

Legal Status of Syrian Refugees in the Host Countries

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Abstract:

Since 2011, the on-going conflict in Syria has been the source of the displacement of millions of Syrian civilians internally and to neighbouring countries escaping the ongoing hostilities in Syria and human rights violations by some parties involved in the Syrian-Syrian conflict, according to the United Nations which classified the conflict and refugee waves in Syria as one of the worst conflicts and refugee movements in the twenty-first century, due to a large number of victims and refugees who crossed the borders to neighbouring and European countries, especially in 2015. Some countries adhered to their moral and legal principles to protect refugees like Turkey, and some Arab countries, such as Lebanon, Jordan, Iraq, Egypt, and others, hosted refugees due to their geographical location close to the Syrian border. Some European countries also hosted refugees who were able and risked their lives at sea to reach to these countries. This paper comes to explain the international legal system for the protection of refugees. This paper also examined the Syrian crisis, the waves of refugees and their legal status in each of the host countries mentioned previously.

Keywords: 1. Refugee protection, 2. international mechanisms, 3. UNHCR, 4. ICRC, 5. Syrian refugees, 6. legal status of Syrian refugees.

Introduction:

The problem of asylum is one of the oldest problems that has accompanied human societies, as people have had to flee the countries in which they grew up to other countries in search of safety from persecution, political violence or armed conflict.

The international community did not attach importance to refugee protection until the beginning of the twentieth century, when the League of Nations was established, which launched a number of initiatives with the aim of helping refugees in Europe, since that time, the response to the refugee problem has been slow and sporadic, which urged the international community to establish and develop a network of organizations and legal structures aimed at providing international protection for refugees. With the succession of years and due to the expansion of armed conflicts, especially the outbreak of World War II, the war that led to many disasters on the humanitarian level and resulted in an unprecedented refugee crisis at that time, forcing the international community to establish an international organization concerned with refugee affairs and the enactment of many legislations And international agreements, including the 1951 Convention, that its primary objective was to provide legal protection to refugees and to define the concept of refugee and distinguish it from other similar term.

Moreover, because of the major crises that humanity has suffered, the development of weapons of war, and the expansion of armed conflicts, that resulted an increase in the number of refugees in the world due to wars and disasters, the signatories to this convention have prompted the expansion of the temporal and geographical scope of application of the above mentioned convention, that is why the 1967 Additional Protocol relating to the Status of Refugees was signed, To clear the Definition of being refugee, and to identify the rights and obligations of states. This convention was also the inspiration for a number of regional agreements, such as the 1969 Organization of African Unity agreement, and the 1984 Cartagena Declaration on Latin American refugees.

The growing international interest in the refugee issue is not only due to the fact that the world has already witnessed the beginning of a new development in terms of international concern for human rights in general, but also because the problem of refugees has begun to worsen significantly as internal and international conflicts and flagrant violations of human rights have intensified. It has become one of the most serious problems in our contemporary

world, resulting from the heavy burden of mass asylum on the economy of the countries that are hosted to refugees, as well as the threat they may lead to in their internal and external security.

Although the international community has generally responded to the refugee crises, in recent years there have been some worrying trends, as countries that have opened their doors to refugees are tending to close their doors. Due to the fear of Carrying limitless responsibility, inciting illegal immigration, running people or endangering internal security, perhaps the refugee crisis in Syria's neighbouring countries and the European Union is the most prominent example of the burden refugees pose to the host countries, with the economic, political, social and demographic consequences of asylum movements within host communities and the emergence of increasing security concerns, particularly in EU countries.

This research aims to highlight developments in international refugee law in recent decades and how it has adapted to international variables. The challenges it faces in light of the ever-huge increasing numbers of refugees, particularly those in the Syrian crisis, and their legal status in host countries, The research problem can be identified in a main question:

- **To what extent have host nations succeeded in safeguarding Syrian refugees' rights?**

Where many sub questions comes out of the main question, which are as follows:

1. What are refugees' rights under international law?
2. What are the rights and duties of the refugee and countries hosting refugees?
3. What is the legal status of Syrian refugees in neighbouring states and the European Union?

In order to answer the problem posed and the questions subordinate to it, we assume the following:

- Although the international protection of refugees during armed conflicts is a lofty goal, the political and military objectives of states still have not set their sights on achieving full protection for refugees, which calls for additional international efforts and a legal arsenal in the future.

- The increase in the number of Syrian refugees is linked to the escalation of violence and the increase in the pace of hostilities.
- One of the reasons for not providing adequate protection to refugees in the Syrians is the preoccupation of regional and international parties with political conflicts, neglect of the humanitarian aspect and the suffering of civilians since the outbreak of the crisis.

In order to find appropriate answers to the main problem and the questions that comes out from it, this work completed by the use of historical method in order to identify the various stages and developments that the system established by international refugee protection law has gone through, and analytical method to analyse and understand international conventions that are relevant to international refugee protection and Syrian refugee crises.

For the purpose of addressing the problem posed and employing the methods that we will rely on in this research, we addressed this article in two parts, **the first part** describes the legal framework and international protection mechanisms for refugees, and **the second part** deals with the reality of Syrian refugees in the receiving countries. On the basis of distinguishing between these two issues, the following design was formulated:

Part I: the legal framework for the protection of refugees.

- 1- International conventions relating to the status of refugees
- 2- International mechanisms for the protection of refugees

Part II: the reality of Syrian refugees in the receiving countries.

- 1- the situation of Syrian refugees in neighbouring countries
- 2- The situation of Syrian refugees in the European Union

Part I: The legal mechanisms for the protection of refugees:

There was no international system defining the legal nature of refugees until the establishment of the United Nations, and for this reason, the international community noticed that it was better to conclude an international agreements according to which give a legal system of their own that distinguishes refugees from other foreigners, and in order to embody

this idea, a conference was held In Geneva in 1951 with the participation of representatives of 27 countries,during that conference(Weis (Hrsg.), 1999), the rights that states must grant to any person meet the criteria of being refugee have been determined.

International interest in the refugee issue has emerged on two main levels:

The first level is the conclusion of numerous international agreements and conventions to organize the legal status of refugees, starting with the refugee definition and specifying the conditions that must be met in order to be recognized with this description, and progressing through the statement of the rights the refugee enjoy accordingly, and the obligations towards the country of refuge.

As for the second level, it was embodied through the mechanisms of protection to this category, represented in the establishment of many institutions and agencies concerned with refugee affairs, UNHCR and the International Refugee Organization, as well as some non-governmental organizations such as: the ICRC and Amnesty International.

1- International conventions relating to the status of refugees:

The Convention Relating to the Status of Refugees provided a definition of a refugee, explicitly specifying who a refugee is, the sort of legal protection that he must acquire, as well as other social aid and rights from the signing states. A refugee is defined in Article 1 of the Convention as follows(Weis (Hrsg.), 1999):

“A person who is outside his country of nationality or habitual residence, because of a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or any political opinion. Because of that fear, he is unable or unwilling to seek the protection of that country or return to it for fear of persecution.”

The convention sets out the minimum treatment for refugees in the host countries, including their basic rights, their legal status, and contains a number of provisions regarding their rights to work, access to health care, obtaining identity cards in case of a refugee has lost his documents and travel documents etc..

In addition to the UN Convention and other regional measures, there are other treaties that protect a range of refugees' human rights. Although there are cases in which the full scope of certain rights is expressly restricted to citizens, these cases represent the exception

rather than the rule. Consequently, refugees and asylum seekers are entitled to enjoy all the human rights enshrined in the International Covenant on Civil and Political Rights (Muntarhorn, 2016), such as the right to life, freedom from torture and ill-treatment and liberty, the right to freedom of movement, expression, peaceful assembly and association, and equality before the law. and the right to acquire nationality. Article 25 of the ICCPRⁱ includes an exception limited to citizens, as it provides for the right to participate in public affairs, to vote and to be elected, and the opportunity to hold public office. Likewise, the International Covenant on Economic, Social and Cultural Rights (Rights, 1976), protects the rights of refugees to just and preferential conditions of work, to form trade unions, to social security, to an adequate standard of living, and to education. The rights contained in this international covenant apply to all individuals, including non-citizens, such as refugees, asylum seekers, stateless persons, migrant workers and victims of international human trafficking, regardless of legal status and supporting documents, Therefore, it is the duty of the host countries, whether inside or outside the territory, to do everything in their power, under international human rights law, to ensure protection of all the human rights of refugees in their countries, including economic, social and cultural rights (Weis (Hrsg.), 1999).

Moreover, Regional organizations have provided broader definitions of refugees. Article 1 and 2 of the OAUⁱⁱ, the 1969 Refugee Convention states that the term refugee refers to as (African Union, 1969),

“Anyone who is outside his country for fear of persecution because of race, religion, or nationality or because of membership of a particular social group, or political opinion, and is unable or, owing to such fear, unwilling to benefit from the protection of that State. or who is unable - because he does not hold a nationality, and is outside the country of his previous habitual residence as a result of such events - to return to it.”

The term “refugee” also applies to any civilian who is enforced to flee his place of habitual residence because of external aggression, foreign occupation, foreign domination, or events seriously disturbing public order in all or part of his country of origin or nationality in order to seek refuge in another place outside his country of origin or nationality, while the EU Charter of Fundamental Rights focused in its definition on those who cannot and for various reasons do not wish to return to their country of origin. It is noted that the descriptions of the refugee in the European charters were more comprehensive than the descriptions of the

international conventions, but they also did not give a specific definition of the term refugee and dealt with the term in general termsⁱⁱⁱ.

Moreover, The Latin American community has faced this quandary before the European community since 1889 in the Montevideo Convention, the first regional document dealing with asylum, followed by the 1954 Caracas Treaty on the right of diplomatic and regional asylum, and the famous 1984 Cartagena Declaration, which laid the legal foundation To treat refugees from Latin America specifically after the bloody clashes and battles that led to the displacement of more than one million people outside their country, creating social and economic hardships for the refugee country, The Cartagena Declaration defines refugees as follows:

“They are people who have fled their country because of a threat to their lives, security or freedom, acts of violence, external aggression, internal conflicts, a general breach of human rights, or any other circumstances that seriously disturb public order in their countries(Julio et al., n.d.).”

It is noted, by reading this text, that it talks about people/groups fleeing from their countries due to violence or aggression, and this remains non-binding despite its reliance on international law in defining states and governments. It is just a declaration and not an international treaty or agreement in the legal sense(Julio et al., n.d.).

In general, the international and regional conventions, in varying degrees, clarified the characteristics of the refugee in their definitions, which are:

- The flight of citizens in quest of a safe refuge from the conflict and external assault against their home nation.
- Having to leave the country of origin, or habitual residence, due to a certain fear/danger.
- Fear of persecution due to the individual's ethnicity, gender, religion, or political opinion.
- Hunger, poverty, disease, and natural calamities.

Where international law has categorised refugee cases and formed a strategy for resolving the refugee crisis via:

- The need for the refugee to return to his country of origin once the circumstances that motivated him to seek asylum have passed.
- Granting the refugee, the nationality of the country of asylum “resettlement”.

Also, this was confirmed by Article 8 of the Statute of the United Nations High Commissioner for Refugees on solutions to the refugee problem, which stipulates that “the mission of international protection includes preventing the forcible return of refugees, assisting refugee stability by facilitating procedures and providing legal aid and advice, and arrangements that guarantee safety and security, while encouraging on safe voluntary return until stability(Law & Treaties, 2010).

2- International mechanisms for the protection of refugees:

The practical efforts for the attention of the international community to the issue of refugees are represented in the establishment of an international body concerned with their affairs, which is the United Nations High Commissioner for Refugees “UNHCR”, which its main task is to provide international protection for refugees. Its statute provides for the legal basis for this task, defining the work of the Commission as humanitarian and non-political at all^{iv}.

By considering the High Commissioner as the only international organization responsible for refugee protection and being one of the institutions operating within the framework of the United Nations under the supervision of the General Assembly will be two essential elements in making it play an effective and leading role in contributing to solving refugee issues across different regions of the world, especially since its statute and several resolutions From the General Assembly itself, it will grant it broad powers(Law & Treaties, 2010).

The Commission's activities have been enhanced and informed by the resolutions adopted by the United Nations General Assembly and the conclusions of the Commission's Executive Committee. International protection begins with securing the admission of refugees and respect for their basic rights contained in the 1951 Convention, of which the UNHCR is responsible for respecting its provisions from the state’s parties, and it does not end except with finding sustainable solutions to the refugee problem, and the best solution is to return them voluntarily to their countries of origin(UNHCR, 2012). However, there are situations in

which the 1951 Convention cannot be applied due to the failure of the persons concerned to fulfil the conditions for acquiring refugee status contained in this Convention. In this case, it is necessary to use complementary forms of protection that can be secured, by applying human rights standards to them, or by granting them temporary protection, pending a permanent solution to their problem. But with the beginning of the nineties, and due to the crises that the world witnessed, the refugee problem came to be viewed from a completely different angle. After the focus in the past was on the right of a person to leave one's country and seek asylum in another country, today we begin to think about the repercussions of an old original formula, in which solutions were directed in a context in which the country of origin excludes refugees from participation. Or, in other words, the solutions were separate from the causes of the problem. New rights emerged that received the same degree of attention, which is what has been termed “the right to stay” and “the right not to be displaced.” There is a general consensus on the need to involve countries of origin in efforts to solve the refugee problem. Therefore, the new approach of UNHCR has become based on the idea of prevention, and is based on the fact that refugee movements are not inevitable, but can be avoided, by taking some measures aimed at reducing the threats that force individuals to leave their countries and seek asylum in another country (Law & Treaties, 2010).

The UNHCR, in accordance with its global mandate, provides protection and assistance to refugees and searches for sustainable solutions to their suffering (Nations, 1967), as well as providing the same services to other persons in need of international protection (Law & Treaties, 2010). UNHCR's mission is to lead and coordinate international action aimed at protecting refugees around the world and solving their problems, and its primary goal is to protect refugees' rights and improve their quality of life. UNHCR has signed partnership agreements with a number of new partners, including international and national NGOs, whereby UNHCR protection services include assessment, capacity building of UNHCR partners and outreach volunteers, targeted material assistance, socio-economic activities, recreational activities and psychosocial support. Legal assistance, gender-based violence referral and response, child protection activities, vocational training, community initiatives, as well as awareness-raising sessions on various issues, from residency procedures to reducing gender-based violence, where One of the most prominent permanent solutions to address the problems of refugees in accordance with the principles of international law is the commitment to the principle of resettlement, in addition to the right of voluntary return to the

homeland and local integration in the country of asylum. Resettlement of refugees means the operations and programs of transferring refugees from the country that gave them refuge to another country that agrees to allow them to enter and reside in its territory. Refugees benefiting from these programs are usually granted either asylum under the 1951 Geneva Convention or some other form of long-term residence rights. In some cases, this category of refugees has the opportunity to obtain the citizenship of the receiving country, and thus the principle of resettling refugees in another country is considered among the long-term solutions, as well as an important mechanism for providing international protection for refugees.

The right of refugees not to be returned to any country where their life or freedom would be at risk (the principle of the prohibition of expulsion or refoulement) is a cornerstone of international refugee protection. This principle is guaranteed by Article 33 of the 1951 Convention relating to the Status of Refugees (Weis (Hrsg.), 1999), and it is a well-established principle in international customary law (Greig, 2020). Article 33 of the Refugee Convention states:

“No Contracting State may expel or return a refugee in any way whatsoever to the borders of territories in which his life or freedom would be threatened because of his race, religion, nationality, membership of a particular social group, or because of his political opinions”,

This was also confirmed by Article 3 of the Declaration of Regional Refuge issued in 1967, which stipulates that no refugee may be subject to measures preventing entry at the borders... nor may he be forcibly returned or deported to any country where he may be subjected to persecution^v. As a result, closing their borders to refugees and refusing them admission puts refugees at danger of being returned to countries where their lives would be jeopardized, in breach of the non-refoulement requirement. Except for grounds of national security or public order, the Contracting State shall not deport a refugee who is irregularly present on its territory.

In addition to the work of the UNHCR, the Red Cross is active in humanitarian work for refugees. In international humanitarian law, a refugee is first and foremost a civilian who is protected for his status, provided that he has not received protection from any government (Krill & Movement, 2001). Civilians and refugees, whether they are in combat

zones, or occupied territories, they should not be the object of attack but should be left to live in peace, free from armed conflict, hostilities and hostilities.

Furthermore, with the escalation of the crisis in Syria, UNHCR stepped up its work in 2012 to respond to the humanitarian needs of the increasing number of displaced people and other affected groups, having begun its work with the first Iraqi war in 1991 and continuing its operations with the influx of Iraqi refugees to Syria in the middle of the last decade (UNHCR SYRIA, 2015). To date, UNHCR has implemented programmes to assist efforts to decrease vulnerabilities and improve protection through a wide range of community-based initiatives, with a special emphasis on the poorest and most vulnerable communities. As part of international efforts to address the Syrian refugee crisis, an international meeting was held in Geneva on the plight of Syrian refugees on March 30, 2016 (Grujil, 2022), in which countries presented new opportunities for resettlement and other forms of humanitarian acceptance, while also highlighting the challenges that will be faced over the next three years. With regard to narrowing the gap between the number of places countries want to offer to Syrian refugees and the number that UNHCR believes are urgently needed, this conference chaired by UNHCR is one of the many major events in 2016 concerned with Syrian refugees, and ended with new pledges, the most important of which are:

- Countries pledged together to slightly increase the number of resettlement places and humanitarian admissions, and the European Union committed to resettle more refugees from Turkey.
- Some countries confirmed their commitment to family reunification, including a willingness to facilitate procedures.
- A large number of countries in Latin America and Europe have announced new programs for granting humanitarian visas.
- 13 countries have confirmed scholarships and visas for Syrian refugee students.

It came after the London Conference on Syria, which focused on the financial aspect, where donors pledged \$12 billion to help needy people in Syria and the neighbouring region (UNHCR SYRIA, 2015), as well as meet the needs of communities in host countries. A meeting of Member States was also held within the United Nations in New York, on September 19, 2016, at a summit held for the first time on dealing with large waves of

refugees and migrants. Negotiations aimed at convening an international conference, adopting a global compact for safe and orderly migration in 2018, and developing guidelines on the treatment of migrants and burden-sharing and responsibility for hosting them (Micinski, 2021).

Part II: The reality of Syrian refugees in the receiving countries.

After nearly 10 years of war in Syria, the Syrian refugees are losing hope that a political solution will be reached that will end the conflict in their homeland. The intensification of fighting in almost most of the Syrian governorates has prompted thousands to leave their homes towards Syria's neighbouring countries or to seek asylum in one of the European Union countries (Gidda, n.d.).

The social and economic effects of the crisis on the host countries continue, as services at the local national level, such as the health, education and water sectors, are severely depleted. The lack of funding for humanitarian activities by the international community and the strengthening of capacity to respond to crises deepen these problems and are a catalyst for the large-scale movement of Syrian refugees to regions beyond neighbouring countries, including Europe, across land or sea borders.

1- The situation of Syrian refugees in neighbouring countries.

The on-going conflict in Syria has caused the largest refugee exodus crisis of our time. Since March 2011, approximately half of the population has been displaced, including about 8 million civilians inside Syria and about 5 million registered as refugees, who have fled to many countries (Pursey, 2012). Since the beginning of the crisis in Syria and due to the deterioration of the internal situation and the emergence of armed groups, many Syrians have sought protection to neighbouring countries, which has negatively affected the economies of these countries, while the failure of the international community to provide adequate funding for the humanitarian needs of refugees, or the support of the host countries for them through resettlement policies made Syria's neighbours unable to deal with the effects of the refugee crisis, which negatively affected their situation (Canpolat, 2017).

Jordan is one of the neighbouring countries that has taken in a substantial number of Syrian refugees. It has been dealing with the ramifications of the Syrian crisis from the beginning of 2011, which has directly resulted in enormous waves of refugees, which has

obviously and seriously impacted the national economy. In light of the historical and social relations between families in Jordan and Syria, including the relationship of lineage and intermarriage, as well as the commercial and business relations between the two peoples, approximately 1.3 million Syrian citizens entered Jordan and came to live in various cities (Ali Fakh, 2016).

Although Jordan hosts one of the largest refugee populations in the world, it is worth noting that Jordan's government's position regarding refugees is not entirely clear. It has not ratified any international treaties or protocols governing refugee treatment, including the 1951 Convention Relating to the Status of Refugees and the 1967 Additional Protocol. However, Jordan is relatively advanced on refugees and generally maintains international standards on their treatment. The MOU that Jordan signed in 1998 with the UNHCR sets the framework for refugee policy in Jordan. The document contains basic principles and standards for international protection of displaced persons, including definitions of the 1951 Convention relating to refugees and asylum seekers (Hiba Saada, 2015). The kingdom allows Syrian children to access public education, and has also made it easier for Syrians to access subsidized medical care. And the agreement that no UNHCR-accepted refugee should be removed, and that the refugee must follow Jordan's laws, regulations, and measures to protect public order. Jordan is also legally obligated to follow the principle of non-refoulement, which is widely regarded as a component of customary international law that all nations must follow.

Furthermore, the memorandum of understanding signed by Jordan excludes a number of legal rights enjoyed by refugees in countries that have joined the United Nations Convention. These rights include the right to housing, employment, mobility, relief, and public support. Furthermore, Jordan has begun to limit the breadth of protection available to Syrian refugees. Indeed, the lack of a legal framework for the United Nations Convention has provoked debate in Jordan concerning Syrians' rights in Jordan (Alshdaifat et al., 2012).

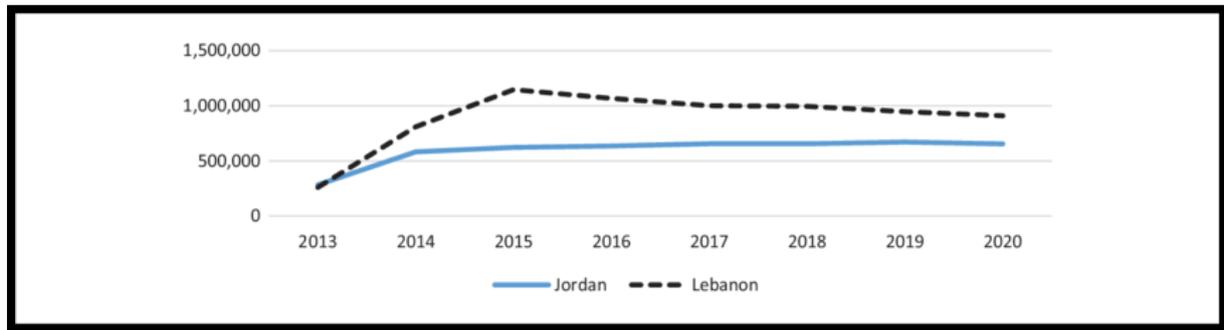
While at the same time, in Jordan, UNHCR has identified only 3 centres to register Syrian refugees, including the capital, Amman, Irbid, and Zaatari camp. These approved centres supervise the granting of a refugee card, which authorizes refugees to take benefit from the services of the United Nations High Commissioner for Refugees and provides civil and human rights protection for refugees in the country to which the refugee has sought

refuge, without any exposure. For legal accountability, except in cases where he performs actions that comes in contrary with the instructions and regulations in force in Jordan(Hiba saedaa, 2015).

in Lebanon(Vliet & Hourani, 2014), the Syrian refugee crisis has compounded the economic crisis in the country that affected the refugees and the citizens of the country at the same time. Lebanon is the first country that host the largest number of refugees in comparison to its population, and increased economic vulnerability has pushed many refugees to engage in unacceptable forms of work, especially child labour. The deteriorating situation of Syrian refugees in Lebanon has worsened the conditions imposed on refugees announced in 2015 that made them more vulnerable to abuse and marginalization, both materially and morally. The new conditions divide Syrians into two categories: those who are registered with the United Nations High Commissioner for Refugees, and those who are not. who must secure a Lebanese sponsor to remain legally in the country, which makes this category of refugees the most vulnerable to exploitation. and if the aim of the measures adopted by the Lebanese government was to reduce the number of Syrian refugees and control the entry of displaced people from Syria by crossing the borders between the two countries, it was unable to achieve this goal due to the lack of options for Syrian refugees, who are afraid to return to Syria and do not have the financial resources necessary to emigrate outside Lebanon(Marinho & Cardoso, 2018).

None of the receiving countries formalized Syrian refugees on their territory, preferring a variety of other classifications, such as guests, asylum seekers, or displaced persons. Among the neighbouring countries hosting large numbers of Syrian refugees(Alshdaifat et al., 2012), Turkey and Egypt are the only signatories to the 1951 United Nations Convention relating to the Status of Refugees and the 1967 Protocol. However, despite Turkey being one of the first signatories to the 1951 Convention relating to the Status of Refugees, which defines refugees and their rights, and defines the obligations of states towards them, Turkey has limited the application of the two conventions to refugees coming from Europe only, as It still maintains the geographical limitations of granting asylum(Bacaian, 2011), and the subjection of Syrians in general to the laws and regulations regulating the presence of foreigners inside the country, as a result, Syrians do not obtain refugee status, but they have obtained the right of “temporary protection.” And if Turkey does not want the Syrians to risk their lives trying to reach Europe through the illegal routes, then the main step that must be taken is to abolish the

geographical limitations of granting asylum on its territory, and to ensure the establishment of asylum for Syrians with full rights. On the other hand, the European Union should open channels for Syrians to facilitate access to European countries through safe and legal routes instead of facing them.



Number of Syrian refugees in Jordan and Lebanon(Haider et al., 2021).

2- The situation of Syrian refugees in the European Union.

Recent years have witnessed a sharp rise in the international refugee crisis in Europe, as the number of refugees and migrants trying to cross into European lands has increased, whether through land borders in eastern and south-eastern Europe, or through sea or air, in addition to an increase in the number of refugees trying to cross into European lands. Reach out to certain countries within Europe that offer better opportunities for refugees. Greece and Bulgaria are the main source of the refugee crisis inside Europe, as refugees and migrants come to these two countries from Turkey as crossing points to reach the rich countries in the European Union(Bacaian, 2011).

The mechanisms adopted by the member states within the European Union to grant asylum seekers are varied(Fernández-Huertas Moraga & Rapoport, 2015). For example, if a person from Afghanistan, which is classified as an unsafe country, applies for asylum in an Eastern European country, or in Belgium or Italy, the chances of his application being accepted are weak. But if he does the same thing in Germany or in the Netherlands, for example, the acceptance rate will rise, the reasons for this are mainly due to the different laws and classifications adopted in each European Union country with regard to dealing with asylum applications, and this is what made the European Commission criticize the Dublin Treaty, which was reinstated, after Germany announced a months-freezing of the entry of

thousands of refugees into its territory. it considered that this treaty proved a complete failure in containing the refugee crisis, as it lacks provisions regarding a fair distribution of refugees among the member states (Bacaian, 2011).

In September 2015, the countries of the European Union agreed on a map to share 160,000 asylum seekers among the countries of the Union, but the insistence of the member states of the European Union on the principle of national sovereignty prevented this, and only a thousand and one hundred of them were absorbed. Some governments attributed the reasons for their reluctance to absorb new refugees to their desire to verify the absence of “terrorists” among the refugees, especially after the Paris and Brussels attacks, while other governments attributed them to their weak capabilities to provide basic services to refugees and educate them.

The issue of unifying European asylum law dates back to the 1999 effort when European Council committed to work towards establishing a Common European Asylum System, based on the full and inclusive application of the Geneva Convention., which obligated member states to work on unifying laws. After 17 years of efforts, what became known as the “European Asylum Law” was actually reached, but its implementation has not yet included all member states, this law stipulates that the examination of asylum applications does not exceed a period of six months. The criteria for admission and refusal are the same as those established by the EU Asylum Support Office based on the island of Malta. Since the 1999 agreement, member states have had the final word on the numbers of arrivals. This led to a great discrepancy in European countries regarding the proportion of recognized refugees of one nationality (Fernández-Huertas Moraga & Rapoport, 2015).

On the issue of family reunification in Europe, families of separated refugees and asylum seekers are entitled to legal reunification under the European Dublin Regulation. This law also specifies the country responsible for processing asylum applications. Therefore, once a family member arrives in a country covered by the Dublin Regulation, he or she can, in theory, request that other family members to join. But in Greece, faced with the reality of the growing demand for asylum, the processing of complex Dublin cases is often slow, and it can take several months to a year - or even longer - before the family is reunited (Bacaian, 2011).

The common asylum system represents the biggest challenge in the history and history of the European Union. The mass influxes that Europe has witnessed since 2013 are considered

the highest refugee wave towards Europe ever, and because the largest proportion of these migrants set off from the Turkish borders, European aspirations to avoid the burden of migrants came after the conclusion of the European-Turkish agreement (International rescue committee, 2022).

EU member states have been trying hard to agree on the best response to the refugee crisis, and have long seen a blueprint for looking to third countries to solve the problem on their behalf, which prompted European leaders to strike a deal with Turkey to limit mass flows towards Europe. Under the agreement, Ankara will take back all refugees and migrants who crossed to Greece illegally, including Syrian refugees, starting from March 20, 2016, in exchange for Europe receiving some Syrian refugees, granting Turkey financial benefits, exempting Turkish citizens from entry visas to the bloc countries and accelerating talks on its membership in The European Union, granting three billion euros to Turkey and providing another three billion by 2018. The action plan also aims to solve the refugee crisis in two ways: first, by improving the lives of the more than two million Syrian refugees living in Turkey in the hope that they will remain there rather than move to Europe; And second, through a significant increase in the Turkish role in stopping illegal immigration by land and sea both from its coast to the Greek islands. In this regard, the United Nations High Commissioner for Refugees called on all parties to the agreement between the European Union and Turkey, to ensure that all “guarantees” are found before the return of any refugee from Greece to Turkey (Canpolat, 2017).

Although the European Union has made great efforts in responding to the situation effectively, it still has the opportunity, to exercise a greater capacity to manage the refugee crisis in an effective manner that protects the safety and security of those who fleeing conflict and persecution and upholds their human dignity, provided that it deals with the situation in a proactive manner and puts in place the necessary mechanisms for sharing responsibility Collectivization across EU member states.

The situation in most European countries due to the influx of migrants and asylum seekers, requires the creation of supranational institutions that first guarantee justice in the division of responsibilities within the European Union. For the EU-wide asylum system to be truly effective, this would have to involve relinquishing some sovereign powers. The intent is to create a European Asylum Authority that operates throughout the European Union. This

should include the establishment of an independent EU court to hear asylum appeals, and a unified EU asylum law covering issues of substantive and procedural rights and standards of treatment. This will also require a system that guarantees justice in the distribution and compensation across the European Union, as is the case now in some of these countries (such as Germany for example) regarding the reception of asylum seekers according to the absorptive capacity and protection criteria (Party, 1980).

Conclusion:

The international community has worked hard since the end of World War II to contain the successive refugee crises, and we have seen and explained this previously through the measures that were taken internationally to help refugees, starting from the 1951 Convention to the 2016 New York Declaration.

It can be said that the international community has succeeded in containing some refugee crises, but based on what the practical experience of the Syrian refugee crisis has proven and the unprecedented refugee crisis that has produced from the Syrian war, this crisis has proven the inability of the legal system due to the different legislations in the receiving countries to provide the best response possible to contain the Syrian refugee crisis.

The different challenges and economic and social crises that Syrian refugees suffer from in the countries of asylum prove not the failure of the international legal system, but its shortcomings and its need to develop in order to respond to the new challenges imposed, and accordingly we recommend the following:

- The need for concerted international efforts to establish a unified international legal system that preserves the sovereignty and interests of refugee-receiving countries, the dignity and protection of refugees, and the provision of basic necessities for a dignified life for refugees.
- Limiting the competence of the Commission to the affairs of refugees and asylum seekers only, and establishing a new international organization that takes care of groups other than the displaced, and the problems of the stateless; This is in order to reduce the burden on the High Commissioner for Refugees.

- Encouraging states, governmental organizations, and civil society organizations to cooperate with and support UNHCR in order to make its role more effective in the field of refugee protection and assistance.
- Working for a ceasefire in Syria, and appealing to regional and international parties to take a neutral stance on the Syrian conflict.
- Working to enable refugees to return voluntarily to their countries of origin, or integrate them into the host country, or through resettlement in a third country.
- Encourage the state countries to provide financial assistance to the High Commissioner to enhance its work in helping refugees.

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ⁱSee Article 25 of the ICCPR indicates:

Every citizen shall have the right and the opportunity, without any of the distinctions mentioned in article 2 and without unreasonable restrictions:

- (a) To take part in the conduct of public affairs, directly or through freely chosen representatives;
- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors;
- (c) To have access, on general terms of equality, to public service in his country.

ⁱⁱThe Organisation of African Unity (OAU) was an intergovernmental organization established on 25 May 1963 in Addis Ababa, Ethiopia, with 32 signatory governments. One of the main heads for OAU's establishment was Kwame Nkrumah of Ghana. It was disbanded on 9 July 2002 by its last chairman, South African President Thabo Mbeki, and replaced by the African Union (AU). Some of the key aims of the OAU were to encourage political and economic integration among member states, and to eradicate colonialism and neo-colonialism from the African continent.

ⁱⁱⁱArticle 18 of the EU charter of fundamental rights- Right to asylum

The right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty on European Union and the Treaty on the Functioning of the European Union (hereinafter referred to as 'the Treaties').

^{iv}The Office of the United Nations High Commissioner for Refugees was established on December 14, 1950 by the United Nations General Assembly. The agency is mandated to lead and co-ordinate international action to protect refugees and resolve refugee problems worldwide. Its primary purpose is to safeguard the rights and well-being of refugees. It strives to ensure that everyone can exercise the right to seek asylum and find safe

refuge in another State, with the option to return home voluntarily, integrate locally or to resettle in a third country. It also has a mandate to help stateless people.

In more than six decades, the agency has helped tens of millions of people restart their lives. Today, a staff of some 7,685 people in more than 125 countries continues to help some 33.9 million persons, www.unhcr.org

^ySee more from Article 3 of the Declaration on Territorial Asylum stipulates that:

- 1.** No person referred to in article 1, paragraph 1, shall be subjected to measures such as rejection at the frontier or, if he has already entered the territory in which he seeks asylum, expulsion or compulsory return to any State where he may be subjected to persecution.
- 2.** Exception may be made to the foregoing principle only for overriding reasons of national security or in order to safeguard the population, as in the case of a mass influx of persons.
- 3.** Should a State decide in any case that exception to the principle stated in paragraph 1 of this article would be justified, it shall consider the possibility of granting to the person concerned, under such conditions as it may deem appropriate, an opportunity, whether by way of provisional asylum or otherwise, of going to another State.