



Putting The International Refugee Crisis In Context

Kinga Wysienska-Di Carlo, May 17, 2016

On May 18, the Shanker Institute and Jewish Labor Committee will hold an event on the [International Refugee Crisis](#). In the popular discourse, the difference between the terms “asylum seeker,” “forced migrant,” and “refugee,” is often blurred, causing confusion. It is therefore hard to pinpoint whether the recent upswell in negative attitudes towards refugees reflects anti-immigrant sentiments generally, dissatisfaction with the international protection system, or animus against specific ethnic or religious groups of refugees.

Moreover, as the *global* refugee situation is rarely discussed, the general public is largely unaware of the issues related to where refugees are, relocation and resettlement needs, and refugee integration.

The objective of this post is to clarify the main differences between refugees and other groups of migrants, and to describe the law as it applies to them. I will also summarize recent refugee movements to Europe, and then, in a subsequent post, discuss attitudes towards refugees and different migrant groups.

What is a “refugee?”

The term “refugee” has a specific legal definition and denotes a particular legal status. The key legal document that defines a refugee is the [1951 Geneva Convention and the 1967 Protocol](#). According to the Convention, the term refugee applies to *any person who owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it.*

The main protection afforded by the Convention is that from being returned to the country or territory where the individual’s life or freedom is threatened. This protection, referred to as the *non-refoulement* principle, applies even to the countries that did not agree to the Geneva Convention, meaning that no country can refuse entry to a person seeking protection, as it would mean returning that person to unsafe territory, unless there are reasonable grounds to regard that person as a danger to the security of the host country, or if she or he has been convicted of a particularly serious crime.

On an important, related note, the Geneva Convention does not apply to people who committed war crimes, crimes against peace or humanity, or any serious non-political crime outside their country of refuge, nor to individuals who are guilty of other acts that are contrary to the principles on which the United Nations is founded.¹ Refugees cannot, however, be refused protection based on breaching immigration laws (i.e., crossing the border illegally).

Those granted refugee status are protected by the United Nations High Commissioner for Refugees ([UNHCR](#)), and thus are in a better situation than asylum seekers and other types of forced migrants, including Internally Displaced Persons (IDPs), who are discussed below. There are currently estimated to be over 60 million forcibly displaced persons in the world, out of which only about 15 million (not including Palestinian refugees) are recognized as refugees.

¹ The convention also does not apply to persons already protected or assisted by UN agencies, such as Palestinian refugees, who were also affected by the Syrian war.

Related (and often conflated) terms

The term “forced migrant,” which frequently is used to describe refugees, is not a legal term and does not have a universally accepted connotation. It is usually applied to persons who have had to leave their places of residence involuntarily for various reasons, including military or civil conflict, which are among the grounds for international protection, but also including natural disasters, famine, and the like, which are not.

Moreover, if a person is displaced within his or her country of origin, he or she is referred to as an “Internally Displaced Person” and, according to the UN Guiding Principles on Internal Displacement, the primary responsibility to protect and assist this person belongs to the state.

Refugees are often referred to as forced migrants, which may divert attention from the fact they are a very specific group granted a particular set of rights.²

Those seeking refugee status are known as asylum seekers. This means that their status has not been yet recognized and thus they do not have the same rights and protections as refugees (e.g., work, education, housing, family life, and freedom of movement). They are, however, still protected under the [Universal Declaration of Human Rights](#) and the *non-refoulement* principle.³

(Seeking protection without a guarantee of not being returned would be pointless as a person could be denied entry to a safe country without proper considerations regarding his or her status.)

Note that *a person does not become a refugee because of recognition, but is recognized because he or she is a refugee* ([UNHCR](#)). In other words, the decision to grant an individual international protections does not make one a refugee. Rather, one is granted such protections precisely because he or she is a refugee.

What is the situation in Europe?

The aforementioned principle of *non-refoulement* is especially relevant during large-scale refugee movements from war zones, such as those currently occurring in Europe. This is similar in many respects to the large-scale movement during the war in the former Yugoslavia in the early 1990s, when the need to provide at least temporary protection and shelter for people fleeing countries in which their life was in danger was also vital.

The current refugee crisis, contrary to common myths asserting economic reasons for the increase in the number of asylum seekers (perpetuated, among others, by Hungarian Prime Minister Victor Orban), is in reality due to the ongoing war in Syria, and also to military conflicts in Afghanistan and Iraq, Mali, Somalia, the Democratic Republic of Congo, South Sudan, and totalitarian practices in Eritrea (the third largest group of refugees in Europe). It is not limited to Syria or any one nation, as is often implied.

In 2015, according to [Frontex](#) data, almost 1.83 million persons, mostly of Syrian, Afghani, and Iraqi nationality, crossed the European Union’s (EU’s) external border illegally (meaning without an appropriate visa or other required documentation).⁴ This represented a massive increase in asylum seekers entering Europe. According to [Eurostat](#), close to 1.3 million asylum applications were registered in the EU in 2015, compared to 431,000 in 2013 and 627,000 in 2014.

² Refugees, along with persons who completed the asylum procedure and were granted either temporary or subsidiary protection, are also referred to as “humanitarian migrants” in some documents (e.g. [OECD](#) briefs).

³ It is important to note that the [American Human Rights Convention](#), adopted in 1969, also provides the *non-refoulement* protection in its Article 22: *In no case may an alien be deported or returned to a country, regardless of whether or not it is his country of origin, if in that country his right to life or personal freedom is in danger of being violated because of his race, nationality, religion, social status or political opinions.* The United States was actually found in violation of this provision by the [Inter-American Commission on Human Rights](#) (IACHR) in 1997, when it returned Haitians interdicted on high seas, claiming that they were not in US territory. (Haitian authorities arrested many of them upon their return. For more about this and other case law see [here](#).)

⁴ It must be stressed again that the Geneva Convention explicitly prohibits imposing penalties for asylum seekers for crossing borders illegally. And, as explained [here](#), even if we were to interpret Article 31 narrowly – i.e., that it applies to crossing a neighboring country’s border – it still does not allow for excluding a person from international protection for violating the country’s immigration laws.

Of the 1.8 million that entered the EU, roughly one million entered in Italy or Greece. Most of them use specific routes: Either from Turkey via the Eastern Mediterranean and Western Balkan routes to Greece and then Hungary (these routes are mostly used by asylum seekers from Syria, Afghanistan, Iraq, but also Kosovars and Albanians); or from Libya via Central Mediterranean route to Italy (this route is mostly used by asylum seekers from Eritrea, Somalia, and Nigeria).⁵

That most enter into Greece or Italy is significant because, in 1990, the EU passed a law called the Dublin Regulation, which took effect in 1997, and was later amended in 2003 (Dublin II) and 2013 (Dublin III). In the most general terms, this law states that the EU country *whose border an asylum seeker crosses first* is the one responsible for conducting the asylum procedure. There were three objectives of this law: to prevent multiple asylum applications (“asylum shopping”); to ensure that an application is processed in at least one country, thus preventing the “refugee-in-orbit” phenomenon; and to prevent secondary refugee movements within the EU.

Although this law was criticized (e.g. by [ECRE](#)) even before the recent surge in refugee arrivals, it has turned out to be especially problematic over the past three years.

The reason is that, under the Dublin Regulations, Greece and Italy are responsible for processing all the asylum applications and for accommodating all of the asylum seekers and recognized refugees. As explained [here](#), overwhelmed by the volume of the recent influx, however, both Italy and Greece have ceased to fulfill this obligation, and have allowed the asylum seekers to move beyond their countries.⁶ This, in turn, has shifted part of this considerable burden to Germany and Austria, as well as to Hungary, Sweden, Finland, Switzerland, and the Benelux countries.

The sheer size of this refugee population has caused enormous strain. Even though Germany vowed to accept almost 800,000 asylum seekers (about one percent of Germany’s current population), and France and the United Kingdom followed suit with pledges to accept 24,000 (increased to 30,000 after the Paris attacks) and 20,000 Syrian refugees and asylum seekers, respectively, such commitments did not solve the problem. This necessitated relocation agreements within the EU to shift the burden from the most affected countries⁷, but reaching and implementing such agreements turned out to be very difficult, due to opposition from the Central European countries forming the Visegrad Group (namely Poland, the Czech Republic, Slovakia, and Hungary).⁸ Additional sources of complication included concerns about growing security and costs of integration in France and the United Kingdom.⁹

Whether a common European strategy will be achieved and what it will look like remain open questions (see [here](#)), but what is clear is that the current crisis also uncovered a distinct divide among Europeans in their attitudes regarding not only refugees, but also the values on which the European Union was founded – that is, solidarity and burden-sharing.

For instance, the same Central and Eastern European (“new” member) countries that oppose the mandatory relocation quotas of refugees are also unwilling to shoulder a greater share of the financial costs of accommodating

⁵ Another common myth is that asylum seekers come through these routes, often on boats or on foot, because they have something to hide or are not in fact refugees. The reason, however, is more prosaic – European law allows for imposing sanctions on transport companies for carrying persons without visas, which prohibits refugees from buying bus or plane tickets.

⁶ Greece was actually declared not to be a safe country due to an inefficient asylum system as early as 2011, in a ruling of the [European Court of Human Rights](#).

⁷ It is important to note that Germany indeed processed the highest number of first time asylum applications in 2015 (ca. 442 thousand, or 35 percent of all EU applications) and granted protection to the highest number of asylum seekers (148,200 persons). Other countries that made the highest number of positive decisions are Sweden (34,500), Italy (29,600), France (26,000), the United Kingdom (17,900), Austria (17,800) and the Netherlands (17,000). Syrians (166,100), Eritreans (27,600), and Iraqis (23,700) constituted the most numerous groups of beneficiaries. Kosovars and Albanians were most often denied protection. (Source: Eurostat)

⁸ For example, in March 2016, Poland refused to abide to the agreement of relocating 6,182 refugees from Italy and Greece, an agreement reached in the previous year. Poland refused due to “security” concerns.

⁹ According to an agreement reached in September 2015, EU countries participating in the relocation program were to relocate 160,000 asylum seekers from Italy and Greece before mid-2017. At the beginning of 2016, only 850 persons had been relocated (see [here](#) in Polish).

refugees and asylum seekers in other EU member countries. In contrast, despite anti-immigrant and anti-refugee attitudes growing across Europe (which will be discussed in a subsequent post), it is apparent that the “old” EU countries, such as Germany, Austria, and Sweden, embraced both the moral responsibility as well as the burden-sharing values of EU to a greater extent than their Central and Eastern European fellow members.

Whose crisis is this?

Globally, according to UNHCR statistics, “sub-Saharan Africa is host to the largest number of refugees (4.1 million), followed by Asia and Pacific (3.8 million), Europe (3.5 million), and the Middle East and North Africa (3.0 million). The Americas hosted 753,000 refugees as of mid-2015” ([UNHCR](#)).¹⁰

Among these approximately 15 million refugees worldwide, [almost a third](#) are from Syria, showing that the scale of this current humanitarian crisis is enormous relative to the total world refugee estimates (especially given that another roughly [7.6 million](#) Syrians are internally displaced). Considering, however, that a large proportion of these refugees are still located in Turkey and the Middle East, as well as the growing number of displaced persons and refugees in sub-Saharan Africa, it is also obvious that this crisis is far from being just a European or Syrian issue.

That said, perhaps most importantly, what’s happening in Europe right now is less a refugee crisis than a crisis of [institutions](#) and [values](#). The underappreciated reality is that the number of current refugees and asylum seekers in Europe, though substantial, could be absorbed and integrated without extreme sacrifices, if the burden was shared among all nations (the total population of refugees and asylum seekers in Europe constitutes about one percent of its population). It would also, mostly likely, benefit many nations’ economies, particularly those with aging populations in need of new labor (cf. [here](#)).

Europe, however, is unable (both for political and economic reasons) to resettle all or even substantial numbers of either the Syrian or African or Asian refugees currently living in [harsh conditions](#) in Africa, Asia, the Middle East or Turkey.

Many observers, such as, most notably, [Professor Michael Ignatieff](#), argue that other countries, including the United States, Canada, Brazil, Australia, Gulf States, and Saudi Arabia, need to increase or commence their participation in the resettlement effort, and/or shoulder the costs of helping the growing number of refugees and displaced persons. The United States, Canada, and Australia already have post WWII experience in resettling and accommodating large groups of refugees, as these nations, along with France, received over one million Vietnamese fleeing their nation in boats or through the UNHCR Orderly Departure Program.

Failure will have serious consequences. Unless other countries join the organized effort to uphold the humanitarian values on which the idea of refugee protection rests, we can expect not only more unrest in already unstable or unjustly burdened countries hosting the refugees in Africa, Middle East, and Asia, but also the erosion of the humanitarian system that was so carefully built after the horrid experiences of World War II.

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URL: <http://www.shankerinstitute.org/blog/putting-international-refugee-crisis-context>

¹⁰ This statistic does not take into account Palestinian refugees.