

**REFUGEE CRISIS AND THE LIMITS OF THE EU HUMAN
RIGHTS NORM PROMOTION**

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HUMAN RIGHTS PROMOTION & THE EU

Indicated in the EU's official website

(https://europa.eu/european-union/topics/human-rights_en)

- There are two main streams of human rights policy and action within the European Union
 - to protect the fundamental human rights for EU citizens
 - to promote human rights worldwide

It has strong commitments in terms of human rights norm promotion declared in treaties, policy papers, external relations (Copenhagen political criteria in human rights)

EU policy on human rights includes:

- promoting the rights of women, children, minorities and displaced persons**
- opposing the death penalty, torture, human trafficking and discrimination
- defending civil, political, economic, social and cultural rights
- defending human rights through active partnership with partner countries, international and regional organizations, and groups and associations at all levels of society
- inclusion of human rights clauses in all agreements on trade or cooperation with non-EU countries**



- *Article 2 of the Treaty of the European Union (TEU) declares the Union to be “founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail.”*
- *Article 3 of the Treaty goes on to describe the aim of the Union as promoting its values.*



NORMATIVE POWER EUROPE (NPE)

The EU's Human Rights norm promotion in international politics is mostly conceptualized within NPE role conception

The EU's constitution on a normative basis "predisposes it to act normatively in world politics" (Ian Manners, 2002)

NPE is ideational and indifferent from materialist aspects of the EU's foreign policy

According to Manners, the European Union's normative character is predominantly based upon;

five core norms: peace, liberty, democracy, the rule of law, and respect for human rights

four minor norms: social solidarity, anti-discrimination, sustainable development, and good governance



- With respect to the EU's human rights norm promoter role and its normative power on 'other' countries, **Manners suggests a three-stage analysis for normative justification comprising an **action-impact-change** cycle=IDEATIONAL CHANGE**
- Finnemore and Sikkink suggests norm emergence, norm acceptance/cascade, and norm internalization.
- Finnemore and Sikkink's categorization of norm diffusion can help this study to detect **what the EU does not do and should do.**
- Manners' insistence on reflexive monitoring for a more normative Union is defined by a 'should' modality
- Finnemore and Sikkink's counterpart modality 'oughtness' as an advice the for shaping 'normal'.



NORM'S LIFE CYCLE

Finnemore and Sikkink (1998)=norm's "life cycle" from norm emergence, over norm cascade (acceptance to norm socialization), to norm internalization

Finnemore and Sikkink's categorization on norm diffusion helps to understand **what the EU does not do!** And **what the EU ought to do?**

1. stage: the role of norm entrepreneurs - agents who want to convince a larger group of states to embrace a new norm

the emergence of the norm can be motivated, among others, by 'empathy, altruism, and ideational commitment

2. stage: Once a large enough group of countries has accepted the new norm, norm is being diffused by national agents: norm started to be socialized by the state and NGOs

3. stage: the agent might internalize the norm, effectively taking it for granted

norm emergence	norm cascade (acceptance)	internalization
stage 1	stage 2	stage 3

**Tipping point
(Threshold for Normative Change)**



EU HUMAN RIGHTS NORM CYCLE

NORM EMERGENCE: Human Rights norms emergence in the Universal Level

NORM ACCEPTANCE: EU Member States sign these Universal Conventions
The EU declared these Conventions as its reference point in human rights ;
The EU embedded them into Treaties

NORM SOCIALIZATION: Human Rights norms are transferred into the domestic laws, protected by European Court of Justice (Rule of Law) and consolidated by EU Policies

NORM INTERNALIZATION: Norms are habituated and the new norm is taken for granted ??????

once the life cycle of any norm has been completed, it can be asserted that the **norm is internalized, bureaucratized, and institutionalized.**

This means that **both the society and its political leaders have accepted and habituated the norm.**



INTERNATIONAL HUMAN RIGHTS NORM (NORM EMERGENCE)

All EU states are parties to the 1951 Refugee Convention and other international human rights treaties.

- Universal Declaration on Human Rights
- European Convention on Human Rights
- The UN Convention on the Rights of the Child
- 1951 Refugee Convention
- International Convention on the Elimination of All Forms of Racial Discrimination
- International Covenant on Civil and Political Rights
- International Covenant on Economic, Social and Cultural Rights
- Responsibility to Protect Norm



EU'S HUMAN RIGHTS NORM ACCEPTANCE AND SOCIALIZATION

- THE EU TAKES THESE CONVENTIONS REFERENCE IN ITS HUMAN RIGHTS NORM CONSTRUCTION
- MEMBER STATES INDIVIDUALLY ARE THE SIGNATORIES OF THESE CONVENTIONS
- IN ORDER TO UNDERSTAND WHETHER THE EU SOCIALIZED AND INTERNALIZED HUMAN RIGHTS NORM INSIDE ITS BORDERS,

ONE OF THE HUMAN RIGHTS CASE IS SELECTED: **REFUGEES & MIGRATION**

- REFUGEE RIGHTS IS A PART OF ALL UNIVERSAL HUMAN RIGHTS CONVENTIONS
- SPECIFICALLY **GENEVA CONVENTION (1951) AND RESPONSIBILITY TO PROTECT PRINCIPLE** ARE IMPORTANT TO UNDERSTAND THE EXTENT OF HUMAN RIGHTS NORM INTERNALIZATION OF THE EU



EU'S RESPONSES TO REFUGEE CRISIS AND LIMITS OF HUMAN RIGHTS NORM PROMOTION

- Since Syrian Crisis started, more than 5,714,6641 Syrians have fled
- These people are subject to international protection
- They receive a refugee, asylum, migrant, temporarily protection or subsidiary protection or related statuses.

Norm Acceptance: European countries are the signatories of
The European Convention of Human Rights (1950)
UN Convention on the Status of Refugees (1951, the Geneva Convention),
Responsibility to Protect (UN 2005) in the international scale

Norm Socialization:
The EU Charter of Fundamental Rights (2007)
Dublin Regulations(2013)
Common European Asylum System

Hence these people's arrival and how they are protected is a **significant 'existential question' for the EU's credibility in human rights self-image**



THE EU MEMBER STATES ACCEPT: EUROPEAN CONVENTION ON HUMAN RIGHTS

- According to ECHR, the right to freedom of movement is guaranteed under Article 2, Protocol no 4 of the ECHR
- Nevertheless, right of an alien to enter and remain in a member country or right to asylum is not guaranteed.
- However, Council of Europe obliges member states to act in accordance with ECHR principles such as,
- Exercising control of borders, member states must act in conformity with the ECHR standards and
- **consider anti-discrimination principles**
- **protect the rights of migrants subject to territorial jurisdiction**
- **Protect the rights of migrants during the entry and reception**



EU MEMBER STATES ACCEPT: 1951 REFUGEE CONVENTION

Geneva Convention established the standards of international law for humanitarian treatment in war

The core principle is **non-refoulement contained in Article 33 of the Convention**, which asserts that **a refugee should not be returned to a country where they face serious threats to their life or freedom.**

Other Rights of the Refugees are;

- **The right not to be expelled, except under certain, strictly defined conditions (Article 32);**
- **The right not to be punished for illegal entry into the territory of a contracting State (Article 31);**
- **The right to work (Articles 17 to 19);**
- **The right to housing (Article 21);**
- **The right to education (Article 22);**
- **The right to public relief and assistance (Article 23);**
- **The right to freedom of religion (Article 4);**
- **The right to access the courts (Article 16);**
- **The right to freedom of movement within the territory (Article 26); and**
- **The right to be issued identity and travel documents (Articles 27 and 28).**



GENEVA CONVENTIONS'S SAFE COUNTRY DEFINITION

Safe Third Country that treats a person seeking international protection in accordance with the following principles:

- (a) life and liberty are not threatened on account of race, religion, nationality, membership of a particular social group or political opinion;
- (b) there is no risk of serious harm as defined in Directive 2011/95/EU (Recast Qualification Directive) ;
- (c) the principle of non-refoulement in accordance with the Geneva Refugee Convention and Protocol is respected;
- (d) the prohibition of removal, in violation of the right to freedom from torture and cruel, inhuman or degrading treatment as laid down in international law, is respected; and
- (e) **the possibility exists to request refugee status** and, if found to be a refugee, to receive protection in accordance with the Geneva Refugee Convention and Protocol.



EU MEMBER STATES ACCEPT: RESPONSIBILITY TO PROTECT NORM

- Launched in 2005, the R2P principle has become a widely discussed international human rights norm
- It is a global political commitment that addresses four key concerns to prevent genocide, war crimes, ethnic cleansing and crimes against humanity.
- Its implementation, however, remains thorny and problematic (failure to respond in a timely to the Syrian crisis)
- R2P principle unfolds through three main responsibilities:
 - (a) responsibility to prevent the causes which might put populations at risk;
 - (b) responsibility to react to situations of human needs with all the necessary means;
 - (c) responsibility to rebuild by providing recovery and reconstruction

It commits states to protect their society from any violence against humanity on the one hand, but also obliges these states or international society- to take responsibility in the protection of people who are facing with atrocities by their national authorities



THE EU'S NORM SOCIALIZATION

- The EU defines its own Safe Country Definition
- The EU Charter of Fundamental Rights (2007)
- Dublin Regulations(2013)
- Common European Asylum System

Besides, the EU accepts below mentioned as member states' and EU's common values

Anti-discrimination

Rule of Law

Human Rights

Right to Asylum



EU'S SAFE THIRD COUNTRY DEFINITION

- International Law (the Geneva Convention) and EU law (the Asylum Procedures Directive) consider a country safe when **there is a democratic system** and generally and consistently:
 - No persecution
 - No torture or inhuman or degrading treatment or punishment
 - No threat of violence
 - No armed conflict

Candidate countries are designated as Safe Countries



DUBLIN REGULATION (2013)

- Regulation (EU) No 604/2013 : the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person
- The objective of the Dublin Regulation is to ensure quick access to asylum procedures and the examination of an application on the merits by a single, clearly determined Member State

THE EU & R2P

In 2013, the European Parliament (2013) called for member states and EU institutions to agree a European Consensus on R2P

In 2015, the EU appointed an R2P contact point, a Deputy Secretary-General of the European External Action Service

The 2016 Global Strategy signaled that building the 'resilience' of societies would help prevent conflicts and crises

In 2017, an EU statement revealed that an atrocity prevention toolkit was being developed



THE EU CHARTER ON FUNDAMENTAL RIGHTS & COMMON EUROPEAN ASYLUM POLICY

- The right to asylum is guaranteed by Article 18 of the EU Charter of Fundamental Rights.
- In the Fundamental Rights of the EU, it is indicated that

Everyone fleeing persecution or serious harm in their own country has the right to ask for international protection.

Asylum is a fundamental right and granting it to people who comply with the criteria set in the 1951 Geneva Convention relating to the status of refugees.

It is an international obligation for States parties, which include EU Member States

In the Common European Asylum System it is indicated that; «EU Member States have a shared responsibility to welcome asylum seekers in a dignified manner, ensuring they are treated fairly and that their case is examined to uniform standards so that, no matter where an applicant applies, the outcome will be similar.»



HAVE HUMAN RIGHTS NORMS BEEN INTERNALIZED IN THE EU?

Responsibility to Protect Act

- There is still no clear high-level declaration regarding the EU's commitment to mass atrocity prevention or R2P
- Member states-such as Poland and Hungary-are unable or unwilling to contemplate the use of force to protect populations from atrocities
- There is no consensus over the use of measures to protect populations, including imposing sanctions or accepting refugees.



HAVE HUMAN RIGHTS NORMS BEEN INTERNALIZED IN THE EU?

Dublin Regime III (Dublin Regulation)

Among the EU Member States, **Italy, Greece and Hungary**, whose geographic location makes them easier entry points, are those most affected by the influx of Syrian refugees.

In Asylum applications: **Restrictive responses made by Hungarian far-right government**, which was constantly warned by both the EU especially over Afghan Refugees

Southern entries are to Italy and Greece, majority of **asylum applications have been rejected in the first instance**

The failure to register in the first entry or blocking these people's entry "**reflect the fact that these countries clearly broke the EU's Dublin Regulation-No.604/2013**"

Because according to Dublin Regulation **the first member state where fingerprint is recorded or asylum/refugee claim is lodged is responsible for this claim, not other countries**



TURKEY-EU DEAL

2015 Joint Action Plan between Turkey-EU

2016 Turkey-EU Deal

- Turkey put geographical reservation on receiving refugees (only European people). But according to Geneva Convention if one refugee is resettled to another country he/she has to be granted again with refugee status
- Syrians are granted under Temporarily Protection status in Turkey
- Turkey is constantly warned by the EU in terms of democracy, human rights and rule of law through progress reports. These criteria are not comprehensively fulfilled
- Hence non-refoulement principle is contravened
- funding still not completely settled.



INCOMPLETE NORM INTERNALIZATION

- INSTEAD OF REFORMING COMMON EUROPEAN ASYLUM SYSTEM AND ARRANGING SOLUTION PLANS; REFUGEES ARE TRANSFERRED TO TURKEY
- Refugee crisis management is held within hostage of the dilemma or a dichotomy between 'border control argument'
- based on security concerns versus 'duty of protection' triggered with human rights norm promotion self-image before others
- EU puts Syrian people as well as other asylum seekers as a bargaining tool
- It curves international regulations in favour of the EU or more specifically member states' interest in which at the same time becomes the subject of human rights violation

