



NEAR EAST UNIVERSITY
GRADUATE SCHOOL OF SOCIAL SCIENCES
INTERNATIONAL LAW PROGRAM

**REFUGEES BETWEEN EU POLICIES AND HUMAN
RIGHTS LAW: A CASE STUDY OF SYRIAN REFUGEES**

RAZGAR EHSAN ISMAIL CHECHO

MASTER THESIS

NICOSIA
2018

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NICOSIA
2018

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DEDICATION

This dissertation is dedicated to almighty Allah and my wonderful father for his contributions toward the completion of my studies.

ACKNOWLEDGMENTS

I firstly give thanks to almighty Allah for bringing me to this level in my academics. I strongly appreciate my supervisor (Dr. Tutku Tugyan) for his relentless efforts and inexplicable supports given to me in order to make this dissertation possible.

I also appreciate my parents Mr and Mrs Ismail for supporting me financially, morally and mentally not only during my masters' studies but in all my ramifications in life. I would not have gone so far in life without them. Once again, thank you so much.

Lastly, I want to say a big thanks to my sweet wife (Dr. Rozhan), my friends and my colleagues who have played different supportive roles in the journey of my life. I sincerely appreciate you all.

ABSTRACT

REFUGEES BETWEEN EU POLICIES AND HUMAN RIGHTS LAW: A CASE STUDY OF SYRIAN REFUGEES

The Syrian refugee crisis has been considered as one of the greatest humanitarian crisis in the history of the world. This crisis started in 2011 as a result of Arab uprising and it has spread all over the neighboring countries and the Europe. Millions of people have been forced to leave the country in order to seek protection elsewhere under the status of refugees. Many Syrian refugees have entered into the neighboring countries such as Lebanon, Jordan, Egypt, Iraq and Turkey and many of them have been able to enter into the EU countries. The massive flow of Syrian refugees has greatly affected the neighboring countries in different ways and inability of these countries to accommodate more Syrians have resulted too many of them seeking protection in Europe. This dissertation aims to examine the living conditions of Syrian refugees in neighboring countries as well as different policies adopted by these countries to restrict the flow of refugees and to manage them. It is also discovered that the EU countries have adopted different policies toward accommodating Syrian refugees and while few countries have adopted an open-door policies, some have made it impossible for Syrian Asylum seekers to reach their borders. The tight security of the EU countries towards Syrians have resulted to the situations whereby they have put their lives at risk to engage in dangerous trips on sea in order to enter into the EU countries illegally, which has also resulted to the death of many Syrians. This dissertation shall provide full details of responses of the EU countries toward Syrian and its implications over Syrian refugee crisis.

Keywords:

Human Rights law , European Union , Asylum , Refugees , M

ÖZ

AB POLİTİKALARI VE İNSAN HAKLARI ARASINDAKİ MÜLTECİLER HUKUKU: SİRİYEN MÜDÜRLÜĞÜ VAKA

Suriyeli mülteci krizi, dünya tarihindeki en büyük insani krizlerden biri olarak görülmüştür. Bu kriz 2011'de Arap ayaklanmasının bir sonucu olarak başladı ve komşu ülkeler ile Avrupa'ya yayıldı. Milyonlarca insan, mülteci statüsünün başka bir yerinde koruma sağlamak için ülkeyi terk etmeye zorlandı. Birçok Suriyeli mülteci, Lübnan, Ürdün, Mısır, Irak ve Türkiye gibi komşu ülkelere girmiş ve birçoğu AB ülkelerine girebilmiştir. Suriyeli mültecilerin kitlesel akışı, komşu ülkeleri farklı şekillerde büyük ölçüde etkilemiş ve bu ülkelerin daha fazla Suriyeliyi barındırma zorluğu, birçoğunun Avrupa'da koruma talep etmesine neden olmuştur. Bu tez, komşu ülkelerde yaşayan Suriyeli mültecilerin yaşam koşullarını ve bu ülkeler tarafından mültecilerin akışını kısıtlamak ve bunları yönetmek için benimsenen farklı politikaları incelemeyi amaçlamaktadır. Ayrıca, AB ülkelerinin Suriyeli mültecileri barındırma konusunda farklı politikalar benimsediği ve az sayıda ülkenin de açık kapı politikalarını benimserken, bir kısmının Suriyeli sığınmacıların sınırlarına ulaşmasını imkânsız kıldığı anlaşılmaktadır. AB ülkelerinin Suriyelilere yönelik sıkı güvenlikleri, birçok ülkeyi yasadışı yollarla yasadışı yollardan girmek için denizde tehlikeli yolculuklara girme riski taşıyan durumlarla sonuçlanmıştır. Bu durum, birçok Suriyelinin ölümüyle sonuçlanmıştır. Bu tez, AB ülkelerinin Suriye'ye yönelik tepkilerinin ve Suriye mülteci krizi üzerindeki etkilerinin tüm ayrıntılarını sunacaktır.

Anahtar kelimeler:

İnsan Hakları hukuku, Avrupa Birliği, Sığınma, Mülteciler, Göç

TABLE OF CONTENTS

ACKNOWLEDGMENTS.....	iii
ABSTRACT.....	iv
ÖZ.....	v
TABLE OF CONTENTS	vi
ABBREVIATIONS.....	viii
CHAPTER ONE	1
INTRODUCTION	
1.1 Introduction	1
1.2 Aims and Objectives of the Study	7
1.3 Research Questions	7
1.4 Research Methodology	8
1.5 Significance of the study	8
CHAPTER TWO.....	9
LEGAL FRAMEWORK AND INSTITUTIONS	
2.1 The international refugee law framework	9
2.2 Framework of the European refugee law	12
2.2.1The Council of Europe	13
2.2.2 The European Union Legal System.....	13
2.3 The legal system of EU refugee law.....	16
2.4 Fundamental Rights of the EU	17
2.5 Legal Framework of European Refugee Protection	19
2.6 Case Law on the European Refugee and Asylum Law	21

CHAPTER THREE.....	25
EU RESPONSE TO SYRIAN CRISIS	
3.1 EU Response to Syrian Crisis.....	25
3.2 Responses of EU Member States to Syrian Refugees’ Crisis	31
3.2.1 Italy.....	31
3.2.2 Hungary	33
3.2.3 Germany	34
3.2.4 Sweden	35
3.2.5 Greece.....	36
CHAPTER FOUR	39
SYRIAN REFUGEES IN NEIGHBOURING COUNTRIE.....	
4.1 Lebanon	39
4.2 Jordan	42
4.3 Egypt.....	46
4.4 Turkey.....	47
4.4.1 The EU-Turkey Refugee Deal.....	50
4.5 Legal Analysis	52
CHAPTER FIVE:	54
CONCLUSION.....	
5.1 Conclusion	54
REFERENCES	Error! Bookmark not defined.
PLAGIARISM REPORT	
ETHICAL COMITTE REPORT	

ABBREVIATIONS

CJEU.....	Court of Justice of the European Union
CoE.....	Council of Europe
EASO.....	European Asylum Support Office
EEA.....	European Economic Area
EEC.....	European Economic Community
EFTA.....	European Free Trade Association
ECHR.....	European Commission of Human Rights
ECJ.....	European Court of Justice
ESI.....	European Stability Initiative
EU.....	European Union
EULS.....	European Union legal system
GoL.....	Government of Lebanon
ILO.....	International Labor Organization
IRL.....	International Refugee Law
LCRP.....	Lebanon Crisis Response Plan
UDHR.....	Universal Declaration of Human Rights
UNGA.....	United Nations General Assembly
UNHCR.....	United Nations High Commissioner for Refugees.
UNICAT.....	United Nations Convention against Torture
TEU.....	Treaty on European Union
TFEU.....	Treaty on the Functioning of the European Union

CHAPTER ONE

INTRODUCTION

1.1 Introduction

The uprising started in Arab countries, which originated from Tunisia and easily spread across all Arab countries. Since 2011, this crisis resulted to the massive flow of refugees from Syria to its neighboring countries where by UNHCR made record of around 2,300,000 Syrian refugees in 2013. Turkey has received more than 600,000 Syrians with around 55,000 Syrian refugees were able to enter into Europe. The response of the EU to the crisis of Syrian refugee has focused on four basic aspects, whereby the largest part of them is considered to be financial aid at which the humanitarian fund of the EU has exceeded € 1.6 billion spent to cater for Syrians in need. The level of protection given to Syrian refugees by EU member states constitutes the second aspect. Statistic shows that between July 1, 2012 and July 1, 2013, the Syrians' asylum application made to enter into the EU states reached around 34,200 and most of them were given either refugee status or subsidiary protection. In addition, as at 2013, there were many EU member states that promised under the joint EU resettlement program to ensure the resettlement around 9,500 refugees from Syria. And also Germany successfully made provision for 5,000 relocations temporarily for Syrian refugees. The third basic aspect is collaboration with UNHCR to establish an RPP for refugees from Syria, based on the principles behind the Commission; this must have taken place by the end of 2013 (UNHCR 2013, p.5).¹ The fourth and last aspect is basically about the reinforcement of border controls most in particular along the

¹ UNHCR. "Countries hosting Syrian Refugees Solidarity and Burden-Sharing Background." Papers for the High Level Segment, (2013) p.5

Greek-Turkey border, which constitutes the place where most Syrian refugees are crossing the border to the EU.²

The civil war in Syria has led to displacement of around 2.7 million Syrians leaving Syria since the conflict broke out in 2011 and at end of 2014, it was expected that double number of these people are expected to have fled Syria. As at July 7 2013, approximately 2,854,211 million of people left the country and got themselves registered as refugees.³ In July 2013, António Guterres who happened to be the UN High Commissioner for Refugees stated that since the period of Genocide in Rwanda (20 years ago), the world has not witnessed such a refugee outflow escalate in such a scary rate. "This can be considered as the largest crisis of forcible displacement in the world and constitute a growing threat to regional peace and security".⁴ Countries that have mostly received the highest rate of the refugees flowing out from Syria have been regarded to have stretched to the limits of their resources. Jordan, Lebanon and Egypt have been occupied by high number of refugees before Syrian crisis and these set of refugee groups have been living in difficult conditions, which mean that many host countries are not capable to meet the refugees' protection and humanitarian needs. There is high rate of unemployment in Lebanon and Egypt. Jordan is ranked as number fourth most water-stressed country in the world. Extremely volatile political environments and unstable governments are features of Lebanon and Egypt.⁵

UNHCR's 2014 Syria Regional Response Plan made a request for the amount of 4.2 billion U.S. dollars as financial aid. This plan was basically requesting the international community of states and donors to intervene with a huge financial assistance giving to countries that are receiving Syrian refugees. Though this plan is crucial but it was considered to be a containment paradigm that is not suitable and dangerous, instead of becoming a plan that shares the responsibility approach concerning the individual Syrian refugees' crisis. Even António Guterres that happened to be the UN's High Commissioner

²Juliette Tolay. "The 'EU and Turkey's Asylum Policies in the Era of the Syrian Crisis.'" *Global Turkey in Europe*, (2014), p. 1

³ Cynthia Orchard and Andrew Miller. "Protection in Europe for Refugees from Syria: Forced Migration Policy Briefing." *Refugee Studies Centre Oxford Department of International Development*, (2014), p.2

⁴ *Ibid* (3), p.3

⁵Bidinger S; Lang A; Hites D; Kuzmova Y &Noureddine E. "Protecting Syrian Refugees: Laws, Policies, and Global Responsibility Sharing." *Boston University School of Law International Human Rights Clinic*, (2015), p.1.

for Refugees explained that immediate need to rectify the paradigm by stating that those states hosting Syrian refugees do not only financial, economic, and technical support but must also be offered resettlement, humanitarian admission and family reunification. As a matter of fact, only 3million Syrian refugees can be given resettlement as a temporal solution to their problem⁶

It was noted that the refugees from Syria that were allowed to obtain protection in Europe were relatively few in number and this is due to tight control of EU's external borders resulting to the formation of European resettlement and humanitarian admission programmes that allowed the acceptance of small numbers of refugees. In the month of June 2014, statistic shows that Europe has collectively accepted less than 4% which is equivalent to 123,600 out of around 2.8 million registered Syrian refugees, and even majority of these refugees have illegally entered into Europe. In 2013, when there was no hope concerning the solution to Syrian crisis, UNHCR made a request to regional countries to Syria to increase the number of refugees they would accommodate in order to relieve the burden on neighboring countries. And it also set up a program targeting around 30,000 Syrian refugees in order to find places for them, which is known as humanitarian admission programme. As a result, European countries started to pay attention to the resettlement needs for Syrian refugees and promised to grant humanitarian services to around 31,797 Syrian refugees. Germany was ranked as the highest in 2013 with a pledge in 2014 to grant humanitarian admission to 20,000 refugees from Syria and by June 2014, Germany succeeded in rendering humanitarian services to 6000 refugees from Syria with addition of 5500 Syrian refugees who entered the country through private sponsorships.⁷

Additionally, it was noted that many Syrian refugees have enjoyed and also would take advantages from the programme set up in Switzerland known as family reunification. There was a rapid growth in the numbers from the beginning of 2013 to its end compare with just 340 Syrians who have managed to resettle in the European countries since 2011 together with just 5,795 refugees that were able to resettle to Europe in 2013.⁸ However, the specified target was 30,000, which was successfully achieved but it is just equivalent to

⁶Ibid (5), p.2.

⁷Ibid (3), p.13

⁸ Ibid (5), p.3

one percent of the registered Syrian refugees, and the country continues to produce massive rate of refugees. As a result of this, UNHCR has advocated for increased rate for resettlement and admission of Syrian refugees to 100,000 in 2015 to 2016.⁹ But the fact remains that even this number is still not enough considering the rate of refugees flowing out from Syria. In spite of the provision of humanitarian aid and the expanded resettlement and humanitarian admission programmes set up by UNHCR, it has not cater for the claims of Lebanon, Turkey, Jordan, Iraq and Egypt that they have been abandoned by the Europe. The highest rate of Syrian refugees can still be found in its neighboring countries. When compared with around 123,600 Syrian refugees in Europe, statistic shows that every neighboring country has hosted higher numbers of Syrian refugees than all of Europe collectively; Lebanon hosted nearly ten times more and it is proven that refugees from Syria occupies almost one fourth of the total Lebanese population¹⁰.

There are many challenges facing the protections of Syrian refugees in its neighboring countries to the extent some of these countries have also restricted Syrian refugees from entering their countries. The fact remains that these countries are witnessing many difficult challenges as a result of allowing high rate of refugees moving into their countries. Turkey has adopted a temporary protective regime, which could not be considered perfect for the needs of these refugees but it could be a significant model for what European countries could also adopt. It should be noted that the implications of refugee crisis in Syria are not limited to the country alone and it has resulted to massive displacement of people and a humanitarian disaster, which is generally a violation against humanity. This crisis is at Europe's 'doorstep as a matter of fact and it could lead to a serious destabilization of the entire region.¹¹

Furthermore, the effect of globalization in the present phase of the world makes it easy to generalize the problems of a nation to the rest of the world. In this respect, many governments and organizations have advocated for the need of European and other countries to get more committed in providing more aid to Syrian neighboring countries and engage adequately in resettlement or admission to more Syrian refugees. European

⁹ UNHCR "Resettlement and Other Forms of Admission for Syrian Refugees" (2015c), p.3

¹⁰ Ibid(3), p.14-15

¹¹ILO (2015). p.3

countries that have been receiving high rate of refugees have also advocated for the need for other European countries to share the responsibilities with them. They have claimed that it is practically not fair enough for neighboring countries to Syria to singlehandedly cater for hosting approximately 2.8 million refugees. And also the living conditions of Syrian refugees in these host countries are terrific and even with increased rate of aid granted, their conditions are not close to satisfactory level.¹²

Many observers have argued and considered the inadequacy of the European response to the Syrian refugee crisis to be effective. EU member states have been criticized to have failed in fulfilling their promised aid and also contributed little funds as well as receiving few numbers of Syrian refugees to settle in the EU. When compared with the number of Syrian refugees' received by Lebanon, Jordan or Turkey, EU member states pale. Also, there have been different reports written concerning the de facto closed-door policy adopted by EU member states. It has been mandated for Syrians to obtain Schengen visa before they could enter into EU member states whereas many Syrian refugees do not even have their passports and they are now committed to enter Europe illegally. Base on the report of UNHCR in 2013, it was showing the high rate of Syrians trying to illegally enter the EU most in particular through Greece, Bulgaria, Cyprus, Malta and Italy. Although many EU member states suspended deportation of Syrians, there were still few cases of refoulement documented. In addition, EU member states have differences in the way they address the Syrian asylum crisis. Some countries are considered to be more protective than others, while Sweden was interested to allow all Syrian refugees to enter its country, Greece has granted less than one percent of official refugee status to its asylum seekers. It should be noted as well that EU member states witness different effects of Syrian asylum seekers. Countries of South Europe are said to have more asylum applications.¹³

Contrary to the EU's de facto closed-door policy for Syrian refugees, Turkey has taken an opposite direction by adopting an open-door policy towards Syrian citizens making applications to ne refugees in Turkey. In October 2011, Turkey succeeded in its approach of "temporary protection to Syrians" which enables the country to grant them easy to Turkish territory, guarantees against "refoulement," even if they have entered illegally. It

¹²ILO (2015, p.4).

¹³Ibid (2), p. 4

also gave them access to basic humanitarian services, including healthcare. Syrian citizens that were able to enter Turkey with valid passports had the privilege to settle at any location of their choice and those who entered without proper papers were made to settle at camps. Statistics show that a third percentage of Syrian refugees live in camps while two thirds habitate outside camps (UNHCR (2013)).¹⁴ They were also given the opportunity to return back to Syria at any time they want. By November 2013, Turkey was able to establish around 21 refugee camps, which were able to get the attention of international community. Also, the humanitarian fund of Turkey for Syrian refugees is more than USD 2 billion, which is equivalent to the combined EU aid. However, Turkish authorities since August 2012 began to restrict the rate of Syrians entering the country without valid passports in order to allow more space to be made available in camps.¹⁵

The different policies of Turkey about Syrian refugees have been classified into three phases by Tolay J (2014). The first phase started in April 2011, when there were few numbers of refugees entering the country and Turkish government was able to singlehandedly provide security without seeking assistance and/or monitoring from the international community. This resulted to some criticism raised against Turkish authorities on the lack of openness, especially when restriction was placed on the access to camps even to the UNHCR. Some questions were also raised concerning the limbo status of these refugees. The second phase is marked during the period whereby observers were allowed to enter the camps and access information, and they became positive with the level of hospitality and adequate resources allocated to assisting Syrian refugees. So in spite of the lingering issues concerning access to camps, Turkish authorities were commended on the type of services given to refugees and adequate protection. The third phase came to picture starting from 2013 when there was high rate of Syrian refugees entering Turkish territory with the expectation of UN to estimate that by the end of 2014, around one million Syrian refugees will be in Turkey. This resulted to the reason why Turkish authorities were not openly only seeking more foreign help from the international community but observers documented how the presence of high rate of Syrian refugees began to weaken the ability

¹⁴ UNHCR: "Jordan Response Plan. Syria Regional Plan." (2013), p.140

¹⁵European Commission. "The EU and the Migration Crisis" Available at <http://publicatio/migration-crisis/en>, Accessed on October 20, 2017, 2017) p.3

of Turkey to receive more refugees and affected the level services available refugees in the country.¹⁶

Presently, Syrian crisis has become the most disastrous humanitarian crisis in the world and EU has also become the leading international actor responding to the protracted conflict with estimation of over €5 billion from the EU and collective EU Member States allocated in humanitarian and development assistance since the conflict started. The EU and the Member States had pledged to help with over €3 billion in year 2016 at the conference Supporting Syria and the Region that took place in London on 4 February. The EU aims to bring an end to the conflict and enable the Syrian citizens to live peacefully in their own country. This thesis aims to examine the EU policies on the protection of Syrian refugees and human rights law

1.2 Aims and Objectives of the Study

1. It aims to examine the refugees' protections under international human rights
2. It aims to examine the human rights conditions of Syrian refugees in host countries.
3. It aims to review the EU policies towards the protection of Syrian Refugees' rights in host countries.
4. It aims to examine the violations of international human rights for Syrian refugees

1.3 Research Questions

1. What are the legal obligations of EU member states on the acceptance and protection of asylum seekers?
2. What are the implications of Syrian refugees in host countries?
3. What is EU policy for the protection of Syrian refugees?
4. What can be done to ensure the protection of international human rights of Syrian refugees in host countries?

¹⁶Ibid (2), p.5

1.4 Research Methodology

The suitable method of data collection will be secondary method and not primary method considering the nature of research topic. There will be qualitative analysis, which does not require the use of statistical data analysis available in quantitative research method. The needed information shall be obtained from, online journals, articles, library, books, and newspapers.

1.5 Significance of the study

This dissertation helps to examine the living conditions of Syrian refugees flowing out of the country, how they are treated in the host countries and the possible hope they have. It also helps to examine the EU policies concerning the receiving of Syrian refugees in Europe, the level of assistance provided to the host countries and neighboring countries as well as EU contributions toward the possibility of ensuring peace in Syria. In addition, it also explains the general international human rights provision for Syrian refugees and its level of applicability for them in the host countries. It reviews the several lapses of international community concerning the protection of Syrian refugees and generally, the implication of this massive flow of refugees over global security. And finally, the dissertation will serve as relevant material to the future study on this research topic and gives a prolific contribution to the existing literature.

In conclusion, the first chapter of the dissertation focuses on the general introductory explanation of the research topic. The introduction briefly discusses how Syrian conflict started and resulted to massive flow of people moving out of the country as refugees to seek protections in the Neighbouring countries and Europe. It explains how the EU countries have accepted low rate of Syrian refugees compared with the number of Syrians entering the neighboring countries. This part also explains the aims and objectives of this dissertation, research questions, research methodology and the significance of this study to anyone reading it.

CHAPTER TWO

LEGAL LITERATURE REVIEW

2.1 The international refugee law framework

International law is the legal framework formed by the practice of states within international community with the basic aim of regulating actions between sovereign nations. International law does not only cover nation states but also international organizations and individuals are also parts of its subject though there is a limit and functional level of their international legal entity. In addition, international law also reinforces norms of international relations. Presently, the two main sources of international law with binding force are firstly international bodies have jurisdiction when there are violations and secondly there are treaties.¹⁷ According to Balogh C (2015), distinction is made between ad hoc and permanent international courts whereby the United Nations General Assembly (UNGA) is the only actor assigned with the duties of making recommendations on to how improve human rights and international law. In addition, international law is binding upon its signatories and nation states are parties' international agreements and they are obliged to respect them. This is an order known as international legal system, which is basically composed of United Nations that means the United Nation ensures the compliance of states to rules set by ILS.¹⁸

The definition of refugee protection under the international legal system is defined to be part of public international law. It includes a set of refugee and asylum norms that consists of both international treaties and customary law. It should be noted that the 1951

¹⁷ Christoph Schreuer. "The Waning of the Sovereign State: Towards a New Paradigm for International Law?" 4 EJIL, (1993), p.448

¹⁸Cintia Balogh. "International Refugee Law and the European Union's Refugee Protection Protocol: A Study on the Ius Cogens Norm of Non-Refoulement." Institute for International Political Economy Berlin, (2015), p.3

Convention of United Nations High Commissioner and its complementary, 1967 Protocol Relating to the Status of Refugees are the basic pioneer of international refugee law obligations. Almost every country within international community and EU member states have agreed to the terms this refugee law and they are expected to comply with them. The main objective of this Convention is to make provision for the international framework on the terms of signing asylum and refugee by countries. As a result, the three backbones of refugee protection constitutes the formation of the treaties, which include; the main definition of refugees in relations to the need of giving recognition to the refugees as people seeking protection; the principle of non-refoulement and lastly the acceptable way of treating refugees by host states. It is stated under international refugee law that it is the duty of international community in general to ensure the hosting and protection of refugees. This means that all the EU states that have signed international refugee and human rights treaties have officially declared their obligation to accept Asylum and refugee that need protections.¹⁹

On the universal term, the framework of international refugee law (IRL) includes case law, UNHCR guidelines, customary international law and international instruments. The primary foundation of modern International Refugee Law (IRL) as stated before are the 1951 Convention relating to the Status of Refugees (CSR51) and the 1967 Protocol Relating to the Status of Refugees (PSR67). Other supplementary treaties are the International Covenant on Civil and Political Rights (ICCPR), customary international law and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which are set up for the protection of people from refoulement that could be forceful sending people back to the place where they experience torture or cruel, inhuman or degrading treatment. The main actor guiding the Refugee Convention is UNHCR with a mandate to ensure the protection of refugees and find every possible solution to their challenges. There is also an obligation over signatory parties to CSR51 and PSR67 to support and allow UNHCR to execute its obligations. It should be noted that there is no compulsory obligation under IRL concerning the participation in resettlement programmers whereby some countries do not give any initiative for this. And as a result,

¹⁹ (UNHCR)1951 Convention Relating to the Status of Refugees. United Nations High Commissioner for Refugees

the UNHCR has engaged in different projects to enlarge resettlements, it has coordinated many of resettlement programmers in the world, it encourages many countries to create more spaces for resettlement whereby resettlement is considered as a tool for protecting refugees.²⁰

Some few exceptional cases were stated under 1951 Convention on situations at which refugees can be denied of protections; (1) When the person has committed many serious crimes against humanity; (2) when such asylum seeker has engaged in a serious non-political crimes or terrorist crime and (3) when a person's act is against United Nations regulations. In the absence of these cases, states that have signed and ratified this Convention are obliged to accept refugees and automatic refoulement is not allowed. Among the stated three basic of refugee protections, emphasis and attention is given mostly to non-refoulement. According to Ciliberto G (2017) base on the ius cogens norm, the right application of non-refoulement is the most significant target of international refugee law and as result, the need to emphasis on this principle cannot be put aside.²¹ Together with 1951 Convention, many other binding and non-binding, regional and international legal instruments have paid attention to the matter of refoulement. As explained before, the articles under 1951 Convention were set up to provide harmonized regulations for contracting states on the their clear obligations concerning the treatment, protection, non-refoulement and recognition of refugees. This Convention directly stated that,

*...the prohibition of "forced" return - principle of non-refoulement lies in the precept that no contracting state may expel aliens from a safe country back to the state of origin "... where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion."*²²

²⁰ Cynthia Orchard and Andrew Miller. "Protection in Europe for Refugees from Syria: Forced Migration Policy Briefing." Refugee Studies Centre Oxford Department of International Development, (2014), p.19

²¹ Giulia Ciliberto. Critically Ill Migrants, Asylum Seekers and the Double Standard of Application of the Principle of Non-Refoulement. Social Transformations in Contemporary Society, (2017), p.26

²² Cintia Balogh. "International Refugee Law and the European Union's Refugee Protection Protocol: A Study on the Ius Cogens Norm of Non-Refoulement." Institute for International Political Economy Berlin, (2015), p.4.

Under the additional treaties, Article 3 of the United Nations Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) 1984, prohibits the expulsion of refugees as

“1. No State Party shall expel, return ("refouler") or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture. 2. The competent authorities shall take into account all relevant considerations...”²³

As a matter of fact, one of the first treaties stating the prohibition of refoulement for refugees is UNICAT. Alongside with the Universal Declaration of Human Rights (UDHR) 1948, UNICAT constitutes the foundations of the human rights for UN and its refugees treaties. The functions of these two human rights have been considered not only as guidance and also additional treaties that can be administered in those situations where Conventions and Protocol have failed to address. The target of UNICAT as a binding international human rights treaty is basically on refoulement. The significance of this is high considering the fact that many states have not signed both the Convention and Protocol, which can enable them to violate this principle. But when they are signatories to UNICAT, they are still obliged to respect this refugee’s protocol. In addition, international human rights law is also helpful in covering many issues concerning refugees that are not covered under the refugee treaties.²⁴

2.2 Framework of the European refugee law

The framework of the international refugee law is generally applicable to every European country so long they are signatory and contracting parties to international conventions and matters under customary international law such as the principle of non-refoulement. There are two main systems governing international protection in Europe which are the legal system of Council of Europe (CoE) and the European Union legal system. And in additional national countries have their different regulations concerning national asylum laws.

²³Article 3 of the United Nations Convention Against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT) 1984.

²⁴Ibid (22), p.5.

2.2.1 The Council of Europe

It was created after the World War II with the main objective of bringing states in Europe together in order to ensure and promote harmonized rule of law, human rights, democracy and social development among them. As a result of this, ECHR was adopted in 1950 (Balogh C (2015). Article 19 of the ECHR provided the legal formation of the ECtHR and the former European Commission of Human Rights with the aim of making sure that states respect their obligations as stated in the Convention. This is done basically by getting complaints from the group, individuals and non-governmental organizations or legal persons alleging violations of the Convention. The council comprised of 47 member states in 2013 whereby 28 out of them were also EU members. There are few provisions under the ECHR providing certain rights to nationals or legal residents as stated in Articles 2, 3 and 4 of Protocol 4 to the ECHR and Article 1 of Protocol 7. States are required under Article 1 of the ECHR ensure the Convention rights to “everyone within their jurisdiction whereby foreigners are included. As stated in this Article 1, contracting state will be held responsible for *“all acts and omissions of its organs regardless of whether the act or omission in question was a consequence of domestic law or of the necessity to comply with international legal obligations.”*²⁵ States are required under Article 13 of the ECHR to find a national solution to every complaint received under the Convention; states are obliged to ensure that their officials respect regulations of ECHR.²⁶ It should be noted that though there are no conditions of refugee status stated under CoE system, it protects people from refoulement. It allows complaints from individual, states and Non states actors or NGOs concerning any issue relating to violation of their rights. And in addition, the council was able to develop a huge body of law taking care of asylum.

2.2.2 The European Union Legal System

The EU consists of 28 member states with composition of different treaties and secondary EU law. The treaties such as the Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU) have been considered as foundational EU law

²⁵ Articles 2, 3 and 4 of Protocol 4 to the ECHR and Article 1 of Protocol 7

²⁶European Court of Human Rights and FRA. “Handbook on European law relating to asylum, borders and immigration. European Union Agency for Fundamental Rights.” Luxembourg: Publications Office of the European Union, June. EUROPEAN, (2014), p16.

and they have been approved and ratified by EU member states. EU institutions are regarded to as secondary EU law that is responsible for the adoption of the decisions, directives and regulations of the EU.²⁷ Historically, the EU as a supra-national institution came up from three international institutions created in the 1950s to take care of security, energy and free trade together and they were called European communities. The main objectives of these communities are to stimulate economic development via ensuring free movement of goods, capital, people and services. As a result, free movement of individual is considered as main target of EU whereby the first regulation in 1968 was set to allow free movements of workers and even permitted them to bring their families along.²⁸ The EU has been able to develop a body of regulation ensuring movement of social security entitlements, healthcare, and rights of social assistance as well as general recognition of qualifications. The interesting part of this could be the fact that these laws were basically designed for EU member states' nationals but even non-EU nationals are entitled to some of them.²⁹

Citizens of countries such as Iceland, Liechtenstein and Norway that not part of EU member states but part of the European Economic Area (EEA), which was implemented in 1994 were also given the same privilege to the rights of free movements as EU nationals.³⁰ In addition, Swiss nationals were given the same right base on the agreement implemented in 1999. This means nationals of the EU, EEA and Switzerland are all parties to the European Free Trade Association (EFTA), which is an intergovernmental organization that was established with the main aim of promoting free trade and economic integration. This organization as well has its institutions and Court that is responsible for the interpretation of the EEA agreement. Additionally, Turkish nationals could also enjoy some privileges under EU law though right to freedom of movement was not given to them. But some agreements were established between Turkey and EU, for example the European Economic Community (EEC)-Turkey Association Agreement (the Ankara Agreement) in 1963 and

²⁷ Colin Robertson. "How the European Union functions in 23 languages." Council of the EU – Legal Service, Directorate for the Quality of Legislation, (2013), p.15.

²⁸ Corinne Cordina." Legitimacy: A Growing Necessity for the Future of Europe." Bank of Valletta Review, No. 28, (2003) p.51

²⁹ EUFRA (2014, p.17).

³⁰ Philomena de Lima). "International Migration: The wellbeing of migrants." Dunedin Academic Press, (2016), p.77

‘Additional Protocol to the Ankara Agreement was ratified in 1970, which enable Turkish citizens to enter into the EU to work and establish themselves, they were given the rights to get permanent resident without expulsion. Also, the standstill clause in Article 41 of the Additional Protocol to the Ankara Agreement was a benefit to them, which reduced the rate of restrictions placed on them.³¹

In 1993, Maastricht Treaty came into force, which led to the creation of citizenship of the Union and became a universal concept that was used to explain and justify the freedom of movement established for EU member states.³² The Schengen Agreement was ratified in 1985 that marked the end of internal control of borders within EU member states. And in 1995, there was adoption of a complex system for using external controls, which regulated the process of obtaining Schengen visa.³³ In 1997, the regulated Schengen system became part of EU legal order at international level. It has continued to grow under the context of Schengen Borders Code, which has consolidated the regulations of EU concerning border management.³⁴ History has also proven the fact that successive treaty amendments have enhanced the effectiveness of the European Communities (EC) since of the formation of the Treaty of Rome in 1957. For example, on the issues of migration, the Treaty of Amsterdam has augmented the EU abilities across borders, immigration and asylum. And also the Treaty of Lisbon gave the EU new competence on the issue of integration of third-country citizens. But on the contrary, there have been different evolutions on the issues of the EU asylum *acquis*, which can be defined as body intergovernmental regulations, agreements and directives that are regulating every matter concerning asylum with the EU. In another word, asylum regulation is not binding over all EU member states.³⁵

EU has its own established court under its treaties, which was initially known as European Court of Justice (ECJ) but since Treaty of Lisbon came into force in 2009, the court has been renamed to be the Court of Justice of the European Union (CJEU). This Court is

³¹Carmona J. “UK withdrawal from the European Union - European Parliament.” EPRS | European Parliamentary Research Service, (2017), p.4

³² Weiler J.H & Kocjan M. “The Law of the European Union: Citizenship of the Union”. Academy of European Law and the Jean Monnet Center at NYU School of Law, (2004), p.44

³³ van der Woude M.A.H & Berlo P. “Crimmigration at the Internal Borders of Europe? Examining the Schengen Governance Package.” Utrecht Law Review, (2015), p.62

³⁴ Brouwer E.R. “Internal border controls in the Schengen area: is Schengen crisis-proof?” Study for the LIBE Committee, (2016 p.20

³⁵European Court of Human Rights and FRA (2014), p18-19.

assigned with some competences such as the decision concerning whether EU should act or not with the use of EU institutions within the framework of international law; the decision over EU Member States concerning infringements of EU law as well as competence to ensure the accurate and universal application and interpretation of EU law in all EU Member States. The national courts of EU Member States in corporations with EU law are entrusted with the responsibility of ensuring accurate application of EU law at national legal system. In this respect, individual complaints can always be brought before national courts. EU Member States are obliged to give compensations in some cases at which there are victims failing to comply with EU law.³⁶

2.3 The legal system of EU refugee law

The legal system of EU refugee law is basically a matter under relevant provisions of the Charter of Fundamental Rights of the European Union 6 and EU asylum regulations and directives, which is generally known as the '*asylum acquis*'. The Treaty on the Functioning of the European Union (TFEU) (Article 78) and the Qualification Directive are composed of both the CSR51 and the PSR67 (Kaunert C& Leonard S 2012). The EU law is always progressing and as mentioned before, the principle of *asylum acquis* is not officially binding over all EU member states. Under EU law, acceptance is given to those with refugee status (that is anyone that fit the refugee criteria under the CSR51/PSR67) and subsidiary protection (that is anyone that does not meet up to refugee status but seek protection because they will be in danger or risk at wherever they are located).³⁷ This EU Charter gives the right to asylum and there is none of EU law that gives the legal right to anybody to enter into Europe in order to claim asylum, this means that the right to asylum is applicable to people already in EU or at its external borders. Applying for EU asylum at its borders has some limitations and restrictions whereby the Asylum Procedures Directive (Article 35) gives the right to every country to apply at borders but ensures that states follow the border procedures that has been in existence before 2005.³⁸

³⁶ Tamm D. The History of the Court of Justice of the European Union Since its Origin." University of Copenhagen, Studies Trade 6, 1455 Copenhagen, Denmark, (2013), p.4

³⁷ Christian Kaunert & Sarah Léonard. "The European Union Asylum Policy after the Treaty of Lisbon and the Stockholm Programme." Refugee Survey Quarterly, Vol 31 (4), (2012), p.3.

³⁸ Orchard, Cynthia and Miller, Andrew. "Protection in Europe for refugees from Syria". Forced Migration Policy Briefing 10, Refugee Studies Centre, Oxford 2014, (2014) p.20.

In 1999, the Common European Asylum System (CEAS) was created by the EU based on the regulations of TFEU, Article 78.³⁹ And there are many steps taken by the EU for the achievement its stated objectives such as the establishment of the EU's European Asylum Support Office (EASO) that started to function since 2011 including the modification of the Dublin Regulation, 'Dublin III.' EASO is assigned with the responsibilities of providing competences on issues relating to asylum for member states; to facilitate uniformity and cooperation concerning those issues; to ensure the compliance of member states with international and EU obligations concerning refugees and lastly to assist EU countries with tragic experience of pressure on their asylum systems. It is also mandated to work on relocation and resettlement issues.⁴⁰ In order to implement the objectives of CEAS, it has resulted to many directives for the protection of the rights of people applying for asylum such as the Asylum Procedures Directive that ensures that asylum applicants' detention orders must be for judicially reviewed as stated in (Article 18(2)). Another directive is known as the EU 'Returns Directive' that provides standards for return procedures of EU members. The accession process of CEAS is progressing and it has managed to additional obligations on member States in order to protect asylum applicants.⁴¹

2.4 Fundamental Rights of the EU

The primary regulations within the framework of European Communities did not give any attention to human right and their protection. But as a result of different cases of human rights violations taking place in the areas under the jurisdiction of EU law, it result to the development of new approach by ECJ to include fundamental rights in the scope of the 'general principles' of European law in order to ensure the protection of people.⁴² As stated by ECJ, the content of human rights protection will be addressed in these general principles, which would be in alignment with that of national constitutions and human right treaties, most particularly the ECHR. And it was also stated that EU law will comply with these principles. The recognition of the fact that EU policies could have some influence

³⁹Ibid (37), p.3

⁴⁰ EASO. An Introduction to the Common European Asylum System for Courts and Tribunals A Judicial Analysis. European Asylum Support Office, (2016), p.13

⁴¹ Orchard C & Miller A (2014, p.21)

⁴² EU fact sheets (2017). Respect for fundamental rights in the European Union, p.3

over human rights and the need to bring its nationals closer to the organization, the EU announced the Charter of Fundamental Rights of the European Union in 2000. This Charter was full of many human rights as influenced by the stated rights in the national constitutions of EU member states, the ESC, the ECHR and international human rights treaties.⁴³

It should be noted that the proclamation of the EU Charter of Fundamental Rights in 2000 was just an announcement without any legal binding. And in 2009 when the Treaty of Lisbon was ratified, it reformed the status of the EU Charter of Fundamental Rights and made it binding officially. In this respect, both EU member states and EU institutions are obliged to respect and implement the Charter during the implementation of EU law (Article 51 of the Charter).⁴⁴ As stated in the Article 18 of the EU Charter of Fundamental Rights for the first time at European level,

“a right to asylum. According to Article 18, it is a qualified right: “the right to asylum shall be guaranteed with due respect for the rules of the Geneva Convention and in accordance with the Treaty on European Union and the Treaty on the Functioning of the European Union.”⁴⁵ Article 19 of the Charter includes a prohibition to return a person to a situation where he or she has a well-founded fear of being persecuted or runs a real risk of torture or inhuman and degrading treatment or punishment (principle of non-refoulement).”

The provisions granted on the protection of individual in the context of migration are stated in other Charter. Such as Article 47 of the Charter provides for an autonomous right to an effective remedy and gives room for fair trial principles. Article 52 of the EU Charter of Fundamental Rights specifies there should be minimum level of protection given.⁴⁶

⁴³ European Court of Human Rights and FRA (2014), p.20.

⁴⁴ EU fact sheets (2018). The Charter of Fundamental Rights, p.1

⁴⁵ Article 18 of the EU Charter of Fundamental Rights

⁴⁶ (EUFRA 2014, p.21)

2.5 Legal Framework of European Refugee Protection

As mentioned before, the adoption of Qualification Directive is basically to implement the requirements stated under Article 78 of the Treaty on the Functioning of the European Union (TFEU). The need to establish a special policy representing the principles of the 1951 Convention and the 1967 Protocol was vividly requested in the article. The directive includes the principle of non-refoulement and gave attention to persecution. Article 9 of the Qualification Directive explains the significance of protection/non-refoulement in the following ways:

“Acts of persecution within the meaning of Article 1a of the Geneva Convention must:

(a) Be sufficiently serious by their nature or repetition as to constitute a severe violation of basic human right; or

*(b) Be an accumulation of various measures, including violations of human rights which is sufficiently severe as to affect an individual”.*⁴⁷

The attempts made by the directive were mainly to qualify the need for the severe present situations to consider persecution and make provision for protection. If the member states do not consider any persecution as a serious enough then refugees may be refouled. The *acquis* formed by both the Union and national constitutions are the basic of the protocol for the member states. It should be noted as well that there is a negative influence of strict legal measures on the application of the principle of non-refoulement by the national authorities. And also the word “accumulation of various measures” is an indication that the directive pays more attention to the specification of criteria than the need for protection. But on the contrary, it was specified in the 1951 Convention and the United Nations that protection has to be provided in every threatening situation. There are other emanating issues within the framework of European legal system. In 2011, the European Commission buttressed on the reformed European Union leading to new Global Approach to Migration and Mobility (GAMM) paying more attention to refugees' needs, protocols and standards of international refugee. The commission criticizes the European framework to be too

⁴⁷ Article 9 of the Qualification Directive on significance of protection/non-refoulement

control-oriented and incompatible with international refugee law binding over all member states. It argued for the adoption of migrant-oriented approach.⁴⁸

The fact remains that adequate attention should be given to the protection and humanitarian needs of asylum by the European protocol in order to comply more with international standards. The commission also highlighted that the framework of European refugee protection is lacking external dimension. This explains that the EU has not rendered minimum assistance to the international waters around its borders apart from its surveillance activities. And because the EU is lacking in the area of providing protection externally, it means that there is no access to security for refugees until they are able to reach the borders of the member states. And if they are not meeting up with the expected requirements, they will not be given any protection. This type of protocol is not even in anyway similar with the provisions stated f the 1951 Convention and the 1967 Protocol concerning the acceptance and protection. The externalization of asylum became the target of the 2009 Stockholm Programme with an addition of advocating for a common European policy aside the legal system. The established common approach to refugee protocol then came to being known as the Common European Asylum System (CEAS). It was argued that if the CEAS would make any difference, its priority should more about protection-oriented than providing a common base for all member states.⁴⁹

To buttress more on the refugee protection under the European legal framework, there are two main instrument of the European human rights that must be explained. The European Convention on Human Rights (ECHR) constitutes the first instrument and it was signed in 1950 stating that refugees may not be repatriated for facing torture or inhuman treatment in the territory of host states. It gave an exception on the legal acceptance of refoulement appears by stating that “An alien may be expelled before the exercise of his rights when such expulsion is necessary in the interest of public order or is grounded on reasons of national security..”.⁵⁰ Considering the fact that human rights constitute the primary objective of ECHR, it means issues concerning asylum are mere complementary and it

⁴⁸Cintia Balogh.” International Refugee Law and the European Union’s Refugee Protection Protocol: A Study on the Ius Cogens Norm of Non-Refoulement.” Institute for International Political Economy Berlin, (2015), p.13.

⁴⁹Ibid (48) p.14.

⁵⁰ Council of Europe 1950, Article 1/2)

cannot adequately ensure an efficient protection for asylum seekers. Even the Article 3 of the ECHR that stated the prohibition of torture is only applicable when there is proof of persecution with the return of the refugee.⁵¹

The additional provisions for protections of refugee available in the EU Charter of Fundamental Rights are found in Articles 18 and 19. The two articles shortly argue on the obligation of the EU to ensure the protection of refugees' base on the 1951 Convention and the 1967 Protocol.

“The treaty further defines refugee protection by prohibiting collective expulsion and refoulement where there is a “... serious risk that he or she would be subjected to the death penalty, torture or other inhuman or degrading treatment or punishment.”⁵²

As a matter of fact, the legal provisions made for refugees under the EU Charter of Fundamental Rights were just specified as a sub-topic in one of its chapters. Accurate specification was made in the wording of this charter, which means that the level of risk of persecution has to comply with some certain conditions. The charter and also the ECHR did not provide full details on the issues of refoulement and persecution and to consider them as a full regional refugee instrument will be impossible. These points stated justify the fact that the Qualification Directive, the GAMM and the two European human rights treaties about refugee protection have not been able to provide a comprehensive a detailed description of protection. And these instruments are not active enough to ensure an effective legal framework for refugee protection⁵³

2.6 Case Law on the European Refugee and Asylum Law

Article 78 of the Consolidated Treaty on the Functioning of the European Union basically explain the uniform provision of the EU member states to protect asylum seekers and respect the principle of non-refoulement.⁵⁴

Article 18 of the Charter of Fundamental Rights of the European Union stated the right to asylum in the following ways:

⁵¹ European Court of Human Rights and FRA (2014) p.68.

⁵² European Parliament, Council of Ministers, & European Commission (2000)

⁵³ Ibid (48), p.14-15.

⁵⁴ Kaunert C & Leonard S 2012, p.5.

“The right to asylum shall be granted with due respect for the rules of the Geneva Convention of 28 July 1951 and the Protocol of 31 January 1967 relating to the status of refugees and in accordance with the Treaty on European Union and the Treaty on the Functioning of the European Union.”

It can be explained that asylum is basically the right of state whereby each member state deals with differently and the European Union is more concerned with harmonizing the system of asylum than ensuring the protection of refugees. According to Maria-Teresa Gil-Bazo in "The Charter of Fundamental Rights of the European Union and the right to be granted asylum in the Union's law" concluded that the creation of the European Charter of Fundamental Rights led to consideration of the right to asylum as an individual right to apply for asylum and right to be granted. In *Elgafaji v. Staatssecretaris van Justitie*, there was interpretation of Article 15 (c), which granted a subsidiary protection to civilians who could victims of indiscriminate violence if they return back to their country. In the case of *Salahadin Abdulla and Others v. Bundesrepublik Deutschland*, there was interpretation of Article 11 (1) (e) on the possibility of official removal of refugee status only if the circumstances that led to the granting of refugee status are no longer existing. In the case of *Bolbol v. Bevándorlási és Állampolgársági Hivatal*, there was interpretation of Article 12 (1) (a) stating the exclusion from refugee status of persons protected agencies of the United Nations or organs of UN aside UNHCR.⁵⁵

In conclusion, this chapter explains in general the legal framework and institutions. Attempt has been made to explain topics such as international refugee law framework, Framework of the European refugee law, the legal system of EU refugee law, Fundamental Rights of the EU, Legal Framework of European Refugee Protection, and Case Law on the European Refugee and Asylum Law. This has reviewed the different legal rights of Syrian asylum seekers to seek protection in the EU countries and also established the legal obligations of the EU countries to accept and protect them. The different exceptional cases at which Asylum seekers can be denied were stated as well citing the 1951 Convention on situations at which refugees can be denied of protections; (1) When the person has committed many serious crimes against humanity; (2) when such asylum seeker has engaged in a serious non-political crimes or terrorist crime and (3) when a person's act is

⁵⁵ Bacaian L.E (2011), p.28

against United Nations regulations. This chapter establishes different ways at which the EU member states have violated different international conventions in their restrictive reception and harsh treatments towards Syrian refugees in their countries.

CHAPTER THREE

EU RESPONSE TO SYRIAN CRISIS

3.1 EU Response to Syrian Crisis

The asylum system of EU is now facing a serious challenge due to the largest humanitarian crisis facing the Europe since Second World War. There were around 59.5 million displaced population by 2014, which constituted the highest record number of people in the history.⁵⁶The prevalence of war in Africa, Asia and the Middle East resulted to huge number of people abandoning their homes and seeking resettlements in the territory of another states. And statistic has shown that thousands of people leaving their states are heading to Europe searching for protection and good life. Most of these people have been able to enter in the Europe by passing through its external borders from Italy, Malta, Greece or Hungary. According to ESI (2017, p.4) the highest citizenships of asylum seekers to EU were Syrians, Afghans and Kosovans in 2014 and Afghans and Albanians came to be the highest in 2015.⁵⁷ The effects of the protracted conflict in Syria is not limited only to the country but has also affected many of its neighboring countries as well as Europe in general. There are countless of displaced people from Syria running to Europe to seek international protection. However, it should be noted that there is low rate of refugees from Syria living in Europe compared with the rate of Syrians Neighboring countries whereby there are only ten percent of the Syrian refugees that have received protection in Europe.⁵⁸

⁵⁶ UNHCR Global Trends Forced Displacement in 2015. Available at <http://www.unhcr.org/statistics/unhcrstats> Accessed on 2 of February 2018, (2015d), p.3

⁵⁷ ESI. "The refugee Crisis Through Statistics." European Stability Initiative, (2017), p.4

⁵⁸Hoel M (2015). The European Union's response to the Syrian refugee crisis, p.2

Base on statistical analysis, the leading countries in Europe receiving Syrian refugees with 53 percent of the applications are Germany and Serbia, followed by Sweden, Hungary, Austria, Netherlands and Bulgaria with 34 percent of the applications and the total of 143.355 Syrian asylum applications were received in the Europe as at 2015.⁵⁹ However, since the emergence of the conflict in 2011, the EU has responded with the use of sanctions in order to mount pressure on the Syrian regime and its elites. The “Council Regulation No. 442/2011 of 9 May 2011 marked the beginning of the sanction to bring about restrictive measures concerning the situation of the country. These measures include; placing embargo on ammunitions, freezing of funds and economic resources of various individuals in connection with the violent attacks against civilians, restricting the use of internal repressive equipment and restricting the admission of the Union.”⁶⁰ The restrictive measures firstly covered some thirteen people, which comprises of al-Assad family members, members of the political system, members of the Syrian security apparatus, business personnel that have relations with the regime. And these measures were later extended to cover areas such as oil, banking and trade but quite unfortunate that these EU restrictive measures have not been able to resolve the lingering problems in the country.⁶¹

In addition, in 2011, under the European Neighborhood Policy (ENP), the bilateral cooperation programs that the EU has with Syria was suspended. Considering the fact that the ENP is considered as the basic financial instrument of the EU in funding development cooperation programs with countries around the Europe and partner countries, which Syria used to be among them from 2007 to 2013. Also, there different adopted measures since 2011 under the European Neighborhood and Partnership Instrument (ENPI) as a response to the ongoing conflict in Syria. EU has suspended Syrian authorities from involving its regional programs including the suspension of the loan operations from the European Investment Bank and provision of technical help to the country.⁶² The EU has also frozen its bilateral financial and technical assistance programs in 2011 with the country. It should be noted that the leading international response to the Syrian crisis has come from the EU and its Member States in the aspect of mobilizing humanitarian aid. They have managed to

⁵⁹ Eurostat newsrelease (2016, p.2)

⁶⁰ Official Journal of the European Union. “Council Regulation No 442/2011 of 9 May 2011 concerning restrictive measures in view of the situation in Syria” (2011), p.2

⁶¹ Hoel M (2015, p.3)

⁶² Koenig N. “Taking the ENP Beyond the Conception-Performance GAP.” Policy Paper, (2016), p.6

mobilize more than 4.2 billion Euros spent on recovery assistance to Syrians, refugees from Syria and its host countries (Hoel M 2015). The EU also formed Regional Trust Fund for Syria, which is known as “Madad” Fund in 2014 in order to assist Syrian refugees and its host countries, which has been used to increase resilience and stabilization needs in Lebanon, Jordan, Turkey, Iraq and Egypt.⁶³

EU adopted a joint communication in 2013 for sake of establishing a comprehensive approach to the conflict. Base on this joint communication, the stated first priority of EU was promotion of a political settlement to resolve the conflict. The stated proposals under the joint communication are; victims of war should have easy access to humanitarian assistance, EU budget for financial assistance should be increased, derogations should be developed to sanction regime in order to mandate them to assist the population and support the UN in addressing different violations of human rights and international humanitarian law.⁶⁴ The EU comprehensive regional strategy for Syria, Iraq and ISIL followed the joint communication in 2015. The strategy is aimed to combat against terrorism (ISIL) within the country and also at regional and international level. It also creates a favorable condition for political transition that is inclusive enough in the country as well as stability in many host countries of Syrian refugees (Council of the European Union 2015 p.17). In addition, the proposal of the European Commission to consider an urgent relocation of 40.000 people seeking international protection was adopted in 2015 by the Council from Greece and Italy. And one week, the Ministers gave consent to support the relocation 120.000 people that were in need of protection to other EU Member States.⁶⁵

Orchard C & Miller A (2014) explain that despite the fact that the member states of the EU have been the leading actors to respond to the on-going conflict in Syria at humanitarian levels, the adopted approach is considered to primarily aim at containing the refugee conflict in Syrian neighboring countries, by helping the refugees in those countries and strengthening of European borders. As stated earlier, these authors also argued that the number of accepted Syrian refugees in Europe is incredibly low compare with the amount of Syrian refugees in its neighboring countries. And afterwards, there was an opened

⁶³ European Commission. “ European Neighborhood and Partnership Instrument 2007-2013: Overview of Activities and Results” (2013) p.5

⁶⁴ European Commission (2013, p.3)

⁶⁵Hoel M (2015), p.5

policy adopted within the Europe whereby some European countries such as Germany and Sweden opened their borders to allow the entering of Syrian refugees. Also some European countries have not been treating Syrian asylum seekers in friendly way, which is a violation of both international and European law. And some countries developed favorable approach concerning asylum seekers and people seeking other forms of international protection. These countries are Sweden, Norway, Germany, and the UK while other countries are just at the starting point of following the same friendly approach such as Greece and Bulgaria. It should be noted however that the level of economic wealth of European countries determine their capacity to respond to the protracted conflict in Syria, which include the acceptance of refugees and migration issues in general.⁶⁶

In the aspect of humanitarian and development assistance, EU fact sheets (2018) also explain that the EU is the highest contributor to the Syrian conflict. The EU and its member states have done well in finding a political resolution to the conflict in Syria. More than €1.3 billion has been spent by the EU and its member state to support humanitarian and development aid responding to the conflict with additional €14 million from Norway and Switzerland in September 2013. And in December of the same year, the EU launched a Regional Development and Protection Programme with the objectives of assisting Syrian refugees and its host countries such as Lebanon, Jordan and Iraq.⁶⁷ It was basically a development program inherent with different activities on providing assistance to refugees and communities within the target countries with the total budget is €16 million. On the aspect of EU border control, a Turkey, Greece and Bulgaria as well Greece and Italy have been the main routes at which Syrian refugees entered into the Europe. The increased in 2012 and the building of a fence along the Greek-Turkish border resulted to many refugees risking their lives to use unsafe boat going to Europe through Mediterranean Sea in 2013 and 2014. Considering the fact that it costly to gain unauthorized entry to Europe, many refugees have risked their lives to embark on such deadly journey and many of them have died on the sea while some are exploited by smugglers.⁶⁸

⁶⁶ Orchard, Cynthia and Miller, Andrew. "Protection in Europe for refugees from Syria". Forced Migration Policy Briefing 10, Refugee Studies Centre, Oxford 2014. (2014), p.33

⁶⁷ EU fact sheets."The EU and the crisis in Syria." European Union External Action, (2018) p.5

⁶⁸Cynthia Orchard and Andrew Miller (2014, p.34).

Base on the expanded operations of Frontex concerning the increased rate of unofficial migration coming from the Syrian conflict. It was found that nationalities from this country are the highest people with unauthorized entry into Europe and expanding Frontex in 2013 reduced the rate of refugees trying to enter Europe illegally through the Greek, Turkish and Bulgarian land borders. After the terrific events in October 2013 off the coast of Lampedusa leading to the death of 366 migrants, it led to the enforcement of Eurosur (the European Border Surveillance System) by the European Commission, which was developed by Frontex in order to augment the improvement of managing EU external borders. However, on the issues of Syrian asylum seekers, it was recorded in 2013 that there were around 50,470 people from Syria that submitted asylum applications in the EU at which there double rate of these applications submitted in 2012. The two European countries that are most preferable destinations for the asylum seekers are Germany and Sweden, which counted more applications as at 2013. Also countries such as Italy, Greece and Bulgaria were criticized for their reactions to Syrian refugees and they have responded for bearing unfair burden as result of their locations.⁶⁹

Further, there is no assurance of granting asylum to refugees from Syria in all European countries and applications of Syrian refugees have not really occurred in priorities of European countries. Despite the fact that official recognition was given to many Syrians who meet the criteria for refugee status and qualify for international protection by the UNHCR and many governments, there are differences at which Syrian asylum applications are assessed and granted by European countries. In general, there is highest recognition rate of applications for asylum seekers from the Syria among all asylum seekers with 91 percentages. The EU states' decisions concerning Syrian refugee applicants are in different variations since 2012 whereby some EU states have granted subsidiary protection and others granted refugee status. Subsidiary protection is preferable for countries such as Bulgaria and the Czech Republic instead of refugee status while countries such as Spain and Greece decided to reject their applications and granted no form of protection in 2012.

⁶⁹Connor P. "Still in Limbo: About a Million Asylum Seekers Await Word on Whether They Can Call Europe Home." Pew Research Center, (2017) p.5

It is hopeful this policy will later change most especially on the side of Greece, which started major reforms of its asylum procedure in 2013.⁷⁰

At the start of the conflict in 2011, many EU countries took the issues of Syrian asylum seekers with levity and they held their applications temporarily while some states were granting them. But this situation changed along the time when it became apparent that it was becoming an international issue. In addition, most EU countries have offered family reunification for refugee and also gave many refugees beneficiaries of subsidiary protection. As a result, there were some challenges encountered in implementation of family reunification whereby lack of documentation and difficulties of family members to access European embassies.⁷¹ Also there were countries in Europe such as Bulgaria, Cyprus and Greece with poor reception facilities. In addition, there are variations in the practices concerning detention of asylum-seekers in EU countries though international law stated that asylum seekers can only be detained under exceptional circumstances. But there have been many allegations of illegal detention, abuse of Syrians in some states, detention in difficult situations and conditions most especially in the south-eastern border countries.

Additionally, there are many scholars who have offered their views concerning EU response to Syrian crisis. Seeberg (2015) explains the negative implications of the first two phases of EU sanctions over the regime in Damascus. The sanctions resulted to incapacitated the political, financial and institutions of the regime. And the author argues that the increased rate of al-Qaida-related Jihadists in constant combat with the Syrian regime has made the sanction less productive. Seeberg also explains that EU sanctions against Syria are basically not part of the EU traditional pragmatic policies. And the second adopted approach of the EU is more moderate by focusing on security, which is inherent in the EU policy towards the country.⁷² Fargues and Fandrich (2012) explain the adopted approach of EU in responding to Syrian conflict to be multilayered at which differentiation can be done through external and internal responses. External responses include EU actions to put a stop to the conflict, facilitate political change and render humanitarian help and internal response includes all EU' efforts to secure the border and

⁷⁰ Connor P (2017, p.6)

⁷¹ European Commission (2017). The EU and the Migration Crisis.p.2

⁷²Peter Seeberg. "The EU and the Syrian Crisis: The Use of Sanctions and the Regime's Strategy for Survival". Mediterranean Politics 2015, Vol. 20 No. 1, (2015), p.31

protect asylum seekers. These authors classified the external EU actions to be under “assist and contain” and internal EU actions to be under “maintain and protect”.

The study of Orchard and Miller (2014) basically focuses on how Syrian refugees were treated and EU humanitarian response. The study covers the various humanitarian responses from EU countries to the conflict in order to ascertain the general response of the EU to the conflict. The research covers the responses of Germany, Sweden, Norway, Bulgaria, Greece, Italy and the UK. They shared similar results with the argument of Fargue and Fandrich (2012) stating that the first initial EU response aimed at containing the refugee crisis, helping refugees in Syrian neighboring countries and ensure security at EU border.⁷³ The study found out that Syrian neighboring countries are need of assistance from EU and encourages EU to be more accommodating for more Syrian refugees by opening their doors for them .Ostrand (2015) made comparison on the responses of Germany, Sweden, the United Kingdom and the United States concerning the conflict and found out that although there are differences in the level at which each country protect Syrians but all the states have increased their level of protection for them. The author considers the level of protection given to them by these states to be moderate and reasonable compare with the protection they have received from neighboring countries.⁷⁴

3.2 Responses of EU Member States to Syrian Refugees’ Crisis

3.2.1 Italy

The reaction of Italy to Syrian refugees has reflected its inability to deal with massive flow of refugees from the country. Considering the fact that Italy is the first entry to the external border of Europe has made the country to witness a massive flow of Syrian refugees since 2011. UNHCR (2014) reports that though Syrian refugees are among the top five nationalities seeking asylum in Italy but they are not the majority in the country. Many people from Syria that managed to reach Italy did not apply for asylum but instead, they have preferably travelled to other European countries base on UNHCR report (2014)

⁷³Fargues, P &Fandrich, C. “The European Response to the Syrian Crisis What Next?” European University Institute, Florence. Migration Policy Centre, Research Report, (2012), p.5.

⁷⁴Nicole Ostrand. “The Syrian Refugee Crisis: A Comparison of Responses by Germany, Sweden, the United Kingdom and the United States”. Center for Migration Studies of New York, JMHS Volume 3 Number 3 (2015) p. 255

stating that 94 percent of Syrian refugees that entered Italy have travelled to other European countries. Italy has received around 2, 168 asylum applications from Syria between 2011 to 2015 according to UNHCR (2015). This number of application is not much compared with other European countries. In the aspect of resettlement, there is no regular resettlement program in Italy but it has promised to accept 350 resettled Syrian refugees since 2013.⁷⁵ There is external border of Italy and it has a duty of ensuring the registration of everyone crossing the border including asylum seekers due to the fact that it is a member of the Schengen area. Italy has received many criticisms from other EU countries such as Austria, Germany, Hungary and Sweden for its failure to comply with the EU laws claiming that it has refused to register every individual crossing its external border.

In addition, Italian authorities have responded to this allegation with the claim that the huge amount of people arriving at its border makes it difficult to register them. Italy has also responded to the massive rate of refugees entering the country by sending a large-scale operation to rescue migrants at sea and also without criminalizing illegal; immigration. After the incident outside the Italian Island of Lampedusa, which result to the death of 368 migrants drowned in the sea on October 2013, Italy has launched Operation Mare Nostrum. Considering the cost of running this operation, which is around 9 million euro monthly is too high for Italy to manage and it has as a resulted seek help to the EU. The EU has decided to call for a Frontex coordinated joint operation Triton, which was formed in 2014 after receiving many complaints from the Italy. This has replaced Operation Mare Nostrum and it has managed to rescue around 150.810 migrants on the sea. Operation Triton focuses more on border security operation, which makes it different from Operation Mare Nostrum that is more of search and rescue operation.⁷⁶

Italy has sought assistance from the EU in managing the massive flow of Syrian refugees and asylum seekers. This as a result has made Italy to receive financial assistance from the EU including operational help from the European Asylum Support Office (EASO) to

⁷⁵ UNHCR. The sea route to Europe: The Mediterranean passage in the age of refugees. Available at <http://www.unhcr.org/059.pdf> Accessed on 5 of February, 2018, (2015), p.2

⁷⁶European Commission. "Frontex Joint Operation 'Triton' – Concerted efforts to manage migration in the Central Mediterranean." Available at http://europa.eu/rapid/pre14-566_en.htm Accessed on 3rd of February, 2018, (2014), p.2

manage its refugee crisis, which has not been sufficient enough. Angelino Alfano who happened to be Italy's Interior Minister in 2014 announced that Italy would not hesitate to defy the EU laws and send its massive asylum seekers to other EU countries if the Union would make an immediate effort to help in terms of border patrols. This argument was repeated by the Prime Minister Matteo Renzi in 2015 confirming that the country would not hesitate to take a unilateral decision if sufficient assistance would not come from the Union. The considerable option of Italy is to grant asylum seekers three month of stay in order for them to move to other European countries. Italy has argued that the massive flow of asylum seekers in the country should be considered as a problem to the EU in general. This reflected in the statement of Prime Minister Matteo Renzi that anyone that has a right to asylum in Italy should be able to enter EU countries generally. He also explains further that Italy has been abandoned in its efforts to deal with refugee issues.⁷⁷

3.2.2 Hungary

Another country that is among the first entry countries to the EU is Hungary, which has witnessed a large increased of Syrian refugees since 2014 and 2015 in particular. The country has received around 54.125 asylum applications from Syria between 2011 to 2015. In similar to Italy, Syrians are few among the migrants residing in the country. Many refugees are coming to Hungary via Western Balkan route that means they are coming through the Western Balkans into Hungary.⁷⁸ Since 2013, the country has only managed to resettle 30 refugees from Syria. Hungary's response to massive flow of refugees was about increasing its controls of borders, declaration of state of emergency and adjustment of its Asylum Acts. The Asylum was reformed and the new reformation allows the country to reject asylum applications from Syrians and Iraqis. The country also built a 175-kilometer long fence in its border with Serbia in order to prevent illegal crossings. The country spent 200 million euro in a year in restoring law and order around its borders. Also the newly built fence was protected by law whereby anyone that attempts to destroy the fence will be criminalized, subjected to punishment of imprisonment or deportation as stated under the reformed law. The Prime Minister and the Hungary's right-wing government are against

⁷⁷ EASO. "EASO and Italy signed new Operating Plan 2017." European Asylum Support Office, (2017), p.1

⁷⁸Frontex. "Risk Analysis for 2017." European Border and Coast Guard Agency. (2015), p.2

immigration whereby it was clearly stated that Muslim asylum seekers are not welcomed in Hungary. The government has defended its policies against immigrant with the claim that the massive flow of migrants and refugees constitute a threat to the stability of the country. The Prime Minister believes that the country cannot allow immigration due to its lack of experience of “multiculturalism.”⁷⁹

3.2.3 Germany

According to UNHCR report (2015), Germany has received around 125,441 asylum applications from Syria between 2011 to 2015, which has made the country the home for Syrian asylum seekers in Europe. There was 94 percent rate of accepted asylum seekers from Syria into Germany in 2014. The country is among the biggest donors of international aid to Syrians and Syrian neighboring countries. It spent around 440 million euro for humanitarian and development aid between 2012 to 2013 only for Syrians in need of help during the conflicts. Germany has set up a small program functioning since 2012 on the aspect of resettlement running yearly quota of around 300 refugees. These programs afford temporal resident to accepted refugees. The country is also considered to have the biggest humanitarian admission program for Syrian refugees. There was implementation of Temporary Humanitarian Admission Program (THAP) in 2013 admitting around ten thousand Syrians from Lebanon within the periods of 2013 to 2014, which was later extended to cover additional places of another ten thousand in 2014. German Counselor Angela Merkel on the contrary approach to the Hungarian prime minister has allowed opened door for Syrian refugees and those in need of international protection. Urban from Hungary has regarded the opened door policy of Germany as a German problem and not European issue. German Chancellor has played a leading role in addressing the various ways at which Syrian refugees should be treated in Germany.⁸⁰

The Opened door policy of Germany also led to the suspension of Dublin procedure, which has been an idea of ensuring that all refugees should firstly seek asylum in Europe. And as a response to this, Germany has been a leading EU country ensuring the relief of

⁷⁹ Greenhill K.M. ” Open Arms Behind Barred Doors: Fear, Hypocrisy and Policy Schizophrenia in the European Migration Crisis.” *European Law Journal*, Vol. 22, No. 3, (2016), p.4

⁸⁰ UNHCR). *Global Trends Forced Displacement in 2015*. Available at <http://www.unhcr.org/statistics/unhcrstats>. Accessed on 3rd of February, 2018, (2015), p.5

overloaded asylum seeking countries on the EU's external border. The suspension of the Dublin procedure is a strategic way of welcoming all Syrian asylum seekers in the country regardless of any EU country that they are coming from. In addition, 5 Merkel explained in her speech during a press conference in Bern that Germany has accepted it as an honor and a moral obligation to accept refugees. And after a massive flow of refugees in the country, she stated that it was a damned duty to help refugees and any attempt to stop this help would be considered illusion. She continues her speech on the 8th of October stating that closing our borders is not an option since we have t a 3.000 kilometer long frontier. She has established the fundamental rights of refugees to seek asylum and this right cannot be taken from them. She stated that EU is a community of values, rights and responsibilities and the adopted approach of EU to the on-going conflict in Syria will have a future influence on the continent (Greenhill K.M 2016). The good image of Germany in accepting and helping Syrian refugees has always been repeated and as a result, the country has around 202.815 asylum applications, which has made it to be highest among EU countries.⁸¹

3.2.4 Sweden

Considering the rate of refugees accepted by Germany, it is a surprise to find out that Sweden is the highest country that has taken more refugees per capital. Historically, helping refugees from failed states has been a long-time tradition of the country. This country was able to receive around 80.360 asylum applications from Syria (UNHCR 2015). The country has 100 percent recognition rate for Syrian nationals in 2014, which is the highest among the EU countries. The country has also been considered as one of the largest donors of humanitarian aid in responding to the Syrian population in need of help during the crisis. Since the inception of the on-going armed conflicts in Syria, Sweden has spent around 1.6 billion Swedish Kroner as a donation for humanitarian aid to the people. The country has the most regular and functioning resettlement program in the EU.⁸²

⁸¹Ibid (79), p.9.

⁸² UNHCR . Global Trends Forced Displacement in 2015. Available at <http://www.unhcr.org/statistics/unhcrstats>. Accessed on 3rd of February, 2018, (2015c), p.2

Sweden provided around 1200 resettlement places in 2014 for refugees from Syria. More than German pledge, the country has promised to resettle around 2700 Syrian refugees (UNHCR 2015). Sweden has a similar adopted approach to that of Germany. It is the only EU country granting permanent residence to Syrian refugees, which was an implemented decision since 2013. Swedish authority has offered a reason of long-lasting conflict in Syria requires offering Syrian refugees permanent residence. This has resulted to the massive flow of Syrian refugees in the country. The Sweden's offered permanent residence gives chance to people to bring their family members. Following the promulgation of Germany to suspend Dublin procedures, Sweden has also announced to follow the same step and grant around eight thousands Syrians already in any EU country to have permanent resident in Sweden. Stefan Lofven who happened to be Sweden's Prime Minister has been one the best allies to Angela Merkel from Germany in lobbying for the adoption of a burden-sharing system. The country has similar reasons with Germany on why Syrian refugees should be accepted in Europe. As put forward by Sweden's Minister of Migration stating that the decision of Sweden to grant asylum to everyone in needs of international protection would remain the same. He explains further that Sweden and all EU countries have an obligation to ensure the international protection and the country is expecting more EU member states to adopt the approach.⁸³

3.2.5 Greece

There is significant number of Syrian refugees in Greece since the inception of the conflict in 2011 simply it is part of the EU countries allowing the entering of refugees. In statistic, it not easy to accurately state the number of Syrian refugees present in Greece due to the fact that many of them have refused to apply for asylum. This is either they have not been able to apply or they hope to move from Greece to other more accommodating EU states for refugees. Base on the report of Christian Science Monitor, more than 17,000 Syrians have entered the country between 2011 to 2013 and the government of Greece has recorded around 8000 Syrians arrested for illegal entry. As a reaction to the massive flow of refugees in the country, it has increased its rate of border controls including building of

⁸³ Cynthia Orchard and Andrew Miller (2014, p.59)

a fence of 12.5km along its border with Turkey as well as deployment of around two thousands guards within the period of 2012 to 2013.⁸⁴

These different adopted measures resulted to the declination of arrested irregular immigrants at Greek border areas and in Greek waters. The various issues facing the country has been stated as; unable to access of the asylum system; systematic of rejecting Syrians and refugees from another states, physical abuse against asylum seekers by Greek officials, unnecessary apprehension and detention of asylum seekers, lack of adequate facilities for reception and absence of social support for people seeking asylum such as inability to work, the building of fence along the Greek–Turkish border, which resulted to the diversion of around 90 percent of irregular immigrants to the Aegean Sea leading to the death of many of them on the sea. Before 2013, Greek police was in charge of asylum system institutionalizing a very difficult and time consuming process of applying for asylum. But in 2013, a new asylum system was set up under the Ministry of the Interior, which has improved asylum system in the country. It granted permission to work, which does not necessarily guarantee employment in the country. It does not also cover the backlog of around 50,000 Syrian applicants who applied for asylum before the set up of the new system. In addition, the country has not made any arrangement for refugee resettlement or given any humanitarian aid to Syrian refugees.⁸⁵

In conclusion, this chapter generally explains the responses of EU countries to Syrian refugees' crisis. This is to show whether EU member states have been complying with different conventions on international refugee law in their acceptance and treatment of Syrian refugees. It generally found out that while some EU countries such as Germany, Sweden, Italy and Hungary have been helpful with their opened door policy, some other countries have restrictive in their approach. It also finds out generally, EU has been helpful in the aspect of humanitarian and development assistance by spending millions of dollars in assisting Syrian refugees and the neighboring countries with different established programs. It is also found out that that the number of accepted Syrian refugees in Europe is incredibly low compare with the amount of Syrian refugees in its neighboring countries.

⁸⁴ Stone J. "Syrian refugee crisis: How different countries have responded." Independent United Kingdom, (2016) p.3

⁸⁵Vision Europe Summit. "Improving the Responses to the Migration and Refugee Crisis in Europe." CalousteGulbenkian Foundation, (2016), p.7

And in conclusion, the EU response has been classified into external and internal responses. External responses include EU actions to put a stop to the conflict, facilitate political change and render humanitarian help and internal response includes all EU' efforts to secure the border and protect asylum seekers. As explained by Fargues and Fandrich (2012) that the external EU actions focus on “assist and contain” and internal EU actions are under “maintain and protect”

CHAPTER FOUR

SYRIAN REFUGEES IN NEIGHBOURING COUNTRIES

4.1 Lebanon

The number of Syrian refugees estimated as at 2014 in Lebanon is more than one million and the country is expected to receive around 1.5 million of Syrian refugees by the end of 2014. Considering the population size of the country and the number of Syrians in the country, the impact of Syrian refugees' crisis in the country becomes obvious to examine. This calls for international and national interventions in the country. Lebanon has been facing with challenges of respecting the legal rights of Syrian refugees and avoiding the rising tensions among Lebanese citizens. Syrians have not only witnessed difficulties in their living conditions in Lebanon alone but they have also become threats to existing vulnerable Lebanese people. Base on the reports of UNHCR, it was noted that the massive flow of Syrian refugees in Lebanon has negatively affected the economic growth of the country.⁸⁶ According to CLDH report (2016) as at August 2016, the number of refugees from Syria in Lebanon registered with UNHCR reached 1,033,513 together with the number of unregistered Syrian refugees increased the total number of Syrians in the country to 1.5million. And the hardship living conditions of these refugees have got the attention of international community, most in particular after the implementation of recent Lebanese regulations, which will be discussed later.⁸⁷

Historically, before 2011, bilateral agreement between Lebanon and Syria for Economic Social Cooperation and Coordination are regulations guiding the movement of Syrian population into Lebanon, which was ratified in 1993. The agreement that made provisions

⁸⁶Bidinger S; Lang A; Hites D; Kuzmova Y &Noureddine E. "Protecting Syrian Refugees: Laws, Policies, and Global Responsibility Sharing." Boston University School of Law International Human Rights Clinic, (2015), p.28.

⁸⁷C.L.D.H. "Legal Challenges Faced by Refugees from Syria in Lebanon." The Lebanese Center for Human Rights, (2016), p.11-15.

for rights to work, rights to economic activities and permanent residence for the citizens of both countries to enjoy among each other. The first two years of Syrian conflict witnessed a massive flow of refugees from Syria entering Lebanon as a result of this agreement and adopted opened-door policy by the Lebanese government. And also there are free movements for Syrians to enter into Lebanon without following any special visa requirement, which made it possible for many Syrian refugees to enter into Lebanon without even their passports. And as a result of the absence of the formal recognition for Syrians as refugees in Lebanon, the government was able to put them in perilous conditions. The change of government in 2014 led to the adoption of some restrictive measures. This resulted to the close of 18 irregular entry points at Lebanese borders making it difficult for Syrians to enter the country.⁸⁸

Afterwards, GoL (government of Lebanon) took two relevant steps, which are; firstly, the acceptance of cooperation with the UN in supporting the Lebanon Crisis Response Plan (LCRP). There are three strategic plans stated in the plan, which is; (1) to ensure humanitarian protection and assistance for Syrian refugees and poor people (2) to improve the ability of national and local public delivery systems in accommodating the needs of Syrian people (3) to assist economic, social, institutional and environmental stability of Lebanon. In order to implement this plan, GoL has collaborated with many NGOs, local and international actors. There is on-going plan now towards the implementation of LCRP from 2017 to 2021. The second relevant step taken is the proposal and approval of the application of the "Policy Paper on Syrian Refugee Displacement" This stated out three goals concerning the "displaced" Syrians in Lebanon, which are; (1) to decrease the number of Syrians in Lebanon (2) to increase security through the increment of Lebanese regulation over Syrians and by supporting municipality police and also to require them in engaging on constant statistical surveys And lastly (3) to alleviate the burden rate over infrastructure.⁸⁹

In discussing the new regulations that was set up in January 2015, the policy paper aims not only to control the rate of access Syrian refugees have to Lebanon but basically aims to

⁸⁸Ibid (87), p.11.

⁸⁹ Ibid (87), p.13

control their residence in the country. The enforcement of the policy paper took place between January to February 2015, when Lebanese General Security Office (GSO) successfully shut down the borders. Restrictions were placed on the freedom to enter the country and some category of people were only allowed and given a short period of time to stay in the country. For anybody to be part of this category, some certain documents should be submitted and evaluated. The two categories of people that have the privilege to enter and stay for long in the country were displaced individuals and those who pledged not to work in the country. There are stated requirements to be identified as displaced individual, which is known as "Humanitarian Exception Criteria." The few individuals that have gained protection from Lebanon under this criteria since January 2015 have shown a strong proof to be qualified under three requirements, which are; proof of compliance with the criteria, payment of \$200 fee for anyone above 15 years of age for acquiring and renewing of residence permit and this can be renewed for more six months.⁹⁰

Representatives from Lebanon, Jordan, Egypt, Turkey and Great Britain came together for meeting on the 4th of February 2016 known as "London Conference" in order to discuss the living condition of Syrians in neighboring countries. During this conference, representatives from Lebanon claimed the awareness of hardship living conditions of Syrian refugees in Lebanon and the implications of their presence on the economic and social growth of the country. They promised to engage in the promotion of two main programs for the sake of improving the living situation of Syrians in Lebanon, which the first one is RACE II program. This program continues the educational program of RACE programme, ensuring that every child under 18 years of age has access to education without depending on the legal status of their parents. And the second one is known as Subsidized Temporary Employment Programme (STEP). This program provides social security for Syrian workers, which is a contribution given to Syrian workers when they finish their programmes and return to their country. RACE II program basically focuses on the system of education in Lebanon in order to enable children and youth between 3 and 18

⁹⁰Coquelet, Danae." Resettling Hope: Expectations versus Reality Approach to the Resettlement in Belgium of Syrian Refugees from Lebanon." European Master's Degree in Human Rights and Democratization, (2018).

to acquire quality education opportunities without depending on the legal status of their parents.⁹¹

Contrary to RACE, RACE II deals with all Syrian children in Lebanon covering around 440,000 giving them access to quality education and also aims at expanding its scope of action in order to improve Non Formal Education (NFE) programs. Concerning STEP program, it was explained that the program has failed to provide a valuable and sustainable solution to the lingering challenges of unemployment facing Syrian refugees in the country.

As a matter of fact, the total number of students allowed under the care of the program is nothing compare with the total of Syrian refugees living in hard conditions in the country without regular jobs for them. This explains that even if the program is successfully implemented, it is not a sufficient way of ensuring adequate living conditions for Syrian people in Lebanon considering its scope of action and present conditions. However, the most notable improvement concerning the situation of Syrian refugees in the country has to do with the 2015 Entry and Renewal of Residency permit policy for registered Syrians under UNHCR. It was explained that Lebanese government has changed the requirements for the renewal of residency permit in order to incorporate wide range of Syrians in Lebanon. Another noticeable improvement is the suspension of the pledge not to work and it has been replaced with a pledge of complying with law of Lebanon. Both improvements have represented a level of easement in the living condition of Syrian refugees in the country but these improvements are yet to be implemented at all parts of the country.⁹²

4.2 Jordan

From the history, Jordan has adopted an opened-border policy towards in general and most particular, refugees from Iraq and Palestinian. This open-border policy was also extended to Syrian refugees, which exempt them from passing through any visa requirement and they could stay in the country without residence permit, which the policy affirmed by the

⁹¹UNDP; ILO & WFP. Jobs Make the Difference Expanding Economic Opportunities for Syrian Refugees and Host Communities Egypt - Iraq - Jordan - Lebanon - Syria - Turkey. Available at http://rdpp-me.org/RDPP/files/job_difference_1499128342.pdf Accessed on 3rd of March 2018, (2017), p.3

⁹²C.L.D.H “ Legal Challenges Faced by Refugees from Syria in Lebanon.” The Lebanese Center for Human Rights, (2016), p.15-16.

Prime Minister in 2013. It should be noted that the country is an under-developed country with the features of political tensions, financial constraints, infrastructure limitations and most water insecure nations in the world. UNHCR registered 598, 260 Syrian refugees in Jordan as at May, 2014, whereby around 93 percent of Syrians entering the country were known to be families and majority of them were children. Almost all the Syrians entering the country were registered along with the claim of UNHCR to have removed every backlog in 2013. Most Syrians in the country are living out the camps and they have found houses in urban areas. Za'atari was considered as the largest Syrian camp in Jordan followed by Emirati Jordanian Camp and Azraq became number third, which was opened in 2014. It was noted that just 20percent of Syrian refugees have been living in the camp (Za'atari), which is around 120,000 people, the second largest in the world.⁹³

Jordan has been considered to be among few states in the region that have remained stable despite the on-going conflicts around the country. Jordan is presently facing with Syrian refugee crisis just as other neighboring countries. According to Carrion D (2015, p.3) the UN High Commissioner for Refugees (UNHCR) has registered 639,704 Syrian refugees, with a probability that the total number should be more than that. In addition to those registered numbers with UNHCR, Jordan authorities believed that there are thousands of Syrian refugees living in Jordan unregistered. More than 117,000 Syrian refugees are living in three camps at which they are given access to education, water, food, health care, and cash for work programmes provided by the UN, national and international organizations. And 80percent of Syrians are living outside the camps. Many Syrians living at the urban areas are in poverty, facing the problem of having access to public services and good health care. Majority of the problems facing Syrians are as a result of reduction in the provision of humanitarian supports for them. For example, due to inadequate fund in 2015, there has been shortage of food supply under the food programmers assistance for them. They have been mandated to obtain a UNHCR Asylum Seekers Certificate and a Ministry of Interior (MoI) service card before they could have access to public services, including health care in the urban areas. And those Syrian refugees who left the camps without passing through official 'bail out' process and those who have previously left

⁹³Bidinger S; Lang A; Hites D; Kuzmova Y &Noureddine E. "Protecting Syrian Refugees: Laws, Policies, and Global Responsibility Sharing." Boston University School of Law International Human Rights Clinic, (2015), p.56

Jordan to return to Syrian and then re-entered the country are not allow to receive these documents and they are not eligible for public services.⁹⁴

The verification process to register Syrian refugees living in urban areas started in February 2015 by Jordanian authorities in order to issue a new biometric MoI Service Card. The process of obtaining this card has required Syrian refugees to appear at their various local police station along with their identity documents, which has been taken from them by the Jordanian authorities at the border and also they have to confirm their residential place by providing a 'residency statement' from UNHCR and a copy of identity document from their landlords. Every Syrian that is above the age of twelve years are mandated to obtain a health certificate from the Ministry of Health for the certification of their health. The cost of fulfilling this process when it started in 2015 was around US\$42 and it was later reduced to US\$7. This still means that poor Syrian refugees would find this process cumbersome, difficult and costly to pass through. And this has resulted to the situation whereby many Syrian refugees who could not afford to obtain this new MoI Service Card have been denied to have access to public services. And many of them without valid documents have been forcefully moved back to refugee camps or deported back to Syria in some cases.⁹⁵

The presence of Syrian refugees in Jordan has negative impact over the communities. There have additional Syrian refugees, which is around 175,000 registered to be living in the capital of the country. Jordanian citizens in this area have witnessed an increased house rents due to high demand of housing, which has been a benefit to the business owners.⁹⁶ The increased rate of availability of informal Syrian labour has also been a benefit for business owners, at which little wages are being paid for high labour. In addition, there is insufficient capacity of municipalities to perform essential services for the thousands of new residents in which their arrivals have required the need to create new roads and improve electricity infrastructure. Many citizens of Jordan have also developed a feeling of being worse off as a result of Syrian refugees, which is a matter of perception. The rise in population as a result of influx of Syrian refugees has affected public services for

⁹⁴Amnesty International (2016). *Living on the Margins: Syrian Refugees in Jordan Struggle to Access Health Care*, p.5

⁹⁵Ibid (94), p.6.

⁹⁶ Achilli Luigi. "Syrian Refugees in Jordan: a Reality Check." Migration Policy Centre, EUI, (2015), p.2

everybody whereby the available good education and quality health services are not sufficient for the population. Schools are overcrowded even with the adoption of a double-shift system whereby Jordanian students are taught in the mornings and Syrian students in the afternoons. People have to wait for a long period of time before they have medical attention, people are experiencing shortages of local water, municipalities are incapacitated to perform their roles and there are complaints from local residents concerning the use of drugs and availability of guns. Most vulnerable Jordanians are also most people affected by the presence of massive Syrian refugees at which poor families could no longer be able to afford the increased rents.⁹⁷

However, it is difficult to examine the impact of Syrian refugees on employment issues in Jordan due to the fact that almost half of the labour market in the country is in the informal sector. The independent research foundation Fafo and the International Labor Organization (ILO), supported by the Jordanian Department of Statistics, conducted a joint study based in 2015 using household survey in Amman and they found out that unemployment increased from 14.5 per cent in 2011 to 22.1 per cent in 2014 in these areas of Jordan, which was as a result of Syrian refugees ‘crowding out’ Jordanians from work in most sectors.⁹⁸ Many respondents explained the declination of job opportunities in some sectors. Other researches explained the local attitudes towards the impact of Syrian refugee on toward Jordanian employment. For example, the investigation carried out in 2012 by Jordanian Economic and Social Council claimed that Syrian refugees have been able to secure around 31,000 jobs that suppose to be done by Jordanian women. Also the claim of Yarmouk University study in 2015 stated that refugees from Syria have been able to take almost 40,000 jobs from Jordanians since the inception of the conflict. While some findings revealed the negative effects of Syrians over the economy of Jordan, some have been positive in their analysis. For example, Jordanian economist Yusuf Mansur has used Jordanian Investment Board figures, to estimate a number of t \$1 billion of foreign direct investment (FDI) into Jordan in 2013 has come from Syria.⁹⁹

⁹⁷Doris Carrion.”Syrian Refugees in Jordan Confronting Difficult Truths. Middle East and North Africa Programme.” Research Paper, (2015), p.4-6.

⁹⁸ Zetter R. “Refugees’ Right to Work and Access to Labor Markets – An Assessment.” Global Knowledge Partnership on Migration and Development, (2016), p.79

⁹⁹ Ibid (97), p.5-6

4.3 Egypt

Historically, there has been close ties between Egypt and Syrian Arab Republic and they share certain influences with each other along with a traditional open-door policy with each other. Even before the crisis in Syria, there has been some Syrian community residing in Egypt. At the inception of Syrian conflict, the first set of Syrians moving to Egypt was composed of family members, personal networks and business connections. They financed themselves, found work and dependent on themselves to make a living.¹⁰⁰ The arrivals of Syrian refugees in the Egypt dramatically rose during the first half of 2013 whereby there were 129,174 registered refugees as of 8 December 2013, and estimation of government rose to 300,000.¹⁰¹ Egypt adopted open-door policy to Syrian refugees until middle of 2013. The need for a for political solution in the country concerning Syrian refugees resulted to the announcement made by the government that all Syrians entering the country would need to obtain visa and security clearance. As a result of these new regulations, around 259 Syrians were deported back to Syria, Lebanon, and other countries on the 8th of July 2013. Over 1,500 Syrian and Palestinian refugees have been arrested in their attempt to cross to Europe from the country using boat and many of them were deported back to Syria.¹⁰²

In addition, there has been anti-Syrian treatment among Egyptians, which has followed the restrictive environment created by Egyptian government. Many Syrians have witnessed verbal threats, various abuses and media outlets in the country, which has made them to register with UNHCR. And many of them that registered with UNHCR have requested their files to be closed with the aim of moving back to Syria while some have attempted to leave the country illegally to enter into Europe. UNHCR and its partners have been helpful in providing various assistance to Syrian refugees, which include; financial and housing assistance, educational grants, legal assistance, both primary and secondary health care, training programmes and psychosocial services. They have also been helpful in the conduction of awareness sessions with the aim of informing refugees concerning the legal

¹⁰⁰ Joint Assessment for Syrian Refugees in Egypt (2013, p.10)

¹⁰¹ Amnesty International (2013). An International Failure: The Syrian Refugee Crisis, p.2

¹⁰²Amnesty International (2013). An International Failure: The Syrian Refugee Crisis. Amnesty International Briefing, p.5

requirements and needed procedures to obtain their legal residence in the country.¹⁰³ Egypt did not establish domestic asylum procedures and this means that the created memorandum of understanding (“MOU”) between Egypt and UNHCR that was implemented in 1954 became the principal legal instrument governing refugee relations in the country. The MOU stated that UNHCR will be responsible to conduct refugee status determination.¹⁰⁴

4.4 Turkey

In the beginning of 2013, the government of Turkey (GoT) calculated around 150,000 Syrian refugees found in the country due to on-going crisis in Syria.¹⁰⁵ Turkey has a long history of open-border policy with Syria whereby unrestricted access is given to Syrians to enter the country. In 2014, Turkish government estimated around 700,000 Syrian refugees living in Turkey and some actors estimated that there are more than million refugees from Syria inhabiting in Turkey.¹⁰⁶ In approximation, there are 222,000 refugees inside 22 refugee camps in Southern Turkey. The available camps are full and the building of new camps requires not only suitable infrastructure but sufficient funding as well. The remaining refugees, which are around 500,000 are living in the Urban areas of Turkey. The Turkish government has been the main actor in Syrian refugee crisis with many reports stating that the expenditure of Turkish government on the arrivals of Syrians ranging from health to education, food and costs of many more services is more than 2.5 billion dollars whereas the country has received little aid from international community. The country has initially refused to share information about its various actions on Syrian refugees and denied many NGOs and INGOs to have access to its camps.¹⁰⁷

In 2011, when the first Syrian refugees started coming into Turkey, Turkey has good relations with the Syrian government whereby the Turkish government engaged in different measures to persuade Bashar al-Assad regime not to use harsh or military forces against the protests of the civilians. Recep Tayyip Erdoğan was then the prime minister of Turkey who developed personal relationship with Asaad together with his Ahmet

¹⁰³ Joint Assessment for Syrian Refugees in Egypt (2013, p.17)

¹⁰⁴ Bidinger S; Lang A; Hites D; Kuzmova Y & Nouredine E (2015), p.56

¹⁰⁵ Kirişçi K. “Syrian Refugees and Turkey's Challenges: Going Beyond Hospitality.” Brookings Institution, (2014), p.1

¹⁰⁶ Cagaptay Soner. “The Impact of Syria's refugees on southern Turkey.” Policy Focus, (2014), p.6

¹⁰⁷ Ibid(106), p.7

Davutoğlu who was then his Minister of Foreign Affairs and they both persuaded Asaad to engage in reform agenda. But when Syrian government started to use violent responses and military repression against Syrian civilian protests, the relationship between the both countries was destroyed. And at the end of 2011, Turkish government was totally not in support of Syrian repressive approaches and the country recognized the then-Syrian National Council to be representative of the Syrian people. As a result, both Erdoğan and Davutoğlu have supported the need for a better future for Syria without Asaad. The good expectations of Turkey in alignment with that of international community were to put an end to Asaad regime. This led to the declaration of open-door policy adopted by Turkey in October 2011 to accommodate free intakes of refugees fleeing Syria and gave them a legal framework known as “temporary protection.” By May, 2014, there were around y 220,000 Syrian refugees camped in 22 camps with the inclusion of 515,000 registered urban refugees in Turkey. And the government of Turkey together with the UNHCR calculated the total number of 900,000 Syrians housed by Turkey.¹⁰⁸

Turkey has been refusing to grant Syrians official refugee status whereby they have been labeled as guests who only have access to temporary protection. But five years after the arrival of first refugees in the country, which is July 2 2016, Turkish President RecepTayyip Erdogan surprisingly explained that refugees from Syria living in the country could now have privilege to be granted citizenship. But the plan of government towards Syrian citizenship is not cleared yet, which could have a deep effect on relating issues to Syrian refugees and state-society relations. In addition to the complex nature of Syrian refugees in the country, the massive of Syrians reached another milestone in 2015 and many of them have chosen the unsafe unauthorized path to Europe. The unauthorized flows of Syrians to Europe have become a challenge to the fragile geopolitical balance of the region and also a question on the future of borderless Schengen area. This has resulted to the decision of the EU authorities to facilitate migration cooperation with Turkey in an

¹⁰⁸Kirişçi K. “Syrian Refugees and Turkey's Challenges: Going Beyond Hospitality.” The Booking Institutions, (2016), p.1-2.

attempt to reduce the massive flow of migrants and asylum seekers coming from Turkey to enter the EU.¹⁰⁹

Additionally, it should be noted that 90percent of Syrian refugees in Turkey are not living in the camps, most of them are living in the urban areas. And when it is established that Syrians are no longer temporary guests in the country, there is a need for broader adaptation. Turkey has started to build institutional and infrastructural capacities stronger enough to deal with refugees who aim to secure permanent residence in the country. There is a need for rigorous and unified approach to successfully ensure the long-term integration and settlement of refugees. It requires strong cooperation among policy makers, civil society organizations and practitioners on different aspects like education, health and employment. It also necessitates international cooperation and support. The extension of the presence of Syrians refugees in the country has shifted the perspectives from short-term protection and humanitarian assistance to long-term. The various ways at which immigration policies would deal this new challenge has become the focus of Turkey. Accommodation of Syrian refugees for a long-term and their integration would surely take place through business, education and civil society.¹¹⁰

The protracted nature of Syrian conflict indicated that Syrian refugees would not leave Turkey anytime soon, which resulted to some emerging challenges for Turkey. This resulted to the need for some difficult policies to be adopted by Turkey such as the need for government to start thinking about offering refugees that remain in the country and proper integration and address the possibilities of providing them with urgent education, employment, health, shelter and other needs of Syrian refugees. Another issue was the rapid growth of refugees outside camps and they were expected to be more than a million. The government was trying to get them registered but it was a difficult task to do. Another issue was that the presence of massive refugees started affecting the economic, social, and political and security conditions of Turkish citizens and Turkey as a country. And another

¹⁰⁹Ahmet İçduygu and Evin Millet. "Syrian Refugees in Turkey: Insecure Lives in an Environment of Pseudo-Integration." *Global Turkey in Europe Working Paper*, (2016), p.3-10.

¹¹⁰SaferWorld. "Syrian refugees in Turkey: Challenges to and Opportunities for Longer-Term Integration" Saferworld briefing, (2016), p.3-4.

issue was Turkey could address the on-going continued deterioration of the humanitarian and political situation inside Syria.¹¹¹

Furthermore, in 2015, Turkey became the largest host country for Syrians, which means the country has overtaken Lebanon, and there is a possibility of this number to increase as the conflict progresses. The occupation of Northern Syria by ISIS has resulted to increased numbers of Syrians in the country. This has resulted too many reforms of Turkey's policies concerning international migration and asylum over the past years. For example, at the beginning of 2000s, EU-ization process started in Turkey leading to the revisions of Turkey's migration and asylum legislation. The requirements of EU pre-accession require Turkey to harmonize its legislation with the EU member states including its migration and asylum. In 2005, Action plan on Asylum and Migration was adopted by Turkish government whereby steps and timetable for bringing Turkey the national legislation in alignment with EU directives on asylum and migration policies were laid out. This led to the formation of work permits' law for foreigners in 2003 (Law No. 4817), which allowed migrants to obtain documents that would allow them to look for work and get employed. And the law on Foreigner and International Protection in 2013 led to the reform of Turkish management system to be in line with international and EU standards.¹¹²

4.4.1 The EU-Turkey Refugee Deal

Since the inception of the crisis in Syria and massive flow of refugees from the country, Turkey has received praises in its generous and liberal admission policies along with its quality standards of refugee camps but European countries on the contrary have been criticized for their restrictive policies toward admissions of Syrian refugees. This image has not only reflected the differences in responsibilities sharing and responsibility shifting but it has also generated the question of justification on how a state could accept the duties of protecting refugees taking extra burden of these duties because another state has refused to share the burden? After devastating events in 2015 when countless of refugees deeply suffered at the European borders resulted many lost of lives on the sea. This led to the signing of the EU-Turkey deal with the aims of reducing the massive flow of smuggled

¹¹¹Kirişci K. "Syrian Refugees and Turkey's Challenges: Going Beyond Hospitality." The Booking Institutions, (2016), p.2.

¹¹²Ibid (109), p.9-10.

immigrants and asylum seekers, to increase the rate of resettlement of Syrian refugees in Turkey and to improve financial support for refugees in Turkey in order to ensure their protections and integration. There were two emanating questions concerning this deal requiring comprehensive elaborations; the first question the legal framework of the deal, which is a question of whether Turkey could be considered as a safe place? And the second question is whether the deal can work or not? Concerning the second question, it will be too early to evaluate the effectiveness of the deal but it seems that the deal has started to achieve its stated objectives by reducing the number of refugees moving to Greece.¹¹³

Concerning the first question of whether Turkey could be considered as a safe third country for refugees, it is not easy to conclude that asylum and refugee regime in Turkey are effectively working without any problem and it is not possible to state that Turkey has not done well enough to protect thousands of refugees living in the country for more than five years now. It is found out that the adopted Turkish policies concerning refugees are developing in different phases ranging from admission to settlement, naturalization and integration. It should be noted as well that the EU has been the most influencing factor in the major reforms made in Turkish policies and practices concerning migration and asylum regime. As a matter of fact, the EU-Turkey deal of 2016 has deeply influenced this regime and facilitated new changes. For example, there were two main changes such as; it is possible for Turkey to lift the geographical limitation to its 1951 Convention obligation, and it can also delete the Settlement Law that promotes people with “Turkish descent and culture.” If not, the regulations would make it difficult for Syrian refugees to have access to protection, settlement, naturalization and integration. It is clear under the 2016 EU-Turkey deal that there will be a little challenge on the collective agreement for managing migration and asylum flows except Turkey is assured that the negotiation will support a “responsibility sharing” instead of a “responsibility shifting” goal although the details of responsibility sharing are not understandable yet.

¹¹³Ibid (110), p.3

4.5 Legal Analysis

Many states in the middle east has refused to sign the 1951 Convention on the Status of Refugees and its 1967 Protocol due to protracted nature of Palestinian conflict in which Lebanon is not an exception and the country is not a party to the UN Refugee Convention (Stevens 2014). However, Lebanon is subject to customary international law, which prohibits refugees from being expelled to places where their safety is under threat. This has been considered as the backbone of international refugee law. In addition, Lebanon is signatory to international human rights law and the basic principles of this law are entrenched in Lebanese Constitution. Lebanon is also a member of the United Nations Organization and obliged to abide by its conventions and the Universal Declaration of Human Rights. It is also found out that UNHCR and UNRWA are two main agencies in charge of Syrian and Palestinian refugees. Lebanon signed MoU (Memorandum of Understanding) with UNHCR in 2003, which allowed this agency to register asylum seekers and conduct refugee status for Lebanon (Janmyr M 2016, p.10).¹¹⁴

In July 1951, Egypt signed the Refugee Convention and ratified the Convention in May 1981 along with 1967 Protocol. The country made reservations mainly for five provisions, which are

" article 12(1) (personal status), article 20 (rationing), article 22(1) (access to primary education), article 23 (public relief and assistance), and article 24 (labor legislation and social security) "

This means that articles 17 and 18 of the Refugee Convention have not been denied by Egypt, which basically explains the rights of refugees to employment. Iraq on the other hand is not a party to the Refugee Convention but the government has ratified two legislative instruments in dealing with refugees' issues, which are Law 21-2010 and the Political Refugee Law of 1971. The first law led to the establishment of the Ministry of Migration and Displacement assigned with the duties of providing assistance to foreign refugees in Iraq and internally displaced persons. The second law led to the establishment of different advantages for them such as the right to work, right to education and having

¹¹⁴ Janmyr, Maja. "The Legal Status of Syrian Refugees in Lebanon." AUB Policy Institute, (2016), p.10.

access to health.¹¹⁵ These are the legal framework justifying the rights of Syrian refugees in Neighbouring countries.

In conclusion, this chapter explains the condition of Syrian refugees in neighbouring countries by paying attention to Lebanon, Jordan, Egypt and Turkey. This is done to examine how the presence of Syrians have affected these countries, how their governments have responded using different means in order to curtail this problem and different restrictive measures adopted by these countries to regulate the massive flow of Syrian refugees. The legal analysis was done to establish the legal fact that it is the official duties of these countries to accept and protect Syrian refugees as they are parties to customary international law. It is discovered that the over population of Syrian refugees affected the receptive abilities of these countries and many countries who started with an opened-door policy had to introduce some restrictive measures in order address these refugee issues.

¹¹⁵ George Sadek. "Legal Status of Refugees: Egypt, Jordan, Lebanon, and Iraq" (2014), p.2-3.

CHAPTER FIVE

CONCLUSION

5.1 Conclusion

The massive flow of Syrian refugees into its neighboring countries has strained their abilities to provide minimum living conditions, which worsened the living conditions of refugees in these countries. As a result, many refugees are now attempting to run to Europe in order to find better living conditions. There are strict collective set of policies and practices adopted by the EU and its countries to prevent refugees, asylum seekers and irregular migrants from reaching its border, which is known as “Fortress Europe.” In order to reach Europe, there is a need for Syrians to breach this fortress considering the difficulties of refugees or asylum seekers to lawfully reach the Europe. It is most likely impossible for them and they have been left with no options than to engage in perilous journeys, putting their lives on risks to board boats on the sea in order to seek protection and better life in Europe. Many Syrian refugees have taken boats to journey across Libya or Egypt to Italy or from Turkey to the Aegean Sea to Greece while many of them have attempted to cross the land border from Turkey to the Evros region in Greece or from Turkey to Bulgaria by land. There have been countless cases of human rights violations recorded against refugees who have been found attempting to enter Europe in these irregular ways and many of them have died on the sea in their attempts to reach Europe as put forward by the Amnesty International.

For example, there have been many refugees and asylum-seekers engaging in dangerous journey from North Africa to enter Italy by sea and many of them have died in their attempts to cross the Mediterranean yearly. In October 2013, around 395 and most likely more than 650 refugees and migrants lost their lives when three boats sank during their efforts to reach Europe from North Africa. Between the 1st of January to 31st of October year 2013, there were more than 10,680 Syrian refugees recorded to reach coast of Italy

from ports in Egypt and Libya including Turkey and Syria. And on the 11th of October 2013, there was a report concerning a boat carrying around 450 to 500 Syrian refugees that got sank on the sea when going to Italy from Libya. In addition to people losing their lives in attempting to reach Europe in an irregular ways, there are also countless of abuses recorded at the EU's borders against them. The adopted border policies of EU are destructive to the rights of refugees, asylum seekers and migrants. Policies such as the building of fences and to externalize functions of immigration have not been considerable to the conditions of Syrian people seeking protection in the EU. It is undisputable fact that the EU has every right to protect its borders but not at the detriment of human rights of refugees, asylum seekers and migrants.

Greece has also put different measures in place in order to close its borders for Syrian refugees, which include the building of a 10.5km fence across the 203 km long Greek-Turkish land border together with the deployment of around two thousands security personnel to guard its borders since 2012. The EU has also been helpful in funding Greece to strengthen its external borders whereby the European Commission gave around €227,576,503 to Greece between the periods of 2011 to 2013 under the Return Fund and the External Borders Fund for strengthening of its border control and to detain refugees who attempt to enter the country irregularly. In addition, an amount of €12,220,969 was allocated to the country under the European Refugee Fund as assistance for the country to accept refugees. The different measures adopted have resulted to a sharp decrease in the number of Syrians entering the Greek-Turkish-borders. These adopted measures are reasons behind refugees from Syria putting their lives at risks to try another dangerous route across the Aegan Sea. Additionally, there were cases of detention in Bulgaria recorded. Around 8,000 refugees including 5,000 Syrian refugees have been housed in emergency centres.

The problems of Syrian protracted conflicts are not limited to the country alone; there are various ways at which this conflict has affected its neighboring countries and the entire world. Millions of displaced population has left the country to seek protection in the neighboring countries and many have sought protection in the Europe. The large quantity of refugees flowing to the neighboring countries such as Lebanon, Jordan, Egypt, Iraq and

Turkey as explained in this dissertation has strained their capacities to accommodate them and without international assistance, these refugees have proceeded to find their ways to Europe. If the EU will assist Syrian neighboring countries then they will have to deal with irregular refugees entering their countries unlawfully.

As the number of refugees from Syria continues to increase, it is expected of the EU and its member states to provide more assistance and protection to refugees arriving their countries as well as helping Syrian neighboring countries to deal with Syrian massive refugees. Syrian refugees seeking to join their family members in the EU and those seeking international protection should be welcomed in the EU countries. To neglect the ongoing refugee crisis in Syria is a strategic way of avoiding peace in the international environment considering the fact it is no longer a Syrian problem anymore but a global problem. The international community including the EU and its member states are expected to render various assistance through the UN humanitarian appeals and supporting countries hosting the largest numbers of refugees, especially Jordan and Lebanon. The places of resettlement should be increased in order to help people in need of international protection.

The first research question was discussed in the second chapter of this dissertation whereby refugee protection under the international legal system is defined to be part of public international law. It includes a set of refugee and asylum norms that consists of both international treaties and customary law such as 1951 Convention of United Nations High Commissioner and its complementary, 1967 Protocol Relating to the Status of Refugees. As discussed in the second chapter of this dissertation, these conventions are entrenched to ensure the protection of refugees and they are foundation of modern International Refugee Law. EU member states are parties to customary international, which makes it their legal obligation to accept and protect asylum seekers. Furthermore, base on the second research question, the economic, political, social, society and security implications of massive flow of the Syrian refugees in neighbouring countries and many of them in the EU countries resulted to the adoptions of strict measures. Many neighbouring countries who adopted open-door policies at the beginning of the conflict later reformed their approaches in order to restrict the quantity of refugees coming into their countries. Many EU countries increased their security at the border and made it difficult for Syrian asylum seekers to

enter. This resulted to many Syrians engaging in perilous journey on the sea in order to enter EU countries illegally.

The third research question was explained in the third chapter of this dissertation, whereby the different policies of EU member states toward the acceptance and protection of Syrian refugees were explained. Generally, it was found out that while some EU countries such as Germany, Sweden, Italy and Hungary have been helpful with their opened door policy, some other countries have restrictive in their approach. It also finds out generally, EU has been helpful in the aspect of humanitarian and development assistance by spending millions of dollars in assisting Syrian refugees and the neighbouring countries with different established programs. And conclusively, the EU response has been classified into external and internal responses. External responses include EU actions to put a stop to the conflict, facilitate political change and render humanitarian help and internal response includes all EU' efforts to secure the border and protect asylum seekers.

5.2 Recommendations

As a response to the last research question in this dissertation, this dissertation recommends the policy of shared responsibilities to be adopted by the European countries and international community. They should share the responsibilities of accepting Syrian refugees equally by increasing the number of resettlement and humanitarian admission places through the adoption of open-border policy. They should collectively contribute to the funding of the UN humanitarian appeals for Syria. They should support neighboring countries receiving large influxes of Syrian refugees to ensure their abilities to provide essential services to refugees such as housing, food, education and adequate health care. The EU member states should ensure security of irregular migrants putting their lives at risks to engage in dangerous journey. They should rescue them and treat them with dignity as well as ensuring that their human rights and right to seek asylum are fully respected.

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