

SYRIAN REFUGEE CRISIS

*An ache for home in the face
of annihilation*

By Meghna Bhaskar¹

Legal Research Assistant at Goeman
Bind HTO



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* THIS PAPER IS APPROVED BY AKASH KASHYAP,
SR. LAW & POLICY SCHOLAR, GOEMAN BIND HTO

¹ The author, Meghna Bhaskar, is a first year student of law at Symbiosis Law School, Pune, India. She is enrolled in the B.A/LL.B (Hons.) 5 year programme and will graduate in the year 2021.

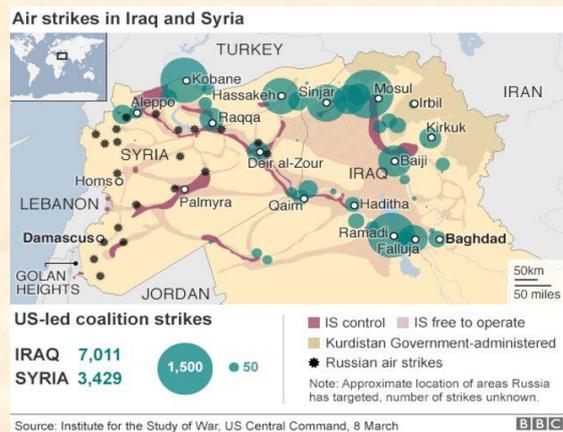
WHY IS THERE A REFUGEE CRISIS IN SYRIA?

In March 2011, in the Southern district Deraa, Syria, civilians dared to raise their voice against the government in power. They wished to assert their political freedom, but fate and the Assad regime had different plans for them. The protests were sparked by the arrest and custodial torture of a group of teenagers for painting revolutionary slogans on a school wall. The Ba'athist government headed by Bashar al-Assad was a dystopian nightmare for any citizen that dreamed of individuality and freedom. Citizens were stifled by the corrupt government, which stamped down on their freedom of speech, expression and association.

The pro-democracy protests inspired a violent backlash by the government, which responded with inhumane force, taking the lives of many protestors. However, the people of Syria were unfettered and pushed back even harder than before. This string of attacks and counter-attacks continued and Syria soon descended neck deep into one of

the most gruesome of civil wars that history had ever witnessed.

By 2012 the war had spread wide and far and had reached Damascus and Aleppo, Syria's capital and most populous city, respectively. The war was



complicated by the intervention of the players of the Cold War and a number of terrorist outfits, whom turned Syria into another proxy war zone – like Korea, Cambodia, Afghanistan, and Vietnam before them. These intervening players include Russia, United Kingdom, France, United States of America, Turkey, Saudi Arabia, Qatar, Jordan and Lebanon's Shia Islamist Hezbollah movement.²

The conflict acquired a heavy sectarian overtone as the resentment between the country's Sunni majority against the president's Shia Alawite sect

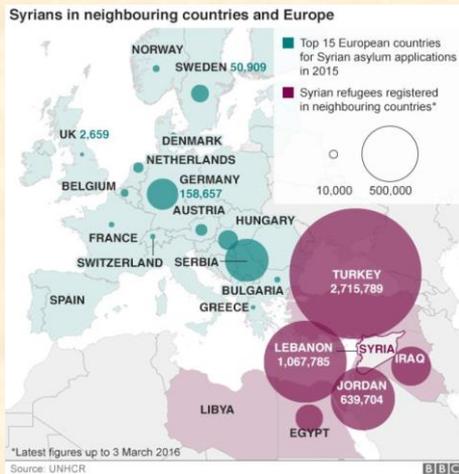
grew³. This axis of conflict provided an opportunity to the Islamic State, which nurtured itself amidst the sectarian crisis and introduced the terror of jihad in the region. By 2014, the Islamic State had taken control of large parts of Syria in a bid to achieve its goal of establishing a 'Caliphate'. However IS was not peacefully transferred power in any region; hundreds of people were ruthlessly maimed and killed at the behest of IS's one-track mind of dominance. But killing innocents came at a price for the terrorist organization; the United States launched air strikes in the September of 2014 in a bid to annihilate IS.

All the violence forced people to flee for their lives and thus began the Syrian refugee crisis: one of the largest displacement of people in the history of mankind. According to UNHCR, over 5 million people have fled Syria since

2011, apart from the 13.5 million people in need in Syria, 6.3 million internally displaced persons and 4.6 million people in hard-to-reach and besieged areas.

² Lucy Rodgers, David Gritten, James Offer and Patrick Asare, "Syria: The story of the conflict", BBC News, 11 March, 2016

³ STERN, JESSICA & BERGER, J.M., "ISIS - The State of Terror", William Collin, 2015.



WHO IS A REFUGEE?

The status of a refugee is a declaration, not an acquisition and the ambit of international law distinctly elucidates who must be conferred this status and who mustn't. There are various parameters ranging from geography to chronology which must be canvassed before one can be deemed a refugee. The Office of the United Nations High Commissioner for Refugees abbreviated as UNHCR, funnels the plethora of dynamics into three broad parameters - Inclusion, Cessation and Exclusion.⁴ The inclusion clauses act as a positive filter and enshrine the criteria that labels a person with the status of a refugee. The latter two act as

⁴ Available at - <http://www.unhcr.org/publications/legal/3d58e13b4/handbook-procedures-criteria-determining-refugee-status-under-1951-convention.html> Last accessed on the 20th of May, 2017 at 9:18 pm

negative filters and enlist the provisions which do not enable a person or cease to enable a person, access to the status in question.

Article 1 (A) of the 1951 Convention Relating to the Status of Refugees⁵ provides the definition of the term refugee. It bifurcates the definition in two - a prospective application and a retrospective one. The act seeks to extend protection not only to the refugees of the present and the future but also to the persons who were considered refugees before the enactment of the 1951 convention. For this purpose, it confers the status of a refugee to a person characterized as a refugee under the arrangements of 12 May 1926 and 30 June 1928, under the Conventions of 28 October 1933 and 10 February 1938, under Protocol of 14 September 1939 or the Constitution of the International Refugee Organization⁶. It means that any person designated as a refugee in the aforementioned enactments qualifies as a refugee under the 1951 convention as well, unless a cessation clause expressly bars

⁵ UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, available at: <http://www.unhcr.org/3b66c2aa10> [accessed 5 June 2017]

⁶ *ibid.*

him from the status.⁷ However, this retrospective provision is becoming redundant by the day mainly due to the reason that the generation of refugees that this clause is applicable to, that is, persons deemed as refugees before 1951, exist in dwindling numbers.

Article 1A, section 1, of the 1951 Convention applies the expression "Refugee", to any individual considered a displaced person under the earlier international agreements. Article 1A, section 2, read now together with the 1967 Protocol, in the absence of the time bar, offers a general meaning of the refugee as including any individual who is outside their nation of root and not able or unwilling to return there or avail its protection, by virtue of an established dread or fear of oppression for reasons of race, religion, nationality, participation of a specific gathering, or political conclusion. Stateless people may likewise be exiles in this sense, wherein their nation of source or citizenship is comprehended as "the nation of previous constant habitation". The individuals who have more than one nationality might be considered as refugees within the meaning of the Convention if such other

⁷ Asylum And International Law, S. Prakash Sinha, Martinus Nijhoff, The Hague, 1971

nationality or nationalities are incapable of extending protection to their citizens.⁸

TEMPORARY ASYLUM AND DEROGATION OF RIGHTS

Temporary refuge refers to an extension of partial protection to a refugee. It is a partial derogation of the rights of a refugee enshrined within the 1951 convention. Temporary refuge can be invoked lawfully by the parties to the convention and has become commonplace due to the mass-influx of refugees around the world. When an exorbitant number of refugees seek and receive shelter by a country, it puts a considerable burden on the national security as well as the resources of the country, making it a tough and rather perilous decision to provide them permanent asylum within their territory. However, the 1951 convention does not expressly provide for such a derogation of refugee rights, although article 8

⁸ UN High Commissioner for Refugees (UNHCR), *Handbook and Guidelines on Procedures and Criteria for Determining Refugee Status under the 1951 Convention and the 1967 Protocol Relating to the Status of Refugees*, December 2011, HCR/1P/4/ENG/REV. 3, available at: <http://www.unhcr.org/3d58e13b4.pdf> [accessed 5 June 2017]

and 9⁹ of the convention do talk of certain provisional measures that the countries can take to this extent.¹⁰

Over the years, the realm of international law has sought to resolve the contentious ambit of a temporary refuge, with the latest discussion being held in July 2012, at a Round-table conference summoned by the United Nations High Commissioner for Refugees.¹¹ This congregation facilitated the process of the recognition of 'Temporary Refuge' as an internationally agreed doctrine.

Although the stand of this doctrine vis-a-vis the 1951 Convention and 1967 Protocol is still ambiguous, it is agreed upon that the doctrine is to be employed, but in consonance with the state's commitment to the principle of 'non-refoulement' and protection of the fundamental human rights of a refugee. The doctrine must never abrogate the very institution of asylum and

⁹ Article 8 - Exemption From Exceptional Measures; Article 9 - Provisional Measures

¹⁰ UN General Assembly, *Convention Relating to the Status of Refugees*, 28 July 1951, United Nations, Treaty Series, vol. 189, p. 137, available at: <http://www.refworld.org/docid/3be01b964.html> [accessed 31 May 2017]

¹¹ Alice Edwards, *"Temporary Protection, Derogation and the 1951 Refugee Convention"* Available at - http://law.unimelb.edu.au/_data/assets/pdf_file/0005/1687379/Edwards.pdf [accessed 31st May, 2017]

international protection to persons who fear persecution, armed conflict or any form of generalized violence in their home countries.¹² Lastly, states must assist such other states which have temporarily given refuge to certain people in the form of financial aid or embracing a few refugees in consonance with the internationally accepted principle of 'burden sharing'. In the case of agglomerations, mainly the European Union, the member states must systematically divide the burden of the refugees amongst themselves.¹³

It must be noted that a person seeking temporary refuge may or not be deemed as a refugee within the meaning enshrined in the 1951 convention or the 1967 protocol. Furthermore, the grounds for seeking and receiving temporary refuge are broader and

¹² International Law Association, International Law Association, Resolution 5/2002 on Refugee Procedures (Guidelines on Temporary Protection), 6 April 2002, 5/2002-, available at: <http://www.refworld.org/docid/4280b0804.html> [accessed 1 June 2017]

¹³ European Union: Council of the European Union, Council Directive 20 01/55/EC of 20 July 2001 on Minimum Standards for Giving Temporary Protection in the Event of a Mass Influx of Displaced Persons and on Measures Promoting a Balance of Efforts Between Member States in Receiving such Persons and Bearing the Consequences Thereof, 7 August 2001, OJ L.212/12-212/23; 7.8.2001, 2001/55/EC, available at: <http://www.unhcr.org/4d944dcb9.html> [accessed 1 June 2017]

not only include fear of persecution, but also fear of armed conflict, generalized violence and threat to one's life and freedom.¹⁴ Moreover, they receive a legal status to ensure that their rights are protected for the duration of their stay.

Temporary protection is an immediate relief measure to tackle mass influxes of refugees in order to mitigate the overwhelming of the host country's asylum system. Thus, there exists a thick and growing line of distinction between a temporary and permanent asylum seeker. The former, though the more popular and easier approach, is not often sought as it comes with its fair share of demerits. A country accepting such a huge number of refugees must set certain limits and prioritize their citizens above the refugees which leads to heavy and sometimes unreasonable restrictions on the refugees. Curbs on their movement and freedom coupled with negligible rights has drawn them to the point of near destitution. Many a times, such restrictions lead to human rights violation as one saw in the case of Syrian refugees in North Africa and Turkey where the Syrian refugees had close to no access to social services and legitimate employment. In the April 2014,

¹⁴ *ibid.*

Turkey counted a total of 900,000 refugees within its border however, only 220,000 of them were living in government-run camps. Those outside the camps ran at a grave risk of destitution, exploitation and homelessness.¹⁵ Subsequently, this worked adversely for both, the host country as well as the refugees for the latter tended to indulge in illegal activities to earn a livelihood and scrape together four square meals a day. This culminated in violent targeting and harassment of such refugees by the local population and other asylum seekers and boils down to a game of 'survival of the fittest'. The inefficient police protection, discrimination at workplace, negligible medical aid and social assistance and the hostile education environment did not help much in this regard either.¹⁶

Thus, in more cases than not, refugees would voluntarily want

¹⁵ Amnesty International, *Human Cost of Fortress Europe - Human Rights Violations against Migrants and Refugees at Europe's Borders*, 9 July 2014, EUR 05/001/2014. Available at - <https://www.amnesty.ch/de/themen/asyl-und-migration/festung-europa/dok/2015/die-kampagne-sos-europa/bericht-the-human-cost-of-fortress-Europe> [accessed - 1st June 2017]

¹⁶ Organization for Refuge, Asylum & Migration (ORAM), *Unsafe Haven: The Security Challenges Facing Lesbian, Gay, Bisexual and Transgender Asylum Seekers and Refugees in Turkey* (Updated edition), June 2011, available at: <http://www.refworld.org/docid/524c114f4.html> [accessed 1 June 2017]

to leave the country protecting them and return to their home country, when normalcy dawns. They rarely have a fair shot at integrating into the society and becoming one of them. They dwell and perish on the outskirts of social, political and economic life. They are as much prey in a foreign land as they are in their own which leaves them with little or no incentive to seek permanent refuge and stay.

It would not be incorrect to state that refugees add to the already overflowing plate of host countries but sometimes refugees act as the missing jigsaw piece to the puzzle. Embracing refugees can go both ways for a nation and all factors - economic, political, demographic and social - must be accessed before extending protection. For example, if a country which is low on resources and has a high unemployment rate accepts refugees, then it puts its economy in grave danger. The example of what took place in Guinea is apt to show the downside of naturalization. The integration of Liberian and Sierra Leonean refugees opened a Pandora's box of delinquency, prostitution, sexual violence and crime.¹⁷ Thus, providing

¹⁷ Alice Farmer (2014), *Refugee Responses, State-like Behavior, and Accountability for Human Rights Violations: A Case Study of Sexual Violence in Guinea's Refugee Camps, Issue 1 Yale Human Rights and Development Journal*,

permanent asylum or locally integrating refugees into a country's society is absolutely a circumstantial call.

At this particular point, it is imperative for one to know that international law does not limit itself to local integration and this is precisely where temporary refuge becomes a relevant topic of discussion. UNHCR's '*Framework for Durable Solutions for Refugees and Persons of Concern*'¹⁸ has laid down "4Rs" of durable solutions that refugees can avail in times of distress - Repatriation, Reintegration, Rehabilitation and Reconstruction.

Repatriation is the return of a refugee to his or her own country if and when the conditions are congenial enough to sustain a peaceful life or, if and when the conditions of the host country change so drastically that they are no more able to protect the refugees. The former case is an example of voluntary repatriation and the latter usually culminates

Volume 9, Article 2, Available at - <http://digitalcommons.law.yale.edu/cgi/viewcontent.cgi?article=1054&context=yhrdlj> [Accessed - 3rd June, 2017]

¹⁸ UN High Commissioner for Refugees (UNHCR), *Framework for Durable Solutions for Refugees and Persons of Concern*, May 2003, available at: <http://www.unhcr.org/partners/partners/3f1408764/framework-durable-solutions-refugees-persons-concern.html> [accessed 3 June 2017]

in an involuntary variation of repatriation. Reintegration and Repatriation are closely related wherein reintegration is a solution and repatriation is the process to execute that solution. Voluntary repatriation is the most popular choice of refugees¹⁹ and is heavily assisted by international entities such as the UNHCR.

The writer believes that temporary protection followed by voluntary repatriation and reintegration is the way to go for it is a victorious situation for both parties involved - the host country as well as the refugees. Not only does the country must bear the social, demographic and economic burden of refugees, they are also relieved from diplomatic confrontations with their allies which may have contradicting interests to theirs. Furthermore, the refugees get to return to the land they've called home and get an actual opportunity at restoring all that they had lost or given up during the crisis. The fourfold process of reintegration which comprises of legal, political, economic and social integration, ensures a total restoration of peace and amends to the bridges between the refugees and

compatriots which stood in fear of being burnt, had permanent asylum been sought by the former. It aims at a total restoration of legal rights (political, civil, economic, social and cultural rights²⁰) and duties and to integrate the refugees into the society as citizens standing on the same pedestal as the person next to them. The statistical evidence only goes on to support the stand of the author. According to data published by the UNHCR, a mere 1.1 million persons have sought and acquired citizenship of their country of asylum²¹ in the past decade and the numbers are decreasing if anything at all. In 2014, the total number of naturalized/integrated refugees stood at 32,100 which staggered to 32,000 in 2015. On the other hand, during 2015, roughly 201,400 refugees returned to their countries of origin, with 57% of them (115,800) receiving UNHCR assistance. This was a tremendous leap from 2014 statistics, when 126,000 refugees returned. During the past two decades, an estimated 17.1 million refugees

¹⁹ UN High Commissioner for Refugees (UNHCR), *Handbook for Repatriation and Reintegration Activities*, May 2004, available at: <http://www.unhcr.org/411786694.pdf> [accessed 3 June 2017]

²⁰ *ibid.*

²¹ UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2015*, 20 June 2016, available at: <http://www.unhcr.org/576408cd7.pdf> [accessed 3 June 2017]

have returned to their country of origin.²²

Therefore, it is in consonance with the best interests of all, that asylum may be of a temporary and transient nature and that local integration be treated as an option and not an obligation on either party.

IS THE REFUGEE CRISIS A SOCIO POLITICAL ISSUE RATHER THAN A HUMAN RIGHTS CRISIS?

It would be folly to compartmentalize such a pertinent and vast issue as the Syrian Refugee Crisis. The mammoth scale at which this issue is operating, inevitably attracts various factors which affect in a multitude of ways. The refugee crisis has directly and indirectly affected huge masses and from each calamity that stems from it, a new dimension is added to the catastrophe.

Before the author delves into analyzing the paradigm within which the Syrian Refugee Crisis operates, it is imperative to

²² UN High Commissioner for Refugees (UNHCR), *Global Trends: Forced Displacement in 2015*, 20 June 2016, available at: <http://www.unhcr.org/576408cd7.pdf> [accessed 3 June 2017]

understand what a socio-political issue is as differentiated from a human rights issue. As suggested by the nomenclature of the term, Socio-political issues are the ones which cause a change to the social and political mechanisms of a country. Such issues directly or indirectly have an affect on the aforementioned on the polity and society of a place. Global warming, right of man and woman, terrorism are common examples of socio-political problems plaguing the world today. Human rights issues, on the other hand, function on a narrower scale and pertain to violations of those rights which a man acquires by virtue of being a human. It is the violation of certain inalienable rights that are granted to man by his country and by the international community. Such rights are guaranteed and protected by the force of law, an abrogation of which gives birth to human rights crisis. Thus, Human rights issues fall within the category of socio-political crisis for they disrupt societal peace and cause political upheaval in their wake.

The Syrian Refugee Crisis is no exception to the aforementioned deduction. The author at this point must question the reader of how much society and political life is left in Syria, if has to wonder. In streets stained with the blood of children and the debris of what

once was called home, Syria seems less of a society and more of a no-man's land. There has been a complete breach of trust, a systematic destruction of shared values and cooperation seasoned with the fatal wound of sectarianism and anti-secularism. What once was a thriving land has been reduced to a by-product of terror.

Much like its society, Syrian politics is in shambles. If anything, it has only facilitated the ongoing civil war. There exists a deep-rooted political cause to this entire adversity and that is dissatisfaction with the Assad regime headed by the then Syrian President, Bashar al-Assad. The people of Syria stifled in the absence of political freedom, lack of employment, denial of basic rights and repression by the state. They were unhappy with the government in power and did not want to face the brunt of an ignorant regime anymore. What began as a peaceful protest soon turned ghastly and violent at the behest of the government's violent response to the public outcry. Syria soon started following the 'eye for an eye' policy not thinking that it would make the whole world blind. What followed was something beyond the imagination of either party. Syria became a proxy battleground for various countries and terrorist outfits, mainly the Islamic State.

Backed by powerful countries, Syria received the arms and money to fight a war and the bloodshed increased at a herculean pace. Such a chain of events would remind one of the Cold War, however with ten times the blood spilt. Syria became the most congenial environment for terrorism to foster and it spread like wildfire, gripping and taking control of the country's politics and society. Years later, the situation persists, aggravating by the day. It has engulfed more players and severed political and diplomatic ties between nations who take contradictory stands on the issue. Countries which promote air strikes to annihilate the anti-socialists receive backlash from the countries which wish to negotiate peace accords between the rebels and civilians and vice versa. Thus, it is safe to say that the very bedrock of Syria's crisis was a strong political desire for change which culminated in an unprecedented conflict.

The refugee crisis is as much of a humanitarian and human rights crisis as it is a socio-political one. According to data released by the Syrian Centre for Policy Research, 470,000 persons have been killed since the onset of the civil war. Furthermore, 6.1 million have been internally displaced with 4.8 million seeking refuge in other

countries.²³ One can close their eyes and label the Syrian Refugee Crisis as a strong of human rights violations. Res Ipsa Loquitur, a commonly applied principle of law literally translates to, 'When a thing speaks for itself' and can be used to describe the ongoing situation of the Syrians. The brazen disregard for humanity is for the world to see as there is nothing covert about the hostilities and inhumane treatment of innocents in this particular war. Neither the people within Syria, nor the refugees outside it have access to the most basic of human rights which in ordinary course are considered inalienable and nonerasable. The war is operating in complete ignorance of international norms and that is what makes it such a sensitive and dangerous issue. Poison gas, chemical warfare, air strikes, open firing are just a few of the methods that have been employed by both the government and the rebels. Less gruesome, though equally heinous offences include unlawful killing of children, medical personnel and hospital patients, torture including sexual and psychological torture; arbitrary arrest; deployment of tanks and

²³ ²³ Human Rights Watch, *World Report 2017*, 12 January 2017, available at: <https://www.hrw.org/world-report/2017/country-chapters/lebanon> [accessed 25th May, 2017]

helicopter gunships in densely populated areas; heavy and indiscriminate shelling of civilian areas; enforced disappearances; wide scale and systematic destruction and looting of property; the systematic denial, in some areas, of food and water; and the prevention of medical treatment, including to children.²⁴

Therefore, it would be a miscalculation and misjudgment to narrow the Syrian Refugee Crisis to a socio-political or human rights issue when it is so vast a problem that it spans across both fields. Furthermore, the issues themselves are not mutually exclusive and neither can they be sealed in water-tight compartment - each one flows from the one into the other.

SHOULD SYRIAN MEN, WOMEN AND CHILDREN BE TREATED UNIFORMLY?

Such a question would ordinarily demand the application of the straightjacket formula of equality,

²⁴ UN High Commissioner for Refugees (UNHCR), *Report of the United Nations High Commissioner for maggagistic Human Rights on the situation of human rights in the Syrian Arab Republic*, 15 September 2011. Available at - http://www.ohchr.org/Documents/countries/SY/Syria_Report_2011-08-17.pdf [Accessed - 25th May, 0217]

but not in the case of Syria. The author here isn't trying to insinuate inequality or its draconian counterparts, but merely trying to say that equality must not be applied as the layman perceives it. For any common man, equality means equal protection before the eyes of law or equal application of law to all. What many omit is the notion of 'Equity'. Equity is as important as equality is and if the latter is not read in the same breath as the former, equality is as good as breached. Equity here suggests affirmative action and the equal treatment of equals. One cannot expect a disabled and a healthy man to run the same race just because everyone must be treated equally. Thus, positive discrimination or affirmative action is pursued when a section of people differ from the masses due to their position or treatment in society, their economic or social background or due to any physical disability.

The case in Syria demands this positive discrimination. Women in Syria have always had to fight twice as hard for something their counterpart would receive with ease. Women rights have always been a point of contention in the country and it was not surprising that they faced the brunt of the refugee crisis harsher than men. Anecdotal evidence shows how Syrian women have been

widowed, divorced or abandoned and left alone to tend to themselves and their children. With little or no source of income, this task proves to be a real challenge for most of them. Women are forced to take upon the role of the bread-earners of the family, a role conventionally played by the men of the house. This puts them in fear of harassment and exploitation apart from their separate share of internal struggle in taking the wheel of the household in a male-dominated society. To add to their struggles, is a society that does not want to offer jobs to women for they are perceived as unqualified for the job.

Most women who have to venture out in search of jobs are single mothers and thus have the added burden of feeding and raising her children. The youth of any country is its asset and must be given priority. It is the youth that has the power to bring change and maybe even peace in the war-torn country of Syria. If the youth is compromised then Syria has little or no hope of ever having a fresh start. For these children, politics or power struggle are mere words put together, but a bright future is the silver lining they dream of every night.

Syria has also orphaned many children, leaving them with no shelter, food or protection, making

them the most vulnerable targets. Many such children get roped into the war and turn into a sorry product of their violent circumstances. According to data published by UNICEF, over 8 million Syrian children are in dire need of aid, including more than 2 million child refugees.²⁵

The women and children of Syria suffer much more than the Syrian men do and thus they must be provided extra aid to be uplifted from the crisis. Currently, women and mainly the children are circling in the very vortex of this catastrophe and the international community must come together to help them. Orphaned children must be escorted to foster or adoption homes. Single mothers must be provided employment and food supplies. Children must be able to avail educational facilities. They must be provided immunization, clean water, health care amongst other things.

This, however does not mean a blatant disregard for the Syrian refugee men and their rights. In this social tangent of a political issue, women and children must be provided the necessary support to at least bring them at par with

²⁵ UNICEF, *Child Refugee Crisis - Syrian Children Under Siege*, Available at - <https://www.unicefusa.org/mission/emergencies/child-refugees/syria-crisis> [Accessed - 26th May, 2017]

men so that they have a real shot at normalcy.

THE RESPONSE OF THE INTERNATIONAL COMMUNITY TO THE SYRIAN REFUGEE CRISIS

The Syrian civil war has entered its seventh year and its refugee crisis is only escalating from bad to worse. Gruesome violence, power play and air strikes have targeted the innocent civilians of Syria and culminated into what many label as the biggest refugee crisis since World War II.

The Syrian refugee crisis has received aid and assistance from many countries, agglomerations, international entities, non-profit organizations and individuals during the course of its 7-year journey. Money has been raised, resources have been pooled, data and statistics have been collected and analyzed, negotiations have been discussed. However, it cannot be said that no stone has been left unturned in restoring normalcy in the lives of the displaced, for every entity has a limit to which it can provide assistance beyond which it may end up harming itself. Many countries have started to push back refugees through involuntary repatriation because they fear that terrorism might seep into their

borders. Others fear backlash from the locals who feel that the refugees are encroaching upon their resources and employment opportunities. In a constant tussle between taking the moral high ground and accepting the cons of such a moral move, many countries have failed and achieved at the task in hand. The author shall explain this by looking at three countries and their participation in the Syrian Refugee Crisis - Lebanon, Turkey and United States of America.

I. Lebanon

Lebanon, officially known as the Lebanese Republic is a small country that shares borders with the war-torn Syria and is in close proximity to its capital, Damascus. Its geographical location is perhaps the main reason for the massive influx of refugees which numbered up to a whopping 1,011,366²⁶ according to UNHCR data published in 2017. This inundation of refugees into a country with a population of a meager 5.8 million has increased its population by around 20% and given it the tag of being the

²⁶ United Nations High Commissioner for Refugees (UNHCR), *Syria Regional Refugee Response*. Available at - <http://data.unhcr.org/syrianrefugees/regional.php> [Accessed - 25th May, 2017]

country with the largest per capita refugee population.²⁷

It has opened its gates to 30.675 million of the 277.985 Palestinian refugees and has been applauded for its generosity by the world community. It has received immense funding from its bilateral partnership with the European Commission. The European Union has allocated close to €880 million²⁸ in assistance to the refugees in Lebanon and is slated to allocated €1 billion to Lebanon and Jordan by the end of 2017.²⁹

However, as mentioned before, harboring refugees is not an easy task and amidst its own fair share of political upheaval, Lebanon began to crumble. Come 2015 and the Lebanese government introduced a string of regulations which virtually closed Lebanon's doors to refugees. Its residency renewal regulations rendered

²⁷ European Commission, *Humanitarian Aid and Civil Protection - Lebanon: Syria Crisis*. Available at - http://ec.europa.eu/echo/files/aid/countries/factsheets/lebanon_syria_crisis_en.pdf [Accessed - 25th May, 2017]

²⁸ European Commission, *European Neighbourhood Policy And Enlargement Negotiations - Lebanon*, Available at - https://ec.europa.eu/neighbourhood-enlargement/neighbourhood/countries/lebanon_en [Accessed - 25th May, 2017]

²⁹ European Union, *Managing the Refugee Crisis - EU Support to Lebanon*, Available at - https://eeas.europa.eu/sites/eeas/files/8_lebanon_3pg.pdf [Accessed - 25th May, 2017]

many refugees undocumented and without a legal status. Lebanon's Ministry of Social Affairs went as far as requesting UNHCR to deregister all refugees that had entered its borders post January 5th, 2015 in a bid to reduce the number of refugees³⁰. Lebanon's desperation to close its borders to refugees coupled with the fact that it is not a signatory to the 1951 Refugee Convention, left the refugees in a precarious and vulnerable state. A few isolated cases of Palestinians being deported to Syria have also been reported by Human Rights Watch.³¹ Even though the 29-month vacancy of the Presidential office has now been filled up, stability is a far cry for the refugees in Lebanon. Lebanon is home to 500,000 school aged - refugees, however not even half of them are able to avail educational facilities.³² All in all, Lebanon, which was once a haven for

³⁰ Human Rights Watch, *World Report 2016 - Lebanon*, 27 January 2016, available at: <https://www.hrw.org/world-report/2016/country-chapters/lebanon> [accessed 25 May 2017]

³¹ Human Rights Watch, *Lebanon: UPR Submission March 2015*, April 1, 2015, Available at - <https://www.hrw.org/news/2015/04/01/lebanon-upr-submission-march-2015> [Accessed - 25th May, 2017]

³² Human Rights Watch, *World Report 2017 - Lebanon*, 12 January 2017, available at: <https://www.hrw.org/world-report/2017/country-chapters/lebanon> [accessed 25th May 2017]

innumerable refugees has now become inaccessible to those outside it and deplorable for the ones within it.

II. Turkey

Turkey boasts of a staggering 3.2 million strong Syrian refugee population making it the country with the largest refugee population in the world. Turkey has received €664 million in humanitarian funding from the European Commission since the start of the crisis.³³

However, a mere 260, 000 people are find refuge in the 26 camps run by the Disaster and Emergency Management Presidency of Turkey (AFAD) leaving 90% of them as non-camp refugees who are settled in urban areas, where they seek their own accommodation and work opportunities.³⁴ Therefore, a majority of the refugees live in deplorable condition and have

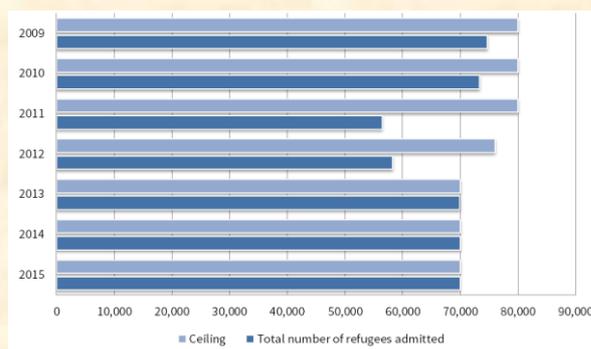
³³ European Commission, *European Civil Protection and Humanitarian Aid Options - Turkey: Refugee Crisis*. Available at - http://ec.europa.eu/echo/files/aid/countries/factsheets/turkey_syrian_crisis_en.pdf [Accessed - 25th May, 2017]

³⁴ World Bank, *Turkey's Response to the Syrian Refugee Crisis and the Road Ahead*, December, 2015. Available at - <http://documents.worldbank.org/curated/en/583841468185391586/pdf/102184-WP-P151079-Box394822B-PUBLIC-FINAL-TurkeysResponseToSyrianRefugees-eng-12-17-15.pdf> [Accessed - 25th May, 2017]

negligible access to resources and facilities that the camp-refugees are provided.

In November 2015, the European Union launched a €3 billion Facility for Refugees in Turkey to meet out complementary humanitarian aid to the refugees in Turkey. The Facility is funded both from the EU budget and contributions of Member States. Furthermore, EU's flagship humanitarian program, The Emergency Social Safety Net (ESSN) was introduced. It allows for a single card social assistance scheme that will allow up to 1 million of the most vulnerable refugees to meet their most pressing basic needs.³⁵

Clearly, Turkey's open-border and 'temporary protection' policies have reached their saturation



point and Turkey's taken more on

³⁵ European Commission, *European Civil Protection and Humanitarian Aid Options - Turkey: Refugee Crisis*. Available at - http://ec.europa.eu/echo/files/aid/countries/factsheets/turkey_syrian_crisis_en.pdf [Accessed - 25th May, 2017]

its plate than it can possible handle. Thus, Turkey is in dire need of a systematic policy to handle the vast population of refugees within its borders and to cope with the economic and social challenges that they have put the country and its citizens in.

III. United States of America

The United States of America has found itself in the spotlight ever so often, being one of the most influential countries on the planet and the bearer of the tag of 'hegemon' till a few decades ago.

The policy of the United States with respect to Syrian refugees can be divided into two periods - The presidential era before and after Donald Trump assumed office of the President of the United States.

Each year, the President, in consultation with the Congress sets an upper limit or ceiling for the number of refugees to be admitted into the United States for that year. The table below shows the upper limits for the years 2009 - 2014.³⁶

³⁶ American Immigration Council, *An Overview of U.S. Refugee Law and Policy*, November 8, 2015. Available at - <https://www.americanimmigrationcouncil.org/research/overview-us-refugee-law-and-policy> [Accessed - 26th May, 2017]

In financial year 2015, over a third of all refugee arrivals i.e. 35.1% or 24,579, came from the Near East/South Asia - the region that includes Iraq, Iran, Bhutan, and Afghanistan.³⁷

Furthermore, in 2015, White House press secretary Josh Earnest announced that President Obama had directed the U.S. government to accept at least 10,000 refugees from Syria in the next fiscal year (2016), which would lead to a six-fold increase over the number admitted in 2015 to the United States.³⁸

However, more impressive than its refugee intake is its stake in donations made towards the refugee crisis. United States stands as the largest donor to the Syrian refugee crisis sticking close to its policy of taking care of things outside its borders rather than within it.

With the coming of the most controversial President in the history of United States, Donald

³⁷ *Ibid.*

³⁸ Juliet Eilperin, Carol Morello, "President Obama directs administration to accept at least 10,000 Syrian refugees in the next fiscal year", *The Washington Post*, September 10, 2015. Available at - https://www.washingtonpost.com/news/world-views/wp/2015/09/10/president-obama-directs-administration-to-accept-at-least-10000-syrian-refugees-in-the-next-fiscal-year/?tid=a_inl&utm_term=.e4270079909e [Accessed - 27th May, 2017]

Trump, this policy has been reiterated more than ever before. Earlier this year, United States announced \$566 million in additional assistance to the refugee crisis bringing U.S. humanitarian assistance to more than \$6.5 billion since the start of the Syria crisis in 2012.³⁹

Trump and his administration is extremely skeptic of allowing refugees into US's borders. Early on in his term, the President signed executive orders temporarily banning refugees from all nations from entering the United States, with the first order banning Syrian refugee resettlement indefinitely. However, both actions were halted by the courts and are currently sub judice.

Having said this, 1,317 Syrian refugees have entered the U.S. in the month of January since Mr. Trump took office according to the Department of State and 1,299, or 98.5 percent of them have been Muslim. 673 Syrian refugees entered US in February, followed by 282 in March and 226 in April.⁴⁰ Nonetheless, the Trump

³⁹ US Department of State, *U.S. Humanitarian Assistance in Response to the Syrian Crisis*, 5th April, 2017. Available at - <https://www.state.gov/j/prm/releases/factsheets/2017/269469.htm> [Accessed - 26th May, 2017]

⁴⁰ US Department of State, Refugee Processing Center, *Admissions & Arrivals*. Available at -

administration will miss the ceiling of an intake of 110,00 refugees for financial year 2017 by a huge margin.⁴¹

In a nutshell, Syrian refugees are still entering the United States however their numbers are decreasing by the month due to the policies and executive orders being pursued by the government in power. However, US is still providing immense humanitarian aid to the crisis and promises to continue to do so.

LAWS AND POLICIES IN USA IN CONTEXT OF COMPLIANCE WITH INTERNATIONAL TREATIES AND CONVENTIONS

The sources of international law can be bifurcated into two - International agreements and Customs⁴². Whilst customs are

<http://www.wrapsnet.org/admissions-and-arrivals/> [Accessed - 26th May, 2017]

⁴¹ Congressional Research Service, *Refugee Admissions and Resettlement Policy*, November 30, 2016. Available at - <https://fas.org/sgp/crs/misc/RL31269.pdf> [Accessed - 26th May, 2017]

⁴² Michael John Garcia, *International Law and Agreements: Their Effect upon U.S. Law*, February 18, 2015, Congressional Research Service Report. Available at - <https://fas.org/sgp/crs/misc/RL32528.pdf> [Accessed - 26th May, 2017]

vague and domestic, it mostly depends upon convention. However, International agreements such as treaties and conventions form the ever-changing and dynamic part of international law and is our subject of focus. International agreements, in the United States can be entered into through a treaty or an executive agreement.

Treaties under the US law have a much narrower meaning than they do under international law. The difference usually lies in the fact that a treaty must be given consent to and ratified by the Senate and President respectively. In consonance with Article II, Section 2, Clause 2 of the United States Constitution, treaties must be concurred by at least two-thirds of the Senate and subsequently ratifies by the President to come into force.⁴³

Being a Presidential form of government, the United States confers immense powers on its executive head, the President. In context of international agreements, this power can be seen in the form of the president's faculty to authorize international agreements through what are

⁴³ U.S. Const. art. I, § 3, cl. 2. Available at - <https://constitutioncenter.org/media/files/constitution.pdf> [Accessed - 26th May, 2017]

called 'Executive Agreements'.⁴⁴ Such agreements, negotiated by the Executive are sent to the Senate for approval, however many a times the Executive omits the 2/3rd majority's approval and does away with a simple majority. Such agreements are called 'Congressional Executive Agreements'. Furthermore, in certain cases, the Senate is not involved at all. The President, through an executive order enters into an agreement without the involvement of the Congress. Such agreements are called Presidential or Sole Executive Agreements. This particular power vested with the President is considered rather dubious and vague. An example of this is the very recent withdrawal of the United States from the Paris Climate Agreement. The agreement was entered into by former President of the United States, Barack Obama through a Presidential Agreement. Without the Congress's approval, it became a rather easy task for the current President, Donald Trump to exit the Paris Accord since it had never been formally adopted in the first place.

⁴⁴ Frederic L. Kirgis, *International Agreements and U.S. Law*, Vol.2 Issue 5, 27th May, 1997, American Society of International Law. Available at - <https://www.asil.org/insights/volume/2/issue/5/international-agreements-and-us-law> [Accessed - 26th May, 2017]

The role of the Senate is not limited to giving consent to treaties and congressional agreements, it also passes legislations to enforce treaties and agreements that are non-self-executing. Without the requisite domestic laws, the treaties and agreements will not have any legal backing and will become subordinate to federal law. However, if the treaty is a self executing treaty, it is found to be superior to the State laws⁴⁵, equal to the Federal laws and inferior to the Constitution⁴⁶. In case of agreements, all are superior to State laws⁴⁷ and inferior to the

⁴⁵ See U.S. CONST., art. VI, §2 ("the laws of the United States ... [and] all treaties made, or which shall be made, under the authority of the United States, shall be the supreme Law of the Land"); *Ware v. Hylton*, 3 U.S. (3 Dall.) 199, 237 (1796) ("laws of any of the States, contrary to a treaty, shall be disregarded").

⁴⁶ *Reid v. Covert*, 354 U.S. 1 (1957) (Black, J., plural) ("It would be manifestly contrary to the objectives of those who created the Constitution, as well as those who were responsible for the Bill of Rights-let alone alien to our entire constitutional history and tradition-to construe [the Supremacy Clause] as permitting the United States to exercise power under an international agreement without observing constitutional prohibitions."); *Doe v. Braden*, 57 U.S. 635, 657 (1853) ("The treaty is therefore a law made by the proper authority, and the courts of justice have no right to annul or disregard any of its provisions, unless they violate the Constitution of the United States."). See generally RESTATEMENT, supra footnote 1, §115.

⁴⁷ *United States v. Belmont*, 301 U.S. 324 (1937) (sole executive agreement concerning settlement of U.S.-Soviet claims provided federal government with authority to recover claims held in New York banks, despite existence of state laws that would generally bar their

Constitution. Their superiority or inferiority to the Federal laws is solely dependent upon the nature of the agreement. However, Congressional-executive agreements or executive agreements pursuant to treaties are equivalent to federal law.⁴⁸

Furthermore, State Regulations Department prescribes the 'Circular 175 procedure' to determine and ascertain whether an international agreement should take the form of a treaty or an executive agreement.⁴⁹ ⁵⁰ This procedure bestows upon the State Department the faculty to approve the negotiation and conclusion of all international agreements to which the U.S. will become a party.

recovery); *United States v. Pink*, 315 U.S. 203 (1942) (similar).

⁴⁸ *Dames & Moore*, 453 U.S. at 654 - (upholding sole executive agreement concerning the handling of Iranian assets in the United States, despite the existence of a potentially conflicting statute, given Congress's historical acquiescence to these types of agreements). An executive agreement may override an existing federal law if it concerns an enumerated or inherent executive power under the Constitution, or if Congress has historically acquiesced to the President entering agreements in the relevant area.

⁴⁹ 11 Foreign Affairs Manual (F.A.M.) chapter 720. Available at - <https://fam.state.gov/FAM/11FAM/11FAM0720.html> [Accessed - 26th May, 2017]

⁵⁰ 22 C.F.R. Part 181. Available at - <https://www.law.cornell.edu/cfr/text/22/part-181> [Accessed - 26th May, 2017]

Thus, in more cases than not, US gives a status of superiority to its international obligations. However, it has its fair share of loopholes with regard to the arbitrary nature of Sole Executive Agreements. In all other cases, the treaties and agreements are backed by the Senate/Congress and are either backed by further legislation or are found to be self executing.

DOES THE REFUGEE CRISIS LACK A UNIFORM POLICY?

The Syrian civil war has been going on for years without a solution, much like the refugee crisis that stemmed from it. Such a situation demands us to questions ourselves - Where are we going wrong?

In the author's opinion, the answer is something absurd and qualitative albeit glaring at us through all of our ignorance. The root of it all is the way refugees are looked upon by countries and their countrymen alike. Refugees are seen as the sorry yet hostile by products of a heart-wrenching fate. Refugees are sympathized with, though not aided enough. They are feared.

Every nation today is responding to the refugee crisis as it deems fit.

Some countries are opening their borders to every refugee while others want nothing to do with the issue altogether. It is true, that the refugee crisis lacks uniformity.

On one hand we have Turkey, which has taken more refugees than it can and on the other hand we have the United States, which has the capacity to protect a vast population of the refugees but refuses to do so. This bi-polarity is bad at both ends. Refugees in Turkey are suffering just as much as the ones standing on the border of the United States, begging to be let in and collectively they are probably suffering just as much as they were in their home country. Countries not only differ in their approach towards refugees, but in their viewpoint regarding the entire civil war itself. This has triggered more violence and made the situation more complex. Some countries want to adopt a violent approach to end the civil war while others wish to enter into peace talks and currently, both schools of thought are pursuing their whims at the behest of innocent lives. Thus, the very least the international community can do, is to formulate a uniform policy with which they want to combat the problem and move forward from there.

Another issue is the refugee camps where countless refugees are piled like stock. There is little or no supervision over these

camps and no uniform standard to be met. Refugees seldom receive adequate resources as promised and many of them live in lamentable and deplorable conditions. The civil war is not coming to an end in the near future and the refugees have to wait for years, maybe decades before they can return to their home country. Thus, refugee children have to grow up and plan a future in a country that has thrown them on the outskirts and treated them ill. This may cause a sense of resentment and facilitate them to resort to illegal means to earn a living. Thus, refugee camps may soon give rise to crime, violence and the like. All in all, the world needs to stop treating the refugees as a threat and help them integrate into their society like normal citizens.

RECOMMENDATIONS TO RESOLVE THE SYRIAN REFUGEE CRISIS

The following are a few pointers which may help in resolving or reducing the impact of the refugee crisis -

1. More money must be raised as most refugees are still living in dire conditions and the state of refugee camps is also deplorable. Many of them have no access to education, food,

- water and basic facilities required to live a dignified life.
2. Countries such as Lebanon and Turkey must be provided funding and humanitarian aid, due to the large numbers of refugees they are harboring within their borders. If the international community does not aid these generous countries, they might soon crumble under economic pressure and would be forced to repatriate the refugees.
 3. Refugee camps must be surveilled and should be frequently checked by government officials in order to ensure that proper aid is being provided to the refugees and to prevent any type of sexual harassment or violence within the camps or between locals and refugees.
 4. Visa laws should be made lax for refugees. Preliminary and basic checks must be conducted, however the process should not be more complex than it ordinarily is. This would help refugees reunite with their families and find sanctuary easily.
 5. More employment opportunities must be provided to refugees who face discrimination and hostility from the locals of the host country who feel that the former are impinging on their rightful opportunities of employment. Thus, enough portals of employment must be opened in order to minimize such conflict.
 6. Hundreds of refugees die every year in commute from one country to the other. Thus a systematic channel of movement of refugees must be created so that they do not resort to life threatening and illegal routes.
 7. Many people around the world own private islands. These could be made open to refugees and can harbor a vast number of them without causing any security threat to the country in which the island is located. Many countries do not harbor refugees for they fear a security breach or conflict between the locals and the refugees. However in this way, the refugees are at a distance from the mainland and cause no harm or interference whatsoever. This suggestion, though far fetched can prove to be rather feasible.
 8. If countries are apprehensive of providing permanent asylum to refugees, they can at least extend temporary shelter and protection to them until they can be repatriated to their

country of origin when normalcy dawns.

9. Peace talks must be negotiated between the rebels, the government and the terrorist outfits in Syria in order to bring the war to an end for once and for all. This, though utopian, would bring back peace in the land which has cried tears of blood for years.

I would like to conclude with words of the great academician, philosopher and writer, Tariq Ramadan -

“Your enemy is not the refugee. Your enemy is the one who made him a refugee.”

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