

Shifting Paradigms in International Refugee Law: Will the Right to Asylum Survive?

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(Belarus Devlet Sınır Komitesi - Anadolu Agency)

Introduction

This discussion paper will focus on the shift of paradigm in the practice of international humanitarian law regarding the protection of refugees.

Following the end of the Cold War, the discourse on refugee protection started to change. As a result of growing pressure from the international community to restrict the scope of the right to asylum and stop irregular migration flows, the UNCHR adopted a new narrative that prioritizes the prevention of illegal migration and undermines the core principles outlined in the 1951 Convention Relating to the Status of the Refugees and its 1967 Protocol (hereafter "the 1951 Convention"). The 1951 Convention guarantees non-discrimination, non-penalization of illegal entry, and nonrefoulement for persons fleeing persecution. However, the new "mixed migration" approach embraced by the UNHCR, which focuses on distinguishing between "illegal migrants" and "genuine refugees", jeopardizes the aforementioned principles by restricting them solely to those who are identified as "genuine refugees". Other asylum seekers thus face discrimination, punishment for illegal entry and refoulement – even if they have a well-founded fear of persecution. Furthermore, the categorization of refugees justifies securitization policies that violate the

1951 Convention, ultimately making it harder for people fleeing persecution to apply for asylum. This new paradigm is not only contradictory to the purpose of the UNHCR, which was established by the international community to protect refugees around the world but also poses a great threat to the right to asylum enshrined in the 1951 Convention. The first section will look at the paradigm shift concerning the international protection of refugees in light of the worldwide distribution of refugees. This section will also analyse how the securitization policies of developed nations are justified under the new paradigm and how this threatens the right to asylum outlined in the 1951 Convention. The second section of the paper will demonstrate how developed nations are working on policies to shift their responsibilities arising from the 1951 Convention to developing nations. An overview of the refugee deal strategy of the EU will be provided as a recent example to the mentioned policies, explaining how this strategy has indirectly led to the current refugee crisis on the north-eastern borders of the EU. The third section will explore how the new paradigm is in stark contradiction with the idea of globalization and why the developed world needs to do more to keep the principles of the 1951 Convention alive.



(Volkan Furuncu - Anadolu Agency)

1. Current Status of the Worldwide Distribution of Refugees and Protection Paradigm

Due to the refugee crises in Afghanistan, Iraq, Syria, Myanmar, the Democratic Republic of Congo, Eritrea, Venezuela and, most recently in Ethiopia, the number of displaced people worldwide has grown exponentially in the last few decades. The record numbers of people fleeing for safety and the steady increase in numbers of asylum applications to developed countries, despite their increasingly restrictive asylum policies, means that the richest countries of the world no longer have the luxury of looking away. According to the 2020 Global Trends in Forced Displacement Report of the UN High Commissioner for Refugees (UNHCR), 82.4 million people were forcibly displaced worldwide as of the end of 2020. In 2020 alone 1.1 million new asylum claims were made and only 34,400 refugees were resettled, in contrast to 107,800 resettlements in the previous year. It is estimated that between 2018 and 2020 about 1 million children were born as refugees. The number of displaced persons almost doubled since 2012, thus “[...] the question is no longer if the forced displacement will exceed 100 million people – but rather when” (UNHCR, 2020).

1.1. The Weakest Carry the Heaviest Burden

While many developed nations, particularly in Europe, claim that too many people are trying to seek asylum in their territories and that they can no longer cope with the asylum applications, the numbers show the exact opposite: 86 per cent of displaced persons are hosted in developing countries. Among them, Turkey is the world leader, hosting more than 3.7 million refugees, a ratio of one refugee for every 23 Turkish citizens. The numbers further reveal that the richest countries in the world do not do enough to provide international protection to those in need:

According to the World Bank classification, high-income countries host just 17 per cent of people displaced across borders, as in previous years. Upper-middle income countries – including Turkey, Colombia, the Islamic Republic of Iran, Lebanon and Jordan – hosted 43 per cent of people displaced across borders at the end of 2020, with a

further 18 per cent hosted by lower-middle-income countries and 22 per cent by low-income countries. (UNHCR, 2020)

These alarming numbers clearly show that the principles outlined in the 1951 Convention and its 1967 Protocol are being jeopardized by the lack of international cooperation on the protection of refugees. Developed nations, in particular, are not fulfilling their obligations arising from the Convention. It is equally worrying that the stance of the UN on the 1951 Convention has also changed to the detriment of displaced persons, largely due to the decrease in international cooperation on the right to asylum and protection of refugees.

1.2. A Shift of Paradigm on the International Protection of Refugees?

During the Cold War, Western democracies and organizations championed a set of principles known as "Western liberal values," including freedom of movement and right to asylum, against the authoritarian ideologies of the Eastern Bloc. These ideas were also entrenched in the 1951 Convention, which stipulates that:

The principle of nonrefoulement is so fundamental that no reservations or derogations may be made to it. It provides that no one shall expel or return ('refouler') a refugee against his or her will, in any manner whatsoever, to a territory where he or she fears threats to life or freedom. (UNHCR, 1951)

Soon after the end of the Cold War, the political discourse regarding the freedom of movement and protection of refugees changed. Following the dissolution of the Soviet Union, the UNHCR started to openly promote "legal immigration", while simultaneously implying the necessity to combat any human movement it deemed "illegal" through security measures. The Agency advocates for the expansion of border and immigration controls as "a necessary prerequisite for effective refugee protection" (Scheel & Ratfisch 2014:8). As a result of this approach, asylum seekers have increasingly been seen as threats by governments and the principles of international refugee protection have been increasingly disregarded. Although, understandably, contracting States seek legal tools to deal with the burden placed on them by asylum seekers (Goodwin-Gill, 2001:136), core principles of

the Convention such as nonrefoulement cannot be abolished by labelling a group of refugees as "illegal immigrants".

To understand the new approach of the UNHCR to the refugee problem, the funding scheme of the organization must be acknowledged: The Agency is dependent on donor governments and implementing partners within the UN and NGOs, all of which often have divergent interests. Hence, the High Commissioner must have their support to promote and raise the legal standards of refugee rights. Due to the dependency on donations, the policies of the UNHCR are ultimately shaped by the interests of her donors, which are primarily the richest nations of the world. This results in a heavy influence on the part of developed countries on the refugee protection discourse of the Agency. As an example, the EU-Turkey Agreement in 2016 saw close cooperation between the EU and United Nations agencies, where the UN agencies acted as implementing partners for the projects funded by the EU. The Agreement, which is aimed at shifting the European responsibility of refugee protection to Turkey, was not only encouraged but also implemented by UN agencies. The UNHCR was directly involved in setting up "reception centres" in Turkey to facilitate the removal of rejected asylum seekers and illegal migrants to their home countries (Scheel & Ratfisch, 2014:7). A joint statement by the International Rescue Committee (IRC), the Norwegian Refugee Council (NRC), and Oxfam criticized that the Agreement, which was hailed as a great success by the European leaders, because it "[...] outsources Europe's responsibility to Turkey, has exacerbated the vulnerabilities of highly traumatised people, and exposes them to further risks and abuse in Greece" (Joint Statement, 2017). Despite the reality of the Agreement, UN agencies are still acting as implementing partners of the projects carried out under the auspices of the European Commission.

1.3. The "Legal" and "Illegal" Refugee

Developed nations insist on the necessity of making a distinction between "genuine refugees" and "illegal migrants", arguing that their asylum systems are overwhelmed with people who do not actually need international protection but rather are misusing the asylum procedure to bypass the visa application process. Parallel to the trend of increasingly stricter migration control policies among developed nations, the UNHCR has changed its primary focus from refugee

protection to the prevention of illegal migration. The securitization of national borders through refugee status determination procedures, which distinguish between “refugee” and “illegal migrant,” the latter not being subject to the principles of nonrefoulement and non-penalization of illegal entry set out in the 1951 Convention. The emphasis on this distinction is not only hindering displaced persons from seeking asylum but also justifies the securitization policies of developed countries to prioritize stricter border checks and immigration control over the right to asylum.

According to the abovementioned narrative, economically motivated “illegal migrants” not fleeing persecution but simply seeking a better life are obstructing the right to asylum of “genuine refugees” by claiming asylum in order to avoid visa requirements. However, the idea of a clear-cut categorization of asylum seekers is in stark contrast to the fact that motivations for migration are often mixed. According to migration scholar Stephen Castles, who developed the term “migration-asylum-nexus” to demonstrate the inseparable nature of forced and voluntary migration, the motivations for migration are always mixed, contrary to the narrative that the difference between “genuine refugee” and “illegal migrant” is crystal clear (Scheel & Ratfisch, 2014:9). Nevertheless, the UNHCR and its donors insist on securitization policies focusing on the prevention of illegal migration in order to assist the “genuine refugees”. In reality though; strict border checks, convoluted asylum procedures lacking necessary checks and balances, and externalization of responsibilities arising from the 1951 Convention

not only make seeking asylum almost impossible but also cause asylum seekers to be labelled as “illegal migrants,” who are not entitled to the rights granted by the Convention (Purcell, 2007:199-200). By propagating this narrative, the UNHCR indirectly justifies the denial of asylum to refugees by contracting States on the grounds of “illegal migration”. It is also striking that the High Commissioner promotes legal migration instead of resorting to the asylum procedure without providing any concrete recommendation on how to create opportunities for legal migration, especially for the developed nations. The stance of the High Commissioner on the matter can be seen in the following statement taken from the chapter ‘Protecting refugees within broader migration movements’ in the UNHCR’s *Agenda for Protection* (Scheel & Ratfisch, 2014:10):

The UNHCR’s clearly defined responsibilities for refugees and other persons of concern do not extend to migrants generally. It is, at the same time, a fact that refugees often move within broader mixed migratory flows. [...] There is, therefore, a need to achieve a better understanding and management of the interface between asylum and migration, both of which UNHCR should promote, albeit consistent with its mandate, so that people in need of protection find it, people who wish to migrate have options other than through resort to the asylum channel, and unscrupulous smugglers cannot benefit through the wrongful manipulation of available entry possibilities. (UNHCR 2003:46)



(Sevil Çelik - Anadolu Agency)

2. The Refugee Crisis at the Belarusian Border: The Tip of the Iceberg

The European Union (EU) was caught by surprise when hundreds of Middle Eastern refugees started to show up at the north-eastern Schengen borders with Belarus in August 2021. The 6,000-kilometre-long eastern land border of the EU is shared by Belarus, Moldova, Ukraine and the Russian Federation. Following the disputed Belarusian presidential elections in 2020, the EU came to loggerheads with Belarus over recognition of Alexander Lukashenko's presidency. On October 2nd, 2020 the EU announced sanctions against 40 Belarusian individuals identified as "responsible for repression and intimidation against peaceful demonstrators, opposition members and journalists in the wake of the 2020 presidential election in Belarus, as well as for misconduct of the electoral process" (Council of the EU, 2020). The tension further escalated when the EU introduced two more rounds of sanctions over ongoing repression. In response to these measures, Belarusian authorities forced a Ryanair flight to land in Minsk and arrested the Belarusian opponent Roman Protasevich and his girlfriend Sofia Sapega (Syta & Ostroukh, 2021). The incident sparked outrage in the West and resulted in a new series of European restrictive measures against Belarus. In retaliation to these sanctions, a new migration route into the EU appeared in summer 2021. In October 2021, Belarusian authorities suspended an agreement with the EU that obliged Minsk to take back third-party nationals who had crossed into EU member states but were denied entry (Ignatov, 2021). This move created a vacuum for migrants looking for an alternative route to reach the EU and also provided the Belarusian President Alexander Lukashenko with a bargaining chip vis-à-vis EU sanctions. To understand how the refugee crisis at the north-eastern borders of the EU emerged, the European policy to dodge and externalize asylum-seeking needs to be explored.

2.1 Shifting Responsibility

The burden of refugees has become an ever-growing concern to governments around the world. Despite the calls for humanitarian help and protection for refugees, governments, particularly those of developed nations, are becoming increasingly reluctant to fulfil their obligations arising from the 1951 Convention. To curb migration and asylum claims, wealthy countries are

looking to methods to externalize the refugee problem in order to prevent asylum seekers from reaching their territories. Externalization of the refugee problem is achieved by securitization policies, which are implemented through bilateral agreements between bordering countries. The parties of these agreements bargain according to their national interests, where one side demands prevention of border crossings by asylum seekers, while the other side requests financial and political support, treating the asylum seekers as commodities. The refugee deals between the EU and her Mediterranean neighbours are examples of this approach.

As part of its "Neighbourhood Policy" launched in 2004, the EU set out a regional cooperation policy with her southern neighbours in the Mediterranean "...to reinforce stability and security and contribute to efforts at conflict resolution..." (European Union, 2004). The Strategy Paper of the European Neighbourhood Policy counted "regional cooperation on border management, migration and asylum, the fight against organised crime, trafficking of human beings, illegal immigration..." in the Mediterranean among priority cooperation sectors. The plan sought to:

"...improve border management, including short sea-crossings; cooperation between enforcement bodies and agencies; cooperation in the fight against organised crime and cross-border crime and civil and commercial judicial matters; cooperation in the fight against illegal immigration, and management of legal migration and implementation of migration plans (...)." (European Union, 2004)

Limited success was achieved in this regard until the Arab Spring uprisings. The stream of revolutions, which started in Tunisia in 2010 when Mohamed Bouazizi set himself on fire, created widespread political instability in Northern Africa and toppled dictators in Tunisia, Libya, Yemen and Egypt. At a time when the Tunisian democracy sought help for survival and widespread protests threatened the political stability in Morocco and Algeria, the EU found an invaluable opportunity to reach agreements with

her troubled southern neighbours on the prevention of the movement of asylum seekers towards Europe in exchange for monetary and political support. At the height of the Arab Spring uprisings, both Morocco and Tunisia signed Mobility Partnership Agreements with the EU, with Rabat signing the document on 7 June 2013, and Tunisia signing a draft Mobility Partnership on 18 November 2013 and the full Joint Declaration on the Mobility Partnership on 3 March 2014 (Limam & Del Sarto, 2015). Furthermore, the European Commission and the Government of Italy poured millions of euros into the North African governments as part of the so-called humanitarian aid programme EU Emergency Trust Fund for Africa (EUTF), which was set up by the EU member states in November 2015 to stop the movement of asylum seekers towards Europe by sea. The programme was heavily criticized in the observation of the Council of Europe Commissioner of Human Rights submitted to the European Court of Human Rights in 2019 for contributing to human rights violations against asylum seekers in Libya (Commissioner for Human Rights, 2019). The Commissioner called on the Italian authorities to suspend The Memorandum of Understanding with Libya or at least change the terms of the agreement to comply with international human rights law. However, the Italian Government has yet to take action on the matter, while the European Commission announced on 16 July 2020 (EU Commission, 2020) that it will continue funding the Libyan Coast Guard (LCGPS) and Navy and the General Administration for Coastal Security (GACS) through the North of Africa window of the EUTF Africa in Libya, where armed conflict is still going on.

On the eastern end of the Mediterranean, the EU negotiated a refugee deal with Turkey following the refugee influx in 2015. The primary hotspots of the crisis in 2015 were the crossing points between Turkey and Greece. After crossing into Greece, refugees headed towards western European countries, especially towards Germany and Sweden, in order to claim asylum. This prompted a state of emergency across Europe. The EU member states started to act together in order to cope with the record number of asylum applications and protect the interests of the bloc against irregular migration. Instead of encouraging a bilateral migration control mechanism between Greece and Turkey as seen in the examples of Morocco-Spain and Libya-Italy, the EU directly negotiated with Turkey to stop the mass movement into Europe through Turkey. The deal, which obliges Turkey to admit returned illegal migrants

from Europe in exchange for the resettlement of Syrian refugees in the EU, was signed on 18 March 2016 (Rygiel et al., 2016). A so-called 'one-to-one initiative' was embraced in the deal, which stipulates that for every Syrian who illegally crossed into Greece and has been returned to Turkey, EU Member States would resettle one Syrian from Turkey (European Council, 2016). The agreement further obliged the EU to liberalize visa restrictions for Turkish citizens and provide €3 billion in assistance for refugees in Turkey. In exchange, the Turkish government agreed to provide work permits to Syrian refugees and increase security efforts "to prevent new sea or land routes for illegal migration opening from Turkey to the EU" (European Council, 2016).

Another method of shifting responsibility can be found in the concept of "extraterritorial processing". This strategy of reducing the number of asylum applications has been considered by some developed nations, such as the UK (Crisp, 2005:49). Crisp summarizes the opinions on the matter in the following statement:

Those who support the notions of regional processing and protection in regions of origin argue that these innovations constitute a genuine attempt to protect bona fide refugees, while simultaneously addressing the issue of illegal and irregular migration undertaken by people who do not have a valid asylum claim. Others, most notably human rights and refugee organizations, have suggested that these new approaches are simply a new tactic in the challenge to the principle of asylum and are designed to ensure that the world's less developed countries continue to bear a disproportionate responsibility for the world's refugees. (Crisp, 2005:47)

Extraterritorial processing, along with the refugee deal strategy, is an example of the policies developed countries have sought to implement in order to keep asylum seekers away from their borders and complicate the process of the asylum application.

2.2. Backlash to the Refugee Deal

The deal between Turkey and the EU was met with harsh criticism. Amnesty International accused the EU of turning its back on a global refugee crisis and wilfully ignoring its international obligations

(Amnesty International, 2016). However, the European Commission (2016) defended the mechanism, arguing that it prevents illegal migration and provides a safe and orderly resettlement process for refugees. Although the agreement initially helped stop the refugee influx into Europe, it failed to prevent the emergence of a new migration route. The refugee-deal strategy also revealed the dependency of the EU on the bordering countries for externalizing asylum applications. The unsustainable nature of these refugee deals ultimately resulted in a new migration route through Belarus for those desperately seeking safety in Europe, increasing the pressure on the EU to lift the sanctions against Belarus. The tensions between Belarus and the EU not only created a new migration route into the EU but also raised questions about the future of the refugee-deal strategy as a tool of migration control. Turkey and Morocco have both threatened several times to suspend the refugee deals amidst diplomatic tensions with Europe, which demonstrated that the fate of these deals depends on fragile relationships between contracting parties. Even when the deals function, they cannot prevent the emergence of new migration routes for asylum seekers, as can be seen with the current situation in Belarus. This strategy is not capable of providing any solution to the growing plight of refugees in the long run, as long as the root causes for global exodus such as civil wars, famine, extreme poverty and widespread violence are not tackled.

It should also be clearly noted that policies aimed at suppressing the right to asylum are not compatible with the 1951 Convention. The Convention guarantees the principles of non-discrimination, non-penalization of illegal entry, and nonrefoulement to those fleeing persecution as part of the right to asylum. However, the current refugee deals fail to comply with these principles and deliberately make asylum-seeking "mission impossible". As an example, the following statement from the Joint Agency Briefing Note published by the International Rescue Committee (IRC), Norwegian Refugee Council (NRC), and Oxfam points out the reality of the EU-Turkey refugee deal and raises concerns regarding the future of the right to asylum:

European leaders are declaring the EU-Turkey Statement a success. In reality, the Statement outsources Europe's responsibility to Turkey, has exacerbated the vulnerabilities of highly traumatised people, and exposes them to further

risks and abuse in Greece due to the treatment and conditions set out in this paper. We fear that what was justified as a temporary measure for an emergency situation in Greece may become the blueprint for EU asylum policy elsewhere and a model for the future. As evidenced by this paper, it is not possible, even in the European context, to apply this model while complying with international standards and ensuring asylum seekers' rights. EU leaders should not replicate this model or expect that it will work elsewhere. Basic human rights and the right to seek international protection are at stake. (IRC, 2017)

2.3. Lessons and Miscalculations

The refugee deal strategy, which is based on outsourcing the constant refugee stream to neighbouring countries in exchange for financial and political support, is bound to fail in the long run, if only because it merely diverts the refugee problem without providing any solution to the root causes of asylum-seeking. Although the lives of asylum seekers and refugees are put in great danger by draconian immigration control mechanisms, the numbers clearly demonstrate that these measures are not capable of stopping the movement of increasing numbers of displaced people from seeking asylum in the world's wealthiest countries. For example, successive UK governments in the 1990s sought to curb the number of asylum applications through an "[...] almost constant stream of legislative and administrative measures" designed to make claiming asylum as difficult as possible, "[...] yet the figures have risen quite consistently from just over 30,000 in 1992 to more than 110,000 in 2002" (Crisp, 2005:47). In addition to the failure to limit asylum applications, rich countries also face great difficulties in setting up effective asylum evaluation mechanisms to process the applications. According to Jeff Crisp, "[t]his problem is manifested in the prevalence of asylum backlogs, delays in status determination, in a failure to ensure the removal of asylum seekers whose claims to refugee status have been rejected, and, in the de facto or de jure declaration of amnesties for irregular migrants" (Crisp 2005:47). Moreover, the UNHCR and other critics have accused the UK of instrumentalizing 'immigration controls' as a way to "[...] [turn] away 'genuine' refugees and [create] a system biased towards reducing numbers regardless of need" (Verkaik, 2006).

Following the deals with Mediterranean countries to stop migrants from reaching Europe, refugees resorted to the north-eastern route through Belarus. In addition to merely diverting the refugee crisis to different regions, the refugee deal strategy also fails to address the fact that developing countries cannot continue to indefinitely carry the burden of refugees in their territories. The recent events on the borders of Belarus demonstrate that outsourcing responsibilities arising from the 1951 Convention is not a solution but rather a method of shifting responsibility. The refugee crisis on the EU's north-eastern border is

therefore not a mere miscalculation of the European migration management, but rather an example of the prevalent trend in the developed world, which promotes securitization policies against asylum seekers and externalization of responsibilities instead of fair distribution of the burden of asylum seekers – all in violation of the 1951 Convention. It is equally worrying that developed nations, which make up the main financial backers of the UN, instrumentalize the organization to justify their securitization policies that lead to the suppression of the right to asylum.

3. Will There be a Right to Asylum in the Future?

Today the right to asylum is in greater danger than ever before since the adoption of the Universal Declaration of Human Rights in 1948. As the international cooperation on human rights fades, the right to asylum is under the threat of losing its binding power due to international practices that serve to undermine it.

International law establishes a common framework for states on a broad range of topics such as war, diplomacy, trade, and human rights. The implementation of international human rights law is therefore governed by the set of rules, norms, and standards generally recognized as binding between nations, which make up the international law. However, international custom recognized by most nations is also considered a primary source of international law, along with other sources such as treaties and general principles of law. According to the International Law Commission of the UN General Assembly (ILC, 1949), treaties, decisions of national and international courts, national legislation, opinions of national legal advisors, diplomatic correspondence, and practice of international organizations are all forms of evidence of customary international law. Particularly in the case of refugee rights, the practice of the United Nations constitutes a major source of international customary law. Although the right to asylum is guaranteed by the 1951 Convention, it must be noted that the practice of the UN also has a great influence on how this treaty is implemented. When this apparent new paradigm on

refugee protection becomes the consistent practice of the UN, it will ultimately raise some serious questions about the 1951 Convention. In such a case, the 1951 Convention can no longer guarantee the right to asylum as it was originally intended to.

3.1. The Paradox of the “Mixed Migration” Paradigm

The idea of globalization promoted by developed nations, in order to access emerging markets and integrate them into the global capitalist system dominated by the Western powers, is primarily based on the unhindered flow of “[...] goods, services, information, capital and highly qualified personnel,” on the other hand, ironically rejects “[...] the principle of free movement for people who are poor, relatively unskilled or who are escaping from persecution and violence” (Crisp, 2005:46). As much as it provided strong pull factors for people to migrate to developed countries, the process of globalization has also prompted wealthy states to obstruct this movement. The obstacles surrounding asylum are linked to this very important contradiction in the idea of globalization itself (Crisp, 2005:46). Furthermore, there seems to be a correlation between the increasing imbalance of worldwide wealth distribution and the growing number of refugees despite the “permanent, continually renewed, and increasingly detailed regulation” put in place by the rich states to stop the ever-increasing human

flood (Foucault, 2007:340). According to Jeff Crisp, the restrictive measures to curb asylum-seeking did achieve a decrease and subsequent stabilization in the numbers of asylum applications, nevertheless, the measures also prompted asylum seekers to resort to alternative ways of reaching developed countries and gave rise to the industry of human smuggling, which also increased the smuggling of illegal materials such as narcotics, firearms and other prohibited goods, as well as the trafficking of women and children (Crisp, 2005:47). This not only made migration routes more dangerous than ever but also created new problems and conflicts around the world due to the rapid expansion of the smuggling and trafficking industry.

Categorizing asylum seekers as “illegals” or “economic migrants” provides a legal loophole to the contracting States to bypass the principle of nonrefoulement, which the 1951 Convention was built upon. By promoting this paradigm, the UNHCR is allowing the contracting States, particularly the wealthy nations, to derogate from the principle of nonrefoulement that is strictly prohibited in the Convention. The primary duty of the UNHCR is to provide solutions to those who need international protection by either repatriation, local integration or resettlement in a third country. The resettlement of refugees in the 1990s, however, was ignored at the suggestion of the UNHCR (Goodwin-Gill, 2001:141).

This resulted in the loss of international solidarity and opportunities for refugees to rebuild their lives. As securitization policies gained momentum in many developed countries, the paradigm of international protection has inevitably changed in a way that the obligations of the contracting states of the 1951 Convention are now taken less seriously. According to Guy S. Goodwin-Gil, refugee rights are increasingly downplayed and governments and international organizations have failed to “[...] respond coherently to large movements or to deal with the changing character of causes, to make decisions, to set strategic goals, to determine tactical means” (Goodwin-Gill 2000:133). This might inevitably result in a new model of international protection around the world that will undermine the current international refugee protection standard set by the 1951 Convention.

3.3. The West Isn’t Doing Enough

Within the broader picture of the international protection of refugees, the imbalance in the worldwide distribution of displaced persons has been worsened by the military, economic and political actions of wealthy Western countries. Specifically, the US, UK and EU have not taken responsibility for providing asylum to the people displaced as a result of political and military actions undertaken by Western states, either directly or indirectly, and in proportion to their capacities. A comparison between the number of refugees hosted in Pakistan and the US alone reveals how little of the burden developed states actually take on relative to others. In 2007, 2 million refugees were hosted in Pakistan while the US, the richest nation in the world, took in only 281,000 refugees (Cumming-Bruce, 2008).

The great number of refugees taken in by countries neighbouring conflict zones not only creates a heavy economic burden but also contributes to further instability in their respective regions. For example, the Afghan refugee crisis, which began with the Soviet invasion in 1979 and has dragged on ever since, put a “back-breaking economic burden” on the already weak economy of Pakistan (The New Humanitarian, 2000) for more than 40 years. As a result, Pakistan initiated a repatriation programme for Afghan refugees in 2012 and is no longer granting refugee status to Afghans. Similarly, the Syrian refugee influx into Turkey not only created a gigantic economic burden, of which only a small portion was compensated by the international community but also created social and political tensions in the country. This contributed to public opinion becoming increasingly hostile towards refugees and prompted the Turkish government to shift its asylum policy from granting temporary protection to repatriation to Turkish-controlled safe havens in Northern Syria (Sevencan, 2020). Although calls have been made for developed countries to take more responsibility in easing the burden of asylum on developing countries, little progress has been made so far (Philo et. al, 2013:36-37). French President Emmanuel Macron stating that Europe needs to protect itself from illegal migrants amidst the evacuation crisis at Kabul Airport is representative of the staple attitude of the Western governments towards the conflicts they are involved in (Desai, 2021 August 17).

Conclusion

Today, refugees are increasingly “[...] shuttled along a continuum of abuse” (Harding, 2000:3). International cooperation on refugee protection and the right to asylum is dwindling and the UNHCR, whose mission is to protect those fleeing persecution, has unfortunately become an instrument of promoting and implementing the new international protection paradigm at the behest of its major donors. Due to the economic legacy of colonialism and current foreign policies, wealthy Western countries “[...] have a particular responsibility to asylum seekers fleeing conflicts in which the country has been involved” (Philo et. al, 2013:48). Support for corrupt leadership in Africa and South America, the so-called ‘War on Terror’, military interventions in Iraq, Syria and Afghanistan all drove large numbers of refugees to flee violence and seek asylum in the West. Moreover, the Western economic imperatives imposed on developing countries by the World Bank

and IMF not only failed to provide these nations with sustainable economic development and but also arguably contributed to further instability and conflict (Philo et. al, 2013:48-49).

Unless developed countries realize that our fates are all closely linked, there is no way out of the refugee crisis. Walls, border checks, refugee deals and other immigration control mechanisms, which stand in stark contrast to the spirit of globalization, will all ultimately fail to stop the flow of desperate people into developed countries. It is therefore time for the rich nations of the world to fulfil their responsibility to do more for the refugees and stop instrumentalizing UN agencies to prevent people from seeking asylum. The world’s wealthiest nations must step up and take on a greater share of the responsibilities towards the millions of displaced.

Bibliography

Amnesty International. (2016, March 18). EU-Turkey refugee deal a historic blow to rights. Amnesty International. Retrieved December 9, 2021, from <https://www.amnesty.org/en/latest/press-release/2016/03/eu-turkey-refugee-deal-a-historic-blow-to-rights/>

Castles, S. (2007) 'The Migration-Asylum Nexus and Regional Approaches', in Kneebone, S. and Rawlings-Sanae, F. (eds) *New Regionalism and Asylum Seekers, Challenges Ahead*. London: Berghahn Books, 25-42.

Council of the EU. (2020, October 2). Belarus: EU imposes sanctions for repression and election falsification. Consilium. Retrieved January 2, 2022, from <https://www.consilium.europa.eu/en/press/press-releases/2020/10/02/belarus-eu-imposes-sanctions-for-repression-and-election-falsification/>

Crisp, J. (2005, March). A New Asylum Paradigm? Globalisation, Migration and the Uncertain Future of the International Refugee Regime. *St Antony's International Review*, 1(1), 39-53. <https://www.jstor.org/stable/10.2307/26227087>.

Cumming-Bruce, N. (2008) 'World's refugee count in 2007 exceeded 11 million, UN says', *New York Times*, 18 June. www.nytimes.com/2008/06/18/world/18refugees.html?_r=3&oref=slogin

Desai, S. (2021, August 17). France vows to stop Afghan refugee flow with European mechanism. Anadolu Agency. Retrieved November 29, 2021, from <https://www.aa.com.tr/en/asia-pacific/france-vows-to-stop-afghan-refugee-flow-with-european-mechanism/2337377>

European Union. (2004). Communication From the Commission: European Neighbourhood Policy – Strategy Paper {SEC(2004) 564, 565, 566, 567, 568, 569, 570}. EUR-Lex. Retrieved January 2, 2022, from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A52004DC0373>

Foucault, M., Ewald, F., Fontana, A., & Senellart, M. (2007). *Security, territory, population lectures at the Collège de France, 1977-78*. Palgrave Macmillan.

Goodwin-Gill, G. S. (2001). Refugees: Challenges to Protection. *The International Migration Review*, Vol. 35(1), Special Issue - UNHCR at 50: Past, Present and Future

of Refugee Assistance, 130-142. Sage Publications. <https://www.jstor.org/stable/2676055>

Harding, J. (1999). Refugee Identity and Protection's Fading Prospect. In *Refugee Rights and Realities: Evolving International Concepts and Regimes* (pp. 220-249). Ed. F. Nicholson and P. Twomey. Cambridge: Cambridge University Press.

European Council (2016) EU-Turkey statement. Press Release, 18 March, no. 144/16. <http://www.consilium.europa.eu/en/press/press-releases/2016/03/18-eu-turkey-statement/>

Ignatov, O. (2021, November 26). Behind the frictions at the Belarus-Poland border. International Crisis Group. Retrieved December 3, 2021, from <https://www.crisis-group.org/europe-central-asia/eastern-europe/belarus/behind-frictions-belarus-poland-border>

International Rescue Committee (IRC). (2017, March 17). Joint Agency Briefing note: The reality of the EU-turkey statement. International Rescue Committee (IRC). Retrieved December 19, 2021, from <https://www.rescue-uk.org/report/joint-agency-briefing-note-reality-eu-turkey-statement>

Limam, M. & Del Sarto, R. A. (October 2015). Periphery under pressure: Morocco, Tunisia and the European Union's Mobility Partnership on Migration. *SSRN Electronic Journal*, 75. <https://doi.org/10.2139/ssrn.2686505>

Norwegian Refugee Council (NRC). (2017, March 16). EU-Turkey deal makes seeking refuge in Europe "mission impossible" for most vulnerable. Norwegian Refugee Council (NRC). Retrieved December 19, 2021, from <https://www.nrc.no/news/2017/march/eu-turkey-deal-makes-seeking-refuge-in-europe-mission-impossible-for-most-vulnerable/>

Philo, G., Briant, E., & Donald, P. (2013). Methods, Explanations and Perspectives on Asylum. In *Bad News for Refugees* (pp. 29-49). essay, Pluto Press. <http://www.jstor.com/stable/j.ctt183p4bm.6>

Purcell, J. M. (2007, Fall). A Right to Leave, but Nowhere to Go: Reconciling an Emigrant's Right to Leave with the Sovereign's Right to Exclude. *The University of Miami Inter-American Law Review*, Vol. 39(1), pp. 177-205. <https://www.jstor.org/stable/40176771>

Rygiel, K., Baban, F. & Ilcan, S. (2016). The Syrian refugee crisis: The EU-Turkey 'deal' and temporary protection. *Global Social Policy*, 16(3), 315–320. <https://doi.org/10.1177/1468018116666153>

Sytas, A., & Ostroukh, A. (2021, May 23). Belarus forces airliner to land and arrests opponent, sparking U.S. and European outrage. Reuters. Retrieved January 2, 2022, from <https://www.reuters.com/world/europe/belarus-forces-vilnius-bound-ryanair-plane-land-detain-blogger-2021-05-23/>

Sevencan, S. (2020, October 15). Over 414,000 Syrians return home thanks to Turkey. Anadolu Agency. Retrieved December 20, 2021, from <https://www.aa.com.tr/en/middle-east/over-414-000-syrians-return-home-thanks-to-turkey/2007120>

The Hindu. (2021, September 16). Pakistan can't accept more Afghan refugees, says NSA. The Hindu. Retrieved November 29, 2021, from <https://www.thehindu.com/news/international/pakistan-cant-accept-more-afghan-refugees-says-nsa/article36488367.ece>

The New Humanitarian (2000, November 14). Afghan refugees an economic burden, official says. The New Humanitarian. Retrieved November 29, 2021, from <https://www.thenewhumanitarian.org/fr/node/186720>

United Nations High Commissioner for Refugees. (2020). *Global Trends In Forced Displacement – 2020*. UNHCR.

United Nations High Commissioner for Refugees (2003) [2002] *Agenda for Protection*, 3rd edition, Geneva: UNHCR.

UN International Law Commission. (n.d.). Ways and means of making the evidence of Customary International Law More Readily Available. legal.un.org. Retrieved December 20, 2021, from https://legal.un.org/ilc/documentation/english/a_cn4_6.pdf

Verkaik, K. (2006). 'UN criticises Home Office over refugees', Independent, 28 June. www.independent.co.uk/news/uk/politics/un-criticises-home-office-over-refugees-405762.html

