definition of migrants reflects the current difficulty in distinguishing between migrants who leave their countries because of political persecution, conflicts, economic problems, environmental degradation or a combination of these reasons and those who do so in search of conditions of survival or well-being that does not exist in their place of origin." (UNESCO, 2017, para. 9)

General Overview

World Wars – Migrant crises

World War I

It is a fact that during every major war or violent conflict, people seek refuge in peaceful areas whether due to religious, social or ethnic persecution or simply because they fear for their lives. During the First World War, “data from different countries suggest that at least 10 million people were displaced either internally or as a result of fleeing across an international frontier.” (Gatrell, 2014, p. 2). However, “the magnitude of the wartime refugee crisis is difficult to establish with precision. It was characterized by multiple flows of human beings, and therefore an imaginary census at a given point in time would underestimate the real total of those who were displaced.” (p. 2)

World War II

The refugee crisis that occurred due to World War II was one of the largest in contemporary history. It has been estimated that by May 1945 there were 40.5 million uprooted people in Europe, excluding non-German forced labourers and those Germans who fled before the advancing Soviet armies (Kulischer 1948, pp. 255–273).

Furthermore, there was the systematic persecution of Jewish people by the Nazi regime in Germany, which, according to the United States Holocaust Memorial Museum led to “More than 340,000 Jews emigrated from Germany and Austria. Of these, about 100,000 who fled to other European countries subsequently were killed in the Holocaust.” (n.d., para. 2)

It is worth noting that nowadays “the U.N.'s refugee agency reports that the number of displaced people is at its highest ever - surpassing even post-World War II numbers” (CNN, 2016, para. 1). Current statistics place “the total at the end of 2015 reached 65.3 million - or one out of every 113 people on Earth, according to the United Nations High Commissioner for Refugees (UNHCR). The number represents a 5.8 million increase on the year before.” (para. 2)

Royhinga crisis

“An estimated 671,000 Rohingya children, women and men have fled to Bangladesh escaping violence in Myanmar since August 25, 2017.” (UNHCR, 2018, para. 1)

“The stateless Rohingya minority in Myanmar have been described by the United Nations as “the most persecuted people in the world.” The vast majority of Rohingya refugees reaching Bangladesh during this latest crisis are women and children, including newborn babies. Many others are elderly people requiring additional aid and protection.” (para. 3)

Human Rights Watch and other human rights advocates have extended an appeal to the UN Security Council to take action regarding this crisis.

Dreamers & DACA program (Mexican illegal aliens in the USA)

In 2012, President Obama's Administration created the Deferred Action for Childhood Arrivals—or DACA—program, which deferred removal and granted work permits to certain aliens who came to the United States prior to their 16th birthdays, who have no serious criminal issues, and who meet certain educational or military service requirements. (Dzubow, 2016, para. 1)

President Trump's administration is currently in the process of cancelling this program, leaving these 730 thousand individuals at risk of deportation.

Furthermore, the DREAM (Development, Relief, and Education for Alien Minors) Act is currently being threatened by President Donald J. Trump. This program's

“primary goal is to legalize the more than 2 million undocumented youths who have resided in the U.S. and attended schools in this country [...] The legislation requires undocumented youths to attain at least an associate-level college degree to be eligible for legalization.” (North American Integration and Development Center, n.d., para. 2)

DRC Crisis

“UNHCR, the UN Refugee Agency, is alarmed by a recent surge in violence in the eastern Democratic Republic of the Congo (DRC), which is driving large numbers of Congolese to flee eastwards to neighbouring Burundi, Tanzania and Uganda.

Thousands of children, women and men have abandoned their homes, in the midst of intensified military operations against Mai Mai armed groups in South Kivu province. Since last week almost 7,000 people have crossed to neighbouring Burundi and an additional 1,200 to Tanzania. It is believed that many more are displaced inside South Kivu in difficult conditions without shelter or food.” (UNHCR, 2018, para. 1-2)

“The situation in the Democratic Republic of the Congo is one of the world's most complex crises, and it is deteriorating as local conflicts escalate. As 2018 began, some 5 million Congolese were displaced, about 674,879 of them in other African countries, and about 4.35 million internally. This places DRC among the world's biggest displacement crises.” (para. 8)

UN Peacekeeping forces involvement & scandal

Sadly, UN Peacekeeping forces participating in the Stabilization Mission in the Democratic Republic of the Congo (MONUSCO) have been accused of transactional sexual relationships and paternity claims have been filed. (UN News, 2016, para. 1)

“In line with the Secretary General's zero-tolerance policy and UN Security Council Resolution 2272 (2016), MONUSCO announced, “these allegations are being immediately and thoroughly investigated and if substantiated, prompt action will be taken,” adding that the alleged perpetrators had been ordered to remain in their camp during the investigation.” (para. 5).

Major parties involved and their views

European Union

Owing to the fact that most of the currently displaced persons who flee their country seek refuge in European Union countries, it has been taking measures in order to alleviate this crisis.

The EU has agreed on a range of measures to deal with the crisis. These include trying to resolve the root causes of the crisis as well as greatly increasing aid to people in need of humanitarian assistance both inside and outside the EU. Steps are being taken to relocate asylum seekers already in Europe, resettle people in need from neighbouring countries and return people who do not qualify for asylum. The EU is improving security at borders, tackling migrant smuggling and offering safe ways for people to legally enter the EU. (European Commission, 2017, para. 3)

Furthermore, the EU has reduced illegal migrant flow with the EU-Turkey Statement of March 2016. The flow of illegal migrants has fallen from over 10 000 refugees/day in October 2015 to only 74 refugees/day since March 2016. This statement provides legal aid and effective frameworks for refugees to apply for legal asylum in the EU. (European Commission, 2017, para. 13).

United Nations High Commissioner for Refugees

This UN agency has established a 10-point plan of action in order to aid refugees.

- 1. Cooperation among key partners**
- 2. Data collection and analysis**
- 3. Protection-sensitive entry systems**
- 4. Reception arrangements**
- 5. Mechanisms for profiling and referral**
- 6. Differentiated processes and procedures**
- 7. Solutions for refugees**
- 8. Addressing secondary movements**
- 9. Return of non-refugees and alternative migration options**
- 10. Information strategy (UNHCR, 2007, p. 2-5)**

Human Rights Watch

As one of the many agencies advocating human rights, Human Rights Watch's (HRW) "Refugee Rights Program defends the rights of refugees, asylum seekers, and displaced people worldwide. We respond to emergencies as well as chronic situations, focusing especially on documenting government efforts to block access to asylum, to deprive asylum seekers of rights to fair hearings of their refugee claims, and to the forcible return of people to places where their lives or freedom would be threatened. We conduct on-the-ground investigations to speak with uprooted people and document abuses against them. We take our findings directly to policy-makers and the media as we advocate for governments to improve access to asylum, to stop forced returns, and to ensure that all migrants are treated with dignity and regard for their basic human rights." (Human Rights Watch, 2014)

United States of America

Under the Trump Administration, the United States of America has stopped being the safe haven refugees aspired to reach. Nowadays, travel bans issued to certain nationalities and restrictive visa requirements make the United States one of the hardest countries to seek refuge in.

Since World War II, the United States has been the world's leader in resettling refugees. Most refugees never got the chance to come to a new country and start a new life, but if they did, there was a substantial chance — even a 50 percent chance — that the country that welcomed them was the United States.

After less than a year in office, Donald Trump has not only officially drawn the era of global refugee leadership to a close. He's withdrawn the US from the global community for refugee protection.

Domestically, the Trump administration has declared that it will allow no more than 45,000 refugees into the US during the current fiscal year (which began on October 1 and continues through September 30, 2018). That number is less than half the total of the last years of the Obama administration when the government set its refugee "ceiling" to at least 100,000 refugees in the last two years. The Trump administration's newly announced levels are, in fact, the most restrictive limit the United States has set in the 70-year history of refugee resettlement. (VOX, 2017, para. 1-3)

Timeline of important events/Documents

1914-1918: World War I. Approximately 10 million displaced.

1915: Armenian Genocide. 820 thousand Armenians seek asylum in other countries due to systematic persecution by the Ottomans.

1939-1945: World War II. ~40.5 million people displaced. Hundreds of thousands of Jewish Germans seek refuge in other nations due to Nazi persecution.

1945: United Nations established.

1948: Universal Declaration of Human Rights is signed.

1951: Convention on the Status of Stateless Persons signed by 144 Member States

1967: Protocol Relating to the Status of Refugees signed by 146 Member States

1979: Soviet invasion of Afghanistan

2001: US-based coalition invades Afghanistan post-9/11

2011: Arab Spring begins, overthrowing governments in Egypt, Libya, Yemen, etc. and causing a civil war in Syria.

2011-present: Syrian refugee crisis. Millions of Syrians illegally cross the Mediterranean seeking safety in Europe. This crisis is known as the European Migrant crisis and has posed threats to national security in Europe.

2016: Trump becomes President of the United States and restricts visa requirements and sets up a travel ban for nationals coming from Syria, Iran, Iraq, Libya, Somalia, Sudan and Yemen.

UN involvement

“The large forced displacement of populations is a global crisis that requires a collective effort by the international community, led by world leaders. UN Secretary-General has called on everyone to work together to define a clear path forward guided by international refugee law, human rights and humanitarian law.” (United Nations, 2018, para. 1)

Furthermore, the United Nations, via its agency, the High Commissioner for Refugees, has set up frameworks and infrastructure to aid those displaced by conflicts, such as the refugee camps in Yemen, Niger or Myanmar.

However, what is possibly the most important piece of work carried out by the UNHCR, is the Convention on the Status of Refugees, signed in 1951. In this document, the definition of a refugee is established. Furthermore, this document was complemented in 1967 with the Protocol Relating to the Status of Refugees¹.

Moreover, the Convention on the Status of Stateless Persons also helps deal with the ongoing refugee crises, since it laid down legal precedent on how stateless persons should be dealt with; for example, they should abide by the laws of the country they are currently in, even though they are not citizens of that particular country.

Given that preserving the human rights of refugees is key, another important document is the Universal Declaration of Human Rights², signed in 1948.

¹ <http://www.unhcr.org/3b66c2aa10.pdf>

² http://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf

Possible Solutions

Protecting the human rights of refugees is something that sounds simple, however, when looking at the situation in depth, it is possible to appreciate how complex it may become.

The sociopolitical status that leads to a humanitarian crisis is extremely tense and volatile, therefore it is extremely complicated to provide aid to those who are in need of it. The UN has made great efforts and dedicated many resources in order to solve or alleviate these crises, however, it is not enough, for they are ongoing today.

Most of the refugee statistics on this report only count those refugees which seek asylum via official channels. Only estimates are provided for the total number since it is impossible to calculate how many people have actually crossed a border if it is not through a border crossing. This adds to the complexity of the issue, due to the fact that the true number of refugees is unknown.

Furthermore, the immigration of illegal refugees poses a threat to national security, due to the fact that some of those illegal refugees may have been radicalized by terrorist groups. This is one of the reasons governments are more and more reticent to allow refugees in their country and are beginning to set up immigration quotas. An example of this is the United States under Trump's administration.

Should a solution be proposed, it should take into account the sheer magnitude of the humanitarian crises ongoing today, help maintain decent living standards for the refugees, guarantee their human rights, maintain national security in the countries receiving refugees and attempt to repatriate those who sought asylum when the situation in their country of origin has stabilized and it is safe to return.

List of Sources

CNN. (June 20, 2016). *UNHCR report: More displaced now than after WWII*. Retrieved April 16, 2018, from <https://edition.cnn.com/2016/06/20/world/unhcr-displaced-peoples-report/index.html>

European Commission. (July 2017). *The EU and the migration crisis*. Retrieved April 16, 2018, from <http://publications.europa.eu/webpub/com/factsheets/migration-crisis/en/>

European Parliament. (June 30, 2017). *EU migrant crisis: facts and figures*. Retrieved March 26, 2018 from <http://www.europarl.europa.eu/news/en/headlines/society/20170629STO78630/eu-migrant-crisis-facts-and-figures>

FRONTEX. (2017). *EU Migration Map*. [Infographic]. Retrieved March 26, 2018, from <https://frontex.europa.eu>

Gatrell, P. (2014). *Refugees*. In Ute, D., et. Al. (Ed.), *1914-1918 online. International Encyclopedia of the First World War*. Freie Universität Berlin, Berlin. DOI: 10.15463/ie1418.10134.

Human Rights Watch. (2014). *Refugee Rights*. Retrieved April 16, 2018, from <https://www.hrw.org/topic/refugee-rights>

Kulischer, Eugene M. 1948 *Europe on the Move: War and Population Changes, 1917–1947*. New York: Columbia Univ. Press.

Nobel Prize. (2014) *Fridtjof Nansen – Biographical*. Retrieved March 26, 2018, from https://www.nobelprize.org/nobel_prizes/peace/laureates/1922/nansen-bio.html

Papademetriou, D. G. (September 1, 2005). *The Global Struggle with Illegal Migration: No End in Sight*. Migration Policy Institute: Washington, D.C.

United Nations. (n.d). *Human Rights*. Retrieved March 26, 2018, from <http://www.un.org/en/sections/issues-depth/human-rights/>

United Nations. (2017). *Refugees*. Retrieved March 26, 2018, from <http://www.un.org/en/sections/issues-depth/refugees/>

EMUN 2018 Human Rights Council - Protection of the human rights of illegal migrants

UNESCO. (2017). *Migrant/Migration*. Retrieved March 27, 2018, from <http://www.unesco.org/new/en/social-and-human-sciences/themes/international-migration/glossary/migrant/>

United Nations High Commissioner for Refugees. (1954). *Convention relating to the Status of Stateless Persons*. Retrieved March 26, 2018 from http://www.unhcr.org/ibelong/wp-content/uploads/1954-Convention-relating-to-the-Status-of-Stateless-Persons_ENG.pdf

United Nations High Commissioner for Refugees. (2007). *Refugee Protection and Mixed Migration: A 10-Point Plan of Action*. Retrieved April 16, 2018 from <http://www.unhcr.org/protection/migration/4742a30b4/refugee-protection-mixed-migration-10-point-plan-action.html>

United States Holocaust Memorial Museum. (n.d.). *REFUGEES*. Retrieved April 16, 2018 from <https://www.ushmm.org/wlc/en/article.php?ModuleId=10005139>

VOX. (2017). *The Trump administration doesn't believe in the global refugee crisis*. Retrieved April 16, 2018 from <https://www.vox.com/policy-and-politics/2017/10/3/16379016/trump-refugees>