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The Evolution of the European Union's Asylum Policy Through the 2015 Migrant Crisis

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ABSTRACT

Since 2015, an unexpected number of migrants have rushed to the European Union in hopes of improving their lives. Contrary to their expectations, asylum-seekers realized that the EU is neither prepared nor willing to host them. This paper follows the progression of the EU's asylum policies, beginning with the 1951 Geneva Convention and the principle of non-refoulement. After establishing the criteria necessary for a migrant to be legally recognized as a refugee, the paper will look at how the EU evaluates individual applications for asylum. Through the lens of the 2015 Migrant Crisis, this paper highlights the shortcomings of the current, minimal asylum policies. The paper then concludes by evaluating a 2016 proposal to reconcile the EU's member states' respective asylum policies through a single, harmonious asylum policy.

KEYWORDS

2015 Migrant Crisis, Asylum Policy, Common European Asylum System, migrant, refugee

INTRODUCTION

The European Union (EU) has experienced unprecedented numbers of migrants attempt to enter its borders and establish residency within its member states. Simultaneously, EU countries have received unrivaled numbers of asylum applications. Many of the people coming to the EU are hoping to escape travesties at home like the Syrian Civil War, the war in Afghanistan, or conscription in the Eritrean National Service Program – often accompanied by “arbitrary detention, sexual torture, forced labor, and slavery-like practices” (Laub, 2016). Regardless of the specific reason, all of these migrants are searching for better lives for themselves and their families within the EU.

Since 2015, the EU has taken a limited number of steps in an attempt to tackle the migrant crisis. They have proposed a quota system whereby each member state would be told how many refugees they must accommodate, and they have forged a tumultuous deal with Turkey. The EU is also trying to improve the Common European Asylum System so as to better harmonize the practices related to accepting refugees across all member states. These attempts have proven to be painfully inadequate and ineffective when contextualized by the number of people who still desperately need help and protection. The EU has failed to properly care for asylum seekers or to establish an efficient method to process and evaluate their applications. Additionally, many of the countries within the EU are still refusing to accept and distribute the incoming immigrants, instead choosing to leave that responsibility on outer nations that physically receive the immigrants first.

This paper will track the advancement of EU asylum policy starting off with the 1951 Geneva Convention and the fundamental idea of non-refoulement. It will then take a look at the various directives that the EU has established in order to conform to this international law. By looking at the various actions that EU states have taken following the 2015 crisis, this paper will illuminate the existing drawbacks of EU asylum policy. It will also take a detailed look at three groups of countries – those that have openly invited refugees into their borders, those who have attempted to close their borders, and those who are forced to deal with the brunt of the refugees because of their geographic position. The paper will then conclude by discussing the future of the EU asylum system and the changes that the EU hopes to enact in the coming years.

MIGRANT VERSUS REFUGEE

Although the terms “migrant” and “refugee” have often been used interchangeably, there is an important legal distinction, especially within the context of the 2015 Migrant Crisis. All of the people who have left their home countries to make the journey into the European Union are migrants because they left “one country or region to settle in another...in search of a better life” (Glossary). The term “refugee”, however, only applies to a narrow subset of migrants. Article 1 of the 1951 Geneva Convention and Protocol Relating to the Status of Refugees (1951 Geneva Convention) defines a refugee as a 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. (Office of the United Nations High Commissioner for Refugees)

This difference is especially important because it determines just how much protection the EU is legally obliged to provide a migrant who enters a member state. Pursuant to Article 33 of the 1951 Geneva Convention, the primary difference in the way migrants and refugees are treated is called “non-refoulement” (Office of the United Nations High Commissioner for Refugees). Essentially, countries are not allowed to send refugees back to countries where there the person’s life or liberty would be threatened because of their race, religion, gender, political ideology, sexual orientation, or other inherent characteristics. Currently, people who are fleeing from Syria, Afghanistan, and Iraq are considered the most viable candidates for refugee status because there is widespread knowledge of the ongoing conflict in their home countries. This idea that people should not be subject to conditions where their life and freedom are at risk is now one of the most fundamental tenets of international law according to the United Nations High Commissioner for Refugees (UNHCR) (Edwards, 2015).

Migrants who choose to leave their countries for reasons that do not involve the possibility of immediate death or loss of freedom do not qualify for refugee status. Other reasons that migrants choose to leave their home countries can include a search for better economic opportunities or the chance to reunite with family members. Unlike with refugees, EU member states are at liberty to deport migrants who arrive to their country without the required documentation. Thus, an EU state’s ability to distinguish between economic migrants and refugees ultimately affects the rights that a person arriving in the EU has. Furthermore, this decision can either save a person from an unsafe situation or return them back to a country where their life and liberty are seriously compromised.

BACKGROUND INFORMATION

The 1951 Geneva Convention was created by the UNHCR and is an international law that is binding upon the EU member states. The following subsections will walk through the history of EU asylum policy and its attempts to conform to the rules of the 1951 Geneva Convention.

The 1951 Refugee Convention & Protocol Relating to the Status of Refugees

The UNHCR is the primary United Nations body responsible for work and policies regarding the rights and fair treatment of refugees. They consider the 1951 Refugee Convention & Protocol Relating to the Status of Refugees to be the cornerstone of their policies (United Nations). This document and its binding principles ultimately served as the starting point for future EU executive orders regarding refugee treatment.

In regards to the 2015 Migrant Crisis, the most relevant portion of the 1951 Geneva Convention comes from Article 33. Article 33 establishes the principle of non-refoulement, forbidding nations from sending back migrants for whom there is a legitimate reason to expect that they are at threat in their countries of origin (Office of the United Nations High Commissioner for Refugees).

Aside from the humanitarian principle of non-refoulement, the 1951 Geneva Convention actually offers very little guidance as to how a migrant should be treated upon arrival into a country. Boccardi claims that the overall spirit of the Geneva Convention was “inspired by the wish to afford recognized refugees a treatment as similar to the State’s own nationals” (Boccardi, 2002, p. 110). This concept was meant to be materialized through

provisions like employment, welfare, administrative assistance, freedom of movement, and the ability to transfer assets (Boccardi, 2002, p. 110). Unfortunately, these goals did not materialize in most EU member states as is evident in the 2015 Migrant Crisis. There is no international law, from the EU or otherwise, that establishes specific rules on how refugees could be fully integrated into an EU state; the limited available instructions on how refugees should be treated comes from various non-binding directives and weak regulations. While it was recommended that states maintain passable conditions for the refugees they take in, there are no objective rules defining how or to what extent a state is to ensure these conditions. Thus, it is up to individual member states to fill in these gaps, which in turn leads to a very varied treatment of refugees from state to state.

The 1990s and the Need for a Common Asylum Policy in the EU

The aforementioned lack of guidance for situations of mass refugee arrival has had negative consequences in the past. For example, this lack of guidance negatively affected refugee-seekers during the Yugoslav Wars of the 1990s. In following the minimal rules established by the 1951 Geneva Convention, each of the EU member states did have some form of policy to accept refugees, “but practices varied greatly” (Boccardi, 2002, p. 112). It was the “acknowledgement of these differences [which] pushed forward the idea that some sort of harmonization in the field [of asylum policy] was needed” (Boccardi, 2002, p. 112). Some member states were specifically interested in creating a single asylum policy because of the uneven distribution of asylum applications they were receiving: “In 1992, Germany and Austria received 450,000 refugees from former Yugoslavia, the Nordic countries 110,000 and Spain, Italy, France, and Great Britain together only 55,000” (Boccardi, 2002, p. 112). Such variation among the number of asylum applications led to different amounts of pressure on member states and really served as the catalyst for the idea of “burden sharing”.

But even after numerous EU states expressed interest in forming a uniform asylum policy, very few changes were actually put into place. Progress in creating such a plan was extremely slow: “the 1994 Commission Communication on asylum and immigration policies’ pointed out that despite the specific initiative for former Yugoslavia, no protection or [attempt] to set up an effective system of burden sharing” had been created yet. Member states thus “recommended the harmonization of national temporary protection schemes and the setting up of a monitoring system to help member states in situations of mass influx to share the refugee burden” (Boccardi, 2002, p. 113). This proposal was strongly opposed at the time by interior member states who were dealing with significantly smaller numbers of refugees and which, according to the plan, would have to substantially increase their refugee intake (Boccardi, 2002, p. 113). Because none of the member states were ready to increase their individual responsibilities, there was a constant lack of consensus between the interior and exterior EU states.

In 1996 some headway was made in formulating an asylum policy with the proposal of a resolution to create a “rapid response mechanism” that could be enacted when a situation of mass refugee arrival arose (Boccardi, 2002, p. 114). The resolution essentially suggested that if there were to be a situation where refugees arrived in huge numbers, an emergency meeting could be called where a certain number of refugees would be allocated to each of the member states (Boccardi, 2002, p. 114). This resolution was the EU’s first

attempt at proposing a quota system. Much as it did when attempted in the 2015 Migrant Crisis, this system was tested and failed miserably during the Kosovo crisis towards the end of the 20th century. It ultimately “proved impossible to achieve any consensus on refugee quotas. Each member state was only looking out for its own best interests, which led to undignified ‘squabbles’ among Member States, proving once more that a better framework was urgently needed” (Boccardi, 2002, p. 114). This “extreme lack of Community solidarity” laid the groundwork for the EU to enter the 21st century without a plan of action for a situation in which migrants arrive en masse to the EU (Boccardi, 2002, p. 113).

The Common European Asylum System (CEAS)

Another attempt to harmonize the various asylum policies of EU member states began in 1999 with the creation of the Common European Asylum System (CEAS). The overarching mission of the CEAS is to formulate a uniform asylum policy across all twenty-eight member states that would allow the outcome of an asylum application to remain constant, regardless of in which country the application is processed (Common European Asylum System). There are now three fundamental goals that serve as the basis for future CEAS development:

1. Harmonize standards of protection by further aligning EU asylum legislation among member states
2. Seek effective and well supported practical cooperation among countries
3. Increase solidarity and a sense of responsibility within the EU (Common European Asylum System)

The new CEAS also hopes to provide people applying for asylum quicker responses to their applications. So many more people than expected are seeking admission into the EU currently and thus, more applications are being submitted than are being processed. Because applications are not being processed quickly enough, migrants have been spending excessive amounts of time in overcrowded refugee camps. Livable conditions such as appropriate housing, plumbing, and access to resources are also compromised because of the amount of time that the EU takes to process applications for asylum.

Regulation (EU) No. 604/2013: The Dublin Regulation

The first piece of legislation that the EU created regarding asylum applications is the Dublin Regulation. It was established in June of 2013 to assign responsibility for processing asylum applications within the EU. The regulation establishes that the first country in which a migrant is fingerprinted and documented – ideally the first EU member state that the migrant reaches – is the country responsible for processing the migrant’s application and determining their ultimate placement (Country Responsible). This policy is meant to prevent migrants from “asylum shopping” or sending their applications for asylum to numerous EU states hoping that at least one is approved (Boccardi, 2002, p. 43). Similarly, the Dublin Regulation is intended to prevent “asylum orbiting”: a situation in which no country takes responsibility for an asylum seeker (Boccardi, 2002, 44). If the migrant moves out of the initial state, any subsequent state retains the right to send the migrant back to the state that they first entered. While the Dublin Regulation was intended to be a clear cut

process for dividing and processing asylum applications, it did not account for the unprecedented numbers of migrants that have come at one time to a few countries, as is the case with the current migrant crisis. Consequently, under the Dublin Regulation it is primarily periphery states like Hungary, Italy, and Greece that are forced to address the issues of the migrant crisis, while others gladly enjoy the opportunity to take a laxer approach.

Directive 2011/95/EU: 2011 Directive on Standards for Qualification

In 2011, the EU created the 2011 Qualification Directive to “lay down standards for the qualification of 3rd country nationals or stateless persons as beneficiaries of international protection” (Council Directive No. 2011/95/EU, p. 1). This directive is the key piece of EU legislation that the EU relies on when deciding whether to categorize a person as a refugee or not. Therefore, this directive is meant to establish guidelines that helps determine who can stay in the EU and who will be sent back to their country of origin. Despite the aforementioned life-altering decisions that are based upon interpretation of this document, the defined requirements for refugee status are extremely vague. As such, the document does not provide much structure or information as to how exactly member states are expected to process the applications of incoming refugees.

For example, Article 4 discusses the “assessment of facts and circumstances” that will determine if refugee status will be granted. Subsection (b) requires that member states evaluate “relevant statements and documentation presented by the applicant, including information on whether the applicant has been or may be subject to persecution or serious harm” (Council Directive No. 2011/95/EU, p. 6). The majority of this definition hinges on an individual’s subjective interpretation of these concepts. The definition gives no way of evaluating, for instance, which documents and statements qualify as “relevant”; there is no procedure in place that is meant to help determine when a person is considered to be in legitimate threat of either persecution or serious harm in their home country. The few feeble attempts to clarify such definitions are equally vague, rendering them useless. For instance, the term “serious harm” is defined in Article 15 as the “death penalty”, “torture and inhuman or degrading treatment”, or “serious and individual threat to a civilian’s life or person by reason of indiscriminate violence” (Council Directive No. 2011/95/EU, p. 10). This definition allows readers to understand “serious harm” as including the death penalty, however, the directive neglects to establish what actions qualify as “torture” or what type of behavior is considered “degrading” enough to warrant refugee status and protection.

As it stands, this eighteen-page document is currently one of the key tenets for EU refugee policy, but fails to establish proper guidelines that member states should search for when evaluating a candidate for asylum.

Directive 2013/33/EU: 2013 Directive on Reception Standards

In 2013 the EU put forth the 2013 Directive “laying down standards for the reception of applicants for international protections” in an attempt to outline the general practices that should be followed upon a migrant’s arrival to the EU. Keeping in mind the 1951 Geneva Convention and that EU member states have to adhere to the rules of the non-refoulement policy, the EU Commission decided to create guidelines regarding how refugees should be treated while they wait for their applications for asylum to be processed. This 2013 Directive is actually a revised version of a 2003 Directive on the same matter and

has been updated “in the interests of clarity” (Council Directive No. 2013/33/EU, p. 1). In looking at this document, this paper will focus on two clauses that establish procedures regarding how refugees should be treated and the existing pitfalls of these guidelines.

While an individual’s application for asylum is being processed, the EU determined that they were entitled to receive information on the status of their application and their legal rights within the member state that they waited in. Pursuant to Article 5, refugees are entitled to receive “any established benefits and [information regarding] the obligations with which [the member states] must comply relating to reception conditions” within fifteen days after lodging their application for international protection (Council Directive No. 2013/33/EU, p. 5). This rule in and of itself is commendable in its attempt to guarantee that refugee seekers are provided necessary information and are not left confused about their status within the member state. Part of Article 5 requires that applicants receive vital information regarding available legal assistance and health care, but this effort is undermined by Article 5, Section 2 which mandates that the information be provided in “a language that the applicant understands or is reasonably supposed to understand” (Council Directive No. 2013/33/EU, p. 5). This requirement can easily lead to some people not receiving the information in a language that they actually understand because there is an assumption that they are supposed to “reasonably” understand the language. The UNHCR voiced a similar concern when it read and evaluated the 2013 Receptions Directive and recommended that “information be provided in a language that the applicants actually understand” in order to “ensure full comprehension of and engagement in the asylum procedure” (UNHCR).

Furthermore, Article 17 Sections 1 and 2 of the 2013 Directive mandates that “material reception conditions are available to applicants when they make their application for international protection” and that these conditions “provide an adequate standard of living for the applicants, which guarantees their subsistence and protects their physical and mental health” (Council Directive No. 2013/33/EU, p. 9). Unfortunately, the 2015 Migrant Crisis illuminates multiple problems with keeping in line with this directive. First and foremost, one can see the same problems exhibited in the 2011 Directive in that its terms are vague; there are no guidelines to help determine what qualifies as an “adequate standard of living” or how EU member states are meant to protect the physical and mental health of refugees coming from outside countries. When focusing on the conditions that refugees arrive to in the EU, especially in countries like Italy and Greece, it will become apparent that the EU has failed to follow these guidelines and that the refugees are forced to endure unlivable conditions.

THE 2015 MIGRANT CRISIS

Migrants have chosen to leave their respective countries of origin and to flee to the EU for a variety of reasons which are further discussed in the following section. The reception migrants receive upon their arrivals, however, falls on a wide spectrum; some countries are prepared to welcome migrants, while others take all imaginable actions to ensure that other potential-refugees are deterred from arriving into the EU altogether.

Homeland Conditions

Since 2015, millions of people have been immigrating into the EU in search of the security and stability that their home countries can no longer provide them with. There are

various reasons for which migrants choose to leave their home countries; currently, migrants are primarily motivated by political instability and conflict. According to BBC's overview of the migrant crisis, most migrants coming into the EU are from Syria, Afghanistan, and Iraq (Migrant Crisis: Migration to Europe). In 2015, over 350,000 migrants came from Syria to enter the EU and over 150,000 migrants came from Afghanistan; in comparison, only 30,000 migrants came from Eritrea, and about 22,000 migrants came from Iran (Migrant Crisis: Migration to Europe).

In recent months, the violence in Syria has forced millions to leave their homes in search of safer prospects. People initially fled to neighboring countries like Iraq, Jordan, Lebanon, and Turkey in hopes of either resettling or moving on to the EU (Migrant Crisis: EU-Turkey Deal). Others are also fleeing from Afghanistan and Iraq to the EU in search of safety. As of September 2015, Afghans made up thirteen percent of the population of people seeking refuge in Europe (Migrant Crisis: Migration to Europe). In Afghanistan, the conflict is only worsening. Despite the fact that Afghanistan is no longer at the forefront of media attention, Human Rights Watch – a nongovernmental organization focused on reporting human rights violations globally – argues that “[migrants] know well the risks of drowning at sea or suffocating in a truck. But for those living with escalating violence and daily threats from gunmen, it can seem like a chance worth taking” (Gossman, 2015). This quote reveals the sordid state of many migrants' home countries and indicates that despite the dangers involved, the EU can easily expect the flow of immigrants to remain steady.

Host-land Conditions

There are three main ways in which individual EU countries have approached the 2015 Migrant Crisis. First, there are countries that are concerned about human rights violations and were the most willing to accept refugees through their borders. This group includes countries like Germany and Sweden. The next group of countries fall on the opposite end of the spectrum; countries like Austria and Hungary have displayed a highly xenophobic mindset and consequently want nothing to do with incoming migrants. Thus, these countries have taken extreme actions to prevent migrants from entering their country. The final group of countries are those like Greece and Italy, which are located along the Mediterranean border. These countries have inherently felt the brunt of the crisis on their shoulders because their geographic position puts them at the end of the main migration routes into Europe.

Germany

Since 2012, Germany has proven itself to be one of the most tolerant countries when it comes to accepting refugees affected by different homeland crises, especially those impacted by the Syrian Civil War. Between the years 2012 and 2014, Germany received 61,885 Syrian asylum claims (Ostrand, 2015, p. 269). In August of 2015, Germany's Federal Office for Migration and Refugees publicly announced that Germany would not be returning any refugees coming from Syria (2015 in Review). Claiming that “there is no tolerance of those who are not ready to help, where, for legal and humanitarian reasons, help is due” Chancellor Angela Merkel invited refugees and immigrants to come to Germany (Hutton, 2015). News of Germany's *Willkommenskultur* (“Welcome Culture”) spread quickly, and by the first weekend of September 2015, Germany took in over 20,000 refugees – the same

amount ex-Prime Minister David Cameron of the United Kingdom agreed to take over the course of five years (Germany! Germany!). Germany expected to receive about 800,000 asylum applications in 2015, but ultimately received 1 million applications by December 2015 (Germany Registers Record 1.1 Million Asylum Seekers).

At first, Chancellor Merkel's decision to open Germany's arms to over a million refugees was considered a welcome change from Germany's previous anti-foreigner principles and practices. Unfortunately, with continued exposure, the *Willkommenskultur* quickly faded. Towards the end of December 2015, a group of migrant men and asylum seekers robbed and sexually assaulted German women in Cologne, Germany (Germany's Refugee Crisis). This news did not garner much media attention until June of 2016. By this point, tensions were already high and many Germans had begun to feel that Chancellor Merkel made a mistake admitting so many refugees, questioning "when it would end and... exactly how so many people from other cultures were going to be absorbed" (Germany's Refugee Crisis).

Hungary

Hungary's approach to the 2015 Migrant Crisis falls on the complete opposite end of the spectrum from Germany. From the beginning, Hungary has taken an anti-immigrant approach. In her 1996 book *Refugees and Asylum: A Community Perspective*, Rebecca Wallace states that:

economic and social changes within the EU Member States have led to increased levels of racism and xenophobia. Correspondingly, perceptions that immigrants regularly submit bogus claims for asylum have also increased. This has precipitated greater restrictions being imposed by national governments. (Wallace, 1996, p. 11)

These same ideals are reflected in Hungary's practices today. Towards the end of 2015, when refugees arrived to Hungary, they were sent en mass to Germany (Kirby). In comparison to the *Willkommenskultur* established in Germany, Hungarian Prime Minister Viktor Orbán has expressed many xenophobic feelings. In a speech at the 14th Kötcse Civil Picnic to the public and fellow politicians Prime Minister Orbán blamed liberalization and "the Islamization of Europe" for the refugee crisis (Kirby). His speech describes "refugees of the past" as people that were "running for their lives" who "sought refuge beyond the nearest available state border [where] they hunkered down in safety, expecting to return, because they wanted to go home at some time" (Viktor Orbán's Speech). But because the horrors that many refugees have experienced in their homeland countries have proven unlivable and intolerable, they are choosing to risk their lives to permanently resettle in other countries – often times within the EU. Prime Minister Orbán seems suspicious of this "different" behavior and claims that Hungary is now "inundated with countless immigrants", states that "there is an invasion, [that the refugees] break down fences...[that] they are not seeking refuge, and are not running for their lives" (Viktor Orbán's Speech). He continues to argue that Hungary cannot be a country any longer if it is to allow refugees in because doing so would leave it "unable to defend its borders" (Viktor Orbán's Speech). He also argues that Hungary needs to "protect its ethnic and cultural composition" (Viktor Orbán's Speech). Claiming that Hungary is "colorful and diverse enough", Prime Minister

Orbán has put up razor wire fences around Hungary's perimeter in an attempt to protect its national borders from refugees.

Even more recently, Prime Minister Orbán called migration a “Trojan horse for terrorism” and has declared that all asylum seekers who come to Hungary will be forced into detention camps (Wintour). These detention camps are to be nothing more than standard shipping containers surrounded by barbed wire in order to ensure that migrants cannot escape. In these desolate conditions, migrants will be forced to wait for their cases to be heard via video-link in order to “save Europe” from the force that Prime Minister Orbán perceives to be a threat to “European Christian identity and culture” (Wintour). This measure passed with an overwhelming majority vote of 138 votes for the proposal to 6 votes against the proposal, with 22 abstentions (Wintour).

One would normally expect that these actions are considered illegal and in direct violation of the EU directive regarding reception conditions for those seeking refuge in the EU. As the 2013 Receptions Directive, Article 17 clearly states that an “adequate standard of living for applicants” be provided, it logically appears as if forcing migrants to live in shipping containers should be punishable. But because there are no clear standards established as to what exactly qualifies as an “adequate” standard of living, Hungary is not necessarily violating the directive and their actions remain unpunished.

Numerous organizations concerned with human rights violations have vehemently spoken against Prime Minister Orbán's actions. Amnesty International denounced Hungary's decision to “dump all refugees and migrants into containers” as a “flagrant violation of international law” (Wintour). The Amnesty International director for Europe, Gauri van Gulik, also stated that “rounding up all men, women and children seeking asylum and detaining them months on end in container camps is a new low in Hungary's race to the bottom on asylum seekers and refugees” (Wintour). The UNHCR also condemned Hungary's actions claiming that “the new law ‘violates Hungary's obligations under international and EU laws, and will have a terrible physical and psychological impact on women, children, and men who have already greatly suffered’” (Wintour). In addition to these actions, Hungary is also adamantly standing behind a proposition to put up a second electrified fence along the border separating Hungary from Serbia. This fence is scheduled to be complete by May 1, 2017 (Wintour).

Italy

European countries along the eastern Mediterranean have also seen massive influxes in the number of migrants coming to them. In order to reach Northern countries in the EU, refugees typically travel through Greece and Italy. Because of rules preventing migrants from travelling further into the EU, these people are often forced into worse and worse conditions: into cramped tents with minimal water and increasingly subpar standards for hygiene (Greece). These conditions are the norm in migrant camps which have “dingy, airless corridors thick with the odor of sweat” and sleeping mats soaked with “sewage which had overflowed from the day earlier” (Alderman, 2016). The small islands of Lesbos, Chios, and Samos currently hold over 10,000 immigrants from Syria, Afghanistan, and Iraq (Sessa-Hawkins, 2015). At the height of the migrations, 107,843 people arrived in Greece – another country along the Mediterranean border – within a single month (Greece).

Italy, similarly, is a key point of entry for migrants attempting to enter the EU.

Italy has been placed in a unique position throughout the entirety of the Refugee crisis. As one of the states on the Mediterranean border, Italy is one of the few countries that constantly is a first-arrival country for refugees. As of October 2016, Italy has officially “overtaken Greece as the main point of entry for refugees and migrants trying to enter Europe” (Baczynska, 2016). In 2015 154,000 refugees arrived to Italy and in 2016 over 160,00 refugees arrived. This statistic inherently excludes refugees that travelled undetected or were able to enter another EU country without being fingerprinted and registered while in Italy (Connor, 2016).

As a border state, Italy bears an uneven amount of the responsibility associated with caring for incoming refugees. Unless the other EU states agreeing to harmonize their asylum policy, states like Italy and Greece will continue to crumble under the pressure of taking care of so many refugees, worsening the situations that the refugees themselves are put through.

LOOKING FORWARD

Fortunately, the EU also recognizes the shortcomings of the current asylum policy and the need for change. First Vice President of the European Commission Frans Timmermans stated that:

[T]he refugee crisis has shown the weakness in our Common European Asylum System...The current system is not sustainable. Different national approaches have fuelled asylum shopping and irregular migration, while we have seen in the ongoing crisis that the Dublin rules have placed too much responsibility on just a few Member States. In the immediate term we have to apply the existing law to stabilize the situation. Beyond that, we need a sustainable system for the future, based on common rules, a fairer sharing of responsibility, and safe legal channels for those who need protection to get it in the EU. (European Commission)

Twenty years ago, the author Rebecca Wallace wrote in her book that “despite harmonization attempts, considerable differences remain between European states regarding the procedures which are followed and standards which are met when examining and deciding upon applications for refugee status” (Wallace, 1996, p. 59-60). These inconsistencies lead to different practices and approaches to a situation like the 2015 Migrant Crisis. In the current crisis, it is clear that some countries have unwittingly accepted many more refugees than they can reasonably accommodate while other countries staunchly refuse to accept that refugees have a valid claim to leave their homes and enter the EU at all.

Understanding the wide scope of issues that have come about as a result of this uneven asylum policy, Amnesty International produced a paper calling “for a binding convention on minimum standards of asylum procedure” in order to amend serious deficiencies in the existing practices. Some areas where Amnesty International hopes to see change in EU Asylum Policy is in developing “appropriate determination bodies” to assess the validity of an asylum claim, in better explicitly defining key terms like “safe third countries”, and establishing a proper, reasonable time for the application to be turned around to the applicant (Wallace, 1996, p. 61). Despite being written twenty years ago, this book discusses many of the issues that the EU Commission still hopes to address today, proving that creat-

ing change and improvement in the EU is a rather slow process.

In response to the current crisis and the clear shortcomings of the policy the EU currently follows, the European Commission released a proposal for a “Regulation...for the qualification of third-country nationals or stateless persons as beneficiaries of international protection” in mid 2016. This proposal recognizes that “there are still notable differences between the Member States in the types of procedures used, the reception conditions provided to applicants, the recognition rates and the type of protection granted to beneficiaries of international protection” (Proposal, Page 2). As such, this proposal is the EU’s attempt at “working towards an integrated, sustainable and holistic EU migration policy based on solidarity and fair sharing of responsibilities” (Proposal, 2). Such a policy could be essential in deterring another situation like the current one in which a small number of states are forced to process applications for millions of refugees under the provisions of the current Dublin Regulation.

The Commission intends to adopt four proposals so as to strengthen the Common European Asylum System:

1. A proposal replacing the Asylum Procedures Directive with a Regulation, creating a genuine, legally-binding, common procedure
2. Proposal replacing the Qualification Directive with a Regulation setting uniform standards for the recognitions of people in need of protection and the rights they are granted
3. A proposal revising the Receptions Conditions Directive, harmonizing reception conditions in the EU even further
4. Proposal for a structured Union resettlement framework, moving towards a more managed approach to international protection within the EU, ensuring safe pathways to the EU with the aim of reducing the incentives for irregular arrivals. (Proposal, 3)

CONCLUSION

The EU clearly never expected as many refugees to attempt to enter its borders as is the case in the 2015 Migrant Crisis. As such, the current institutions and people are not well equipped to handle the millions of people who are moving toward and through EU borders. This inability is clearly reflected by the camps of migrants who are still awaiting a decision regarding their applications for asylum in some of the most horrific conditions imaginable. The repugnant conditions that migrants find themselves in highlights the inability of the EU to rapidly respond to emerging crises in and near their borders. The Dublin Regulation currently puts the full onus on processing these applications on states that first receive the refugees, in this case the states along the Eastern Mediterranean. This regulation leads to an uneven distribution of responsibility among the twenty-eight EU states. Consequently, the Dublin Regulation needs to be rewritten – if not completely eliminated – understanding the need to have all member states more equally assist with the asylum application process. Furthermore, in a disturbing lack of solidarity, some countries within the EU have decided that the Refugee Crisis is not a problem that they are willing to deal with, using xenophobic principles to underline the clear fact that they do not want to help accommodate the refugees. Fortunately, the EU does recognize that there are many

shortcomings in the current system and is working towards rectifying these issues in the coming years.

AUTHOR'S NOTES

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REFERENCES

- 2015 in review: timeline of major incidences and policy responses. (2016, January 05). *ICMPD*. Retrieved March 06, 2017, from <https://www.icmpd.org/news-centre/2015-in-review-timeline-of-major-incidences-and-policy-responses/>
- Alderman, L. (2016, March 02). Greece tries to house migrants as other gates close. *The New York Times*. Retrieved from <https://www.nytimes.com/2016/03/03/world/europe/greece-scrambles-to-respond-to-migrants-in-limbo-and-more-ar-riving.html>
- Baczynska Brussels, G. (2016, October 12). Arrivals to Italy now main concern of migration crisis, says EU border guard. *The Independent*. Retrieved March 06, 2017, from <http://www.independent.co.uk/news/world/europe/refugee-migrant-crisis-italy-smugglers-greece-libya-eu-frontex-a7358146.html>
- Boccardi, I. (2002). *Europe and refugees: towards an EU asylum policy*. The Hague: Kluwer Law International.
- Common European Asylum System. (2016, December 06). *Europa*. Retrieved March 11, 2017, from https://ec.europa.eu/home-affairs/what-we-do/policies/asylum_en
- Connor, P. (2016, November 02). Italy on track to surpass Greece in refugee arrivals for 2016. *Pew Research*. Retrieved March 06, 2017, from <http://www.pewresearch.org/fact-tank/2016/11/02/italy-on-track-to-surpass-greece-in-refugee-arrivals-for-2016/>
- Council Directive No. 2011/95/EU on the standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted. 2011.
- Council Directive No. 2013/33/EU laying down standards for the reception of applicants for international protection (recast). 2013.
- Country responsible for asylum application (Dublin). (2016, December 06). *Europa*. Retrieved March 11, 2017, from [Evolution of the EU's Asylum Policy](https://ec.europa.eu/home-affairs/what-we-</p>
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- Edwards, A. (2015, August 27). UNHCR viewpoint: 'Refugee' or 'migrant' – Which is right? *UNHCR*. Retrieved March 06, 2017, from <http://www.unhcr.org/en-us/news/latest/2016/7/55df0e556/unhcr-viewpoint-refugee-migrant-right.html>
- European Commission. (2016, April 6). Commission presents options for reforming the common european asylum system and developing safe and legal pathways to Europe [Press release]. *Europa*. Retrieved March 12, 2017, from http://europa.eu/rapid/press-release_IP-16-1246_en.htm <http://www.unhcr.org/en-us/news/latest/2016/7/55df0e556/unhcr-viewpoint-refugee-migrant-right.html>
- Germany! Germany! (2015, September 12). *The Economist*. Retrieved March 06, 2017, from <http://www.economist.com/news/briefing/21664216-ordinary-germans-not-their-politicians-have-taken-lead-welcoming-syrias>
- Germany's refugee crisis. (2016, March 3). *Al Jazeera*. Retrieved March 06, 2017, from <http://www.aljazeera.com/programmes/peopleandpower/2016/03/germany-refugee-crisis-160302135618356.html>
- Germany registers record 1.1 million asylum seekers in 2015. (2016, January 6). *Al Jazeera*. Retrieved March 06, 2017, from <http://america.aljazeera.com/articles/2016/1/6/refugees-germany-more-than-1million.html>
- Glossary. (2016, June 12). *Al Jazeera*. Retrieved March 10, 2017, from http://ec.europa.eu/immigration/glossary_en#glosM <http://america.aljazeera.com/articles/2016/1/6/refugees-germany-more-than-1million.html>
- Gossman, P. (2015, September 16). Dispatches: why Afghans are leaving. *HRW*. Retrieved March 06, 2017, from <https://www.hrw.org/news/2015/09/16/dispatches-why-afghans-are-leaving>
- Greece refugee crisis: Border area at breaking point. (2016, March 5). *Al Jazeera*. Retrieved March 06, 2017, from <http://www.aljazeera.com/news/2016/03/refugee-crisis-greek-governor-urges-state-emergency-160305130622083.html>
- Hutton, W. (2015, August 29). Angela Merkel's humane stance on immigration is a lesson to us all. *The Guardian*. Retrieved March 06, 2017, from <https://www.theguardian.com/commentisfree/2015/aug/30/immigration-asylumseekers-refugees-migrants-angela-merkel>
- Kirby, N. E. (2017). An evaluation of the common European asylum system's shortcomings and proposed Reforms: under consideration of the member states' reactions to the "European Refugee Crisis" since 2015. (Bachelor's Thesis)
- Laub, Z. (2016, September 16). Authoritarianism in Eritrea and the Migrant Crisis. *CFR*. Retrieved March 06, 2017, from <http://www.cfr.org/eritrea/authoritarianism-eritrea-migrant-crisis/p37239>
- Migrant crisis: EU-Turkey deal comes into effect. (2016, March 20). *BBC*. Retrieved March 06, 2017, from <http://www.bbc.com/news/world-europe-35854413>
- Migrant crisis: Migration to Europe explained in seven charts. (2016, March 04). *BBC*. Retrieved March 06, 2017, from <http://www.bbc.com/news/world-europe-34131911>

- Office of the United Nations High Commissioner for Refugees. (n.d.). *The 1951 Refugee Convention*. Retrieved March 10, 2017, from <http://www.unhcr.org/en-us/1951-refugee-convention.html>
- Ostrand, N. (2015). The syrian refugee crisis: a comparison of responses by Germany, Sweden, the United Kingdom, and the United States. *Journal on Migration and Human Security*, 3(3), 255–279. doi:10.14240/jmhs.v3i3.51
- Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL establishing a common procedure for international protection in the Union and repealing Directive 2013/32/EU (Rep.). (2016, April). *Europa*. Retrieved March 12, 2017, from European Commission website <https://ec.europa.eu/transparency/regdoc/rep/1/2016/EN/1-2016-467-EN-F1-1.PDF>
- Wallace, R. (1996). *Refugees and asylum: a community perspective*. London, UK: Butterworths.
- Sessa-Hawkins, M. (2015, December 11). A region-by-region guide to the Middle East's migrant crisis. *PBS*. Retrieved March 06, 2017, from <http://www.pbs.org/newshour/updates/your-guide-to-europes-migrant-crisis/>
- UNHCR Annotated Comments to Directive 2013/33/EU of the European Parliament and Council of 26 June 2013 laying down standards for the reception of applicants for international protection (recast)(Rep.). (n.d.). *UNHCR*. Retrieved March 12, 2017, from UNHCR website: <http://www.refworld.org/pdfid/5541d4f24.pdf>
- United Nations High Commissioner for Refugees. (n.d.). *The 1951 Refugee Convention*. *UNHCR*. Retrieved March 10, 2017, from <http://www.unhcr.org/en-us/1951-refugee-convention.html>
- Viktor Orbán's speech at the 14th Kötse civil picnic. (2015, September 17). *Kormany*. Retrieved March 11, 2017, from <http://www.kormany.hu/en/the-prime-minister/the-prime-minister-s-speeches/viktor-orban-s-speech-at-the-14th-kotcse-civil-picnic>
- Wintour, P. (2017, March 07). Hungary to detain all asylum seekers in container camps. *The Guardian*. Retrieved March 12, 2017, from <https://www.theguardian.com/world/2017/mar/07/-hungary-to-detain-all-asylum-seekers-in-container-camps> <http://www.pbs.org/newshour/updates/your-guide-to-europes-migrant-crisis/>

