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7. REFUGEES AND ASYLUM

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In this chapter, you will learn who is a refugee, how international asylum policy has evolved, why countries accept refugees at all and what are the bottlenecks in the asylum system today.

Refugees in history

The concept of asylum is very old and dates back to antiquity. Initially, it marked temples as holy places where one could find refuge from the injustice or cruelty of the secular world. However, it had little to do with international migration.

The concept of refugees was first used in the [17th century](#) when France forced the local Huguenots to exile. The Huguenots were a Protestant sect in an otherwise Catholic country. During the fierce religious wars of the 16th century, they were perceived in France as treacherous and dangerous people who had three choices: to convert, flee the country or die. The Huguenots mostly fled to their fellow believers — mostly to the Protestant Netherlands and England, where they were initially received out of compassion, but later with obvious gratitude: the Huguenots were mostly urban craftsmen whose strict and hard-working attitude made them very appreciative members of society.

There have been many other groups throughout history that have had to flee persecution. However, refugees and asylum policies have mostly become relevant in the 20th century, as countries began to control their borders much more vigorously than before. The intensity of conflicts has also increased over the last century.

Development of international asylum policy

International refugee policy was born out of societal transformations during and after the First World War. The necessity of such a policy became evident with the Armenian genocide, from which some [800,000 people fled abroad](#). The October Revolution of 1917 forced about [a million](#) people to flee Russia. The post-war peace agreements drew the line between Greece and Turkey, and left about [1.6 million](#) Greeks and Turks on the wrong side of the border and without their citizenship.

Thus, in 1921, the newly formed League of Nations established the first commission to deal with refugee issues; it was led by former polar researcher Fridtjof Nansen. As the vast majority of refugees did not have a valid document with which they could legally enter a safe country, the commission's first major task was to develop an internationally recognised travel document, which became known as [the Nansen passport](#). A total of about 450,000 Nansen passports were issued and these allowed refugees to travel to their relatives or find work in a safe country.

At the same time, Nansen passports were only a temporary solution, and the attempt to create a general convention on the status and rights of refugees with a lasting effect and widespread recognition failed in the interwar period. This did not happen until 1967. The Second World War displaced

more than [40 million](#) refugees across Europe. Some of them later returned to their homeland, but others – such as Estonians, Latvians and Lithuanians whose country of nationality was occupied by the Soviet Union – initially stayed in refugee camps until several Western countries such as the United States, Canada, Australia and the United Kingdom accepted them. [In 1950](#), the UN Refugee Agency was established, and a year later the [Geneva Refugee Convention](#) was adopted, defining who qualifies as a refugee and what their rights are. At the same time, the Convention applied only to European refugees, and therefore the number of acceding countries remained modest. In 1967, the Additional Protocol to the Geneva Convention was ratified, applying the term and rights of refugees to all refugees. By the end of 2020, [147 countries had joined it](#).

Why do countries protect refugees?

Why is there a need for internationally recognised asylum rules at all? First, of course, these help to enforce human rights: freedom of expression, religion and conscience, as well as the right to human dignity. Second, agreeing on common rules should also help to dispel the risks of conflict, where, for example, the heavy burden of dealing with refugees is left to a few neighbouring countries.

At the same time, the refugee issue has always had an important foreign policy dimension, and asylum has not always been granted solely based on real protection needs; it is also dependent on a country's foreign policy objectives. For example, during the peak of the Cold War in the 1980s, when the whole world was divided between the spheres of influence of the United States and the Soviet Union, the United States protected [Nicaraguan](#) refugees fleeing the crimes of the left-wing Sandinista regime. However, those who fled El Salvador, Honduras or Guatemala for similar reasons were not accepted because the local right-wing governments were US allies.

Often, economic motives also carry weight in the admission decision. Australia and Canada, for example, resettled refugees very kindly when the countries were relatively sparsely populated and experienced labour shortages. Canada, by the way, is still doing this.

Who is a refugee?

But let's return to the Geneva Convention for a moment: who is a refugee anyway? Actually, a displaced person who is forced to leave their home for some reason doesn't necessarily officially qualify as a refugee. [According to the Geneva Convention](#), a refugee is a person who has a valid fear of persecution on the grounds of race, religion, nationality, being a member of a social group or due to political opinion and who is outside his/her country of nationality and cannot or does not dare to return. Thus, refugees include, for example, dissidents, religious or ethnic groups that are persecuted in their home country, or other minorities, such as sexual minorities in countries where homosexuality is criminalised, officials who have cooperated with a previous regime or military personnel.

The Geneva Convention presupposes that when a state grants someone refugee status it also ensures certain fundamental rights, such as identification documents and the right to a fair trial, as well as the right to work and study and, when necessary, ensures basic upkeep. The Convention also prohibits sending the refugee back to the country of origin if he/she may still be persecuted

there (also known as the non-refoulement principle). However, refugee status is not eternal and can be revoked if the original threat ceases or the person becomes a permanent resident through other means or acquires the citizenship of the host country.

Refugee Convention and current challenges

At the same time, a debate has begun that questions whether the Convention is still in line with contemporary realities. According to the UN High Commissioner for Refugees, in 2020 there were a total of about [80 million](#) people in the world who had been forced to leave their homes due to conflict, violence, human rights abuse or natural disasters. However, only one in four had refugee status. Who are the rest and why haven't they been protected? 45 million, or more than half of them, have fled within their country, so other countries cannot give them asylum, even if they are prepared to do so. International humanitarian aid also reaches them with difficulty. The number of international refugees who do not qualify for official refugee status has also increased significantly in recent decades. They are not fleeing because of state persecution, but rather because of failed states: due to civil wars or humanitarian disasters caused by, for example, natural disasters, economic crises or rampant crime. For example, more than five million people had fled Venezuela by 2020, mainly due to the failure of economic policies, but the vast majority will not be able to obtain refugee status because suffering from government decisions is not the same as political persecution. Also, people displaced by war do not usually receive refugee status, but rather subsidiary protection status, which will be discussed later.

Refugees often also get trapped in migration, i.e., they have been forced to leave their homeland and find temporary shelter, for example, in a refugee camp whose residents are barred from integrating into the society and labour market of the destination country; and they cannot relocate to a safe country or return home because they do not have the necessary documents. For example, there are still almost [5 million](#) Palestinian refugees in Lebanon, Syria, Jordan and the Gaza Strip who (or whose fathers, grandfathers or great-grandfathers) fled the Israeli-Palestinian conflict in 1948. One third of them still live in refugee camps set up in 1950. It is not possible for those born in the camp to acquire the citizenship of the host country or to enter the labour market there, as refugees are prohibited from working in many countries that have not joined the Convention. In 2020, there were almost 16 million people in the world were caught up by protracted crises and remain in long-term forced displacement.

Therefore, many forced migrants today face a false dilemma: to stay in a refugee camp and face the risk of themselves and their children being disregarded; to travel illegally to big cities to find work and livelihood, but to remain undocumented, which will endanger their livelihood in the long run; or take a long and dangerous journey to a safe country in the hope of getting protection. By the way, this last option is chosen by a rather small minority: in 2020, as many as [86%](#) of all refugees remained in developing countries.

But what could be the alternative? One option is to prevent crises that cause an influx of refugees. International security measures, such as the deployment of peacekeepers, as well as humanitarian aid to minimise the impact of crises, and developmental cooperation policies aimed at preventing longer-term crises have been applied to achieve this.

But what to do if the crisis has already broken out? As we know, the neighbouring countries where most refugees remained encamped may not have acceded to the Refugee Convention, which means that refugees will not be granted official refugee status, which would allow them to continue living more or less normally. Also, refugee camps set up in these countries cannot usually function without international humanitarian aid and support; therefore, refugees from these camps might still move on to seek asylum elsewhere.

A possible solution could lie in resettlement programmes, in which third countries receive a certain number of refugees who are entitled to international protection. In the same way, many people who fled their homeland during the Second World War and were trapped in refugee camps in Germany – among them Estonians who had fled the Soviet occupation – ended up in countries such as Canada, the US and Australia. Today similar programmes are being implemented by many countries, including many EU Member States.

But the question remains: what will become of the refugees in a situation where it is not possible to resettle everyone in safe countries? Migration researchers [Alexander Betts and Paul Collier](#) have proposed the creation of so-called special economic zones instead of refugee camps as one possibility. Instead of forcing people into the camp's poverty and unemployment, they are proposing to create special areas for refugees that can autonomously conclude trade agreements and cooperation projects with developed countries, and therefore function in a meaningful and self-sufficient way. An important role model is [Uganda](#), which, instead of sending refugees to camps and providing subsistence benefits, allocates a small plot of land to refugees who arrive there or creates other pre-conditions (allows employment) for them to support themselves. It supports refugees' independent subsistence and reduces their dependence on additional aid.

Of course, this solution also has its question marks – for example, what would prevent everyone in developing countries from becoming refugees and moving to this little oasis? Or why should sovereign states agree to cede their territory for this purpose? The system has faced similar problems in Uganda: somehow the space for refugees must be distributed in a way that others do not feel deprived. But the problem is real: every two seconds, at least one person in the world becomes a homeless refugee.

Organisation of asylum policy in the European Union and Estonia

Ultimately, it is necessary to clarify the asylum system of Estonia and the EU. All EU countries have acceded to the Geneva Refugee Conventions, and thus all beneficiaries of protection receive the same rights. For example, Estonia joined the Geneva Convention in 1997. As the EU external borders are common, Member States have also considered it appropriate to have a common asylum policy in the way applications are processed. After all, even the most immigration-friendly countries are not interested in asylum seekers moving around rather uncontrollably or, for example, seeking protection from different Member States at the same time.

Therefore, the EU has adopted the [Dublin Regulation](#), which stipulates that an asylum application must be processed by the country through which the refugee entered the European Union and, if necessary, the refugee will be sent from another Member State to the country of initial entry. There is also the [EURODAC](#) database, where all Member States register asylum seekers and can cross-check whether a person with the same name, face or fingerprints has already applied for protection elsewhere.

It is true, for example, that the 2015 refugee crisis severely tested the border countries, with almost a million asylum seekers arriving in the EU, mainly through Italy and Greece. That is when discussions began on whether it is possible to create a new system based on solidarity. The European Migration Plan for 2017–2020 introduced one-off refugee quotas for countries, but the programme did not unfold exactly as planned: for example, only a third of the planned amount of refugees was relocated from Greece and Italy. This was partly due to opposition from some countries but was even more affected by the fact that there were significantly fewer refugees eligible for protection than initially thought. However, the search for a more solidarity-based relocation system approved by the Member States is continuing.

Additionally, EU countries have also agreed on common principles for processing asylum applications and a minimum package of rights for applicants and beneficiaries of protection. For example, the directives mandate how the reception and processing of applications should be and what migrants' rights are. But the Member States still have quite a lot to decide. For example, [the Reception Conditions Directive](#) specifies that the state is obliged to provide shelter to the asylum seeker. It is up to the countries to decide whether it is a bed in a dormitory or a three-room apartment.

The European Union has also jointly agreed on two basic protection statuses for refugees. The first is refugee status, which is granted to people whose status is as described in the UN Refugee Convention. A person who has been granted refugee status can initially remain in the destination country for at least three years, after which his/her status will be reassessed. Maybe the need for protection has changed because the situation in the country of origin has improved. On the other hand, perhaps there is no hope of improvement, and a well-integrated refugee can already apply for permanent residency.

At the same time, the EU also protects those who are simply fleeing conflict, in a process that is called subsidiary protection status. In the middle of the last decade, for example, several Ukrainians received subsidiary protection due to war activities in their home region. Subsidiary protection status is granted for a year or two, after which the situation is reassessed.

Of course, countries are also allowed to provide protection on other grounds, including providing humanitarian protection to people fleeing climate change, extreme poverty or famine. Estonia does not offer such protection, but some other Member States do.

Discussion points

- Why do countries protect refugees? What noble and more self-interested arguments do you remember from this chapter?
- How realistic is it that seven million refugees will arrive in Estonia? Where should these people come from so that they can reach Estonia under the conditions of the Dublin system? Given how refugees move during a crisis, in what crisis would that be a real threat?

Further reading

Overview of the Common European Asylum System in Estonian: https://ec.europa.eu/home-affairs/sites/default/files/e-library/docs/ceas-fact-sheets/ceas_factsheet_et.pdf

A more comprehensive (and regularly updated) overview of the Common European Asylum System in English: https://ec.europa.eu/home-affairs/what-we-do/policies/asylum_en

UN Fact Sheet: https://www.unhcr.org/cy/wp-content/uploads/sites/41/2021/01/10-facts-about-refugees-1-Aug-2020_ENG.pdf

Overview: Who are the refugees trapped in migration? <https://www.unrefugees.org/news/protracted-refugee-situations-explained/>



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