

Mass Migration to Europe in 2015 and Beyond

Presented by

David R. Steiner

Quest Club

Friday, February 17, 2017

Outline

	<u>Page</u>
I. Introduction.....	1
II. Historical Context and International Law.....	1
III. The Syrian Civil War.....	6
IV. The Syrian and Broader Refugee Crisis.....	9
V. European Anxiety.....	11
VI. The 2015 Refugee Crisis and Brexit.....	14
VII. Humanitarian Organization Urgings.....	16
VIII. Recent UN Statement.....	18
IX. Recent European Developments.....	19
X. Current U.S. Policy.....	21
XI. Conclusion.....	22
Endnotes.....	24

Mass Migration to Europe in 2015 and Beyond

I. Introduction

This is a multi-faceted, complex topic that could take a series of papers to adequately cover all that it entails. But I'm sure many of you have been following the events in Europe and could have answered the related question, "What would you do about Aleppo?" better than former Libertarian presidential candidate Gary Johnson, whose initial response was, "And what is Aleppo?"

What was a regional humanitarian crisis caused by war and armed conflict centered in the Middle East spread in dramatic fashion to the border of Europe in a matter of months. Europe was caught largely unprepared, and the response has been disjointed and inadequate.

The mass migration crisis of 2015 has threatened to pull the European Union apart, as member states struggle to balance international compassion with national interests.

This paper will touch on the historical context of laws related to refugees, the sources of the refugee crisis in the Syrian civil war and elsewhere, and the European, humanitarian agencies, and U.S. response.

II. Historical Context and International Law

The plight of refugees has been a recurring condition of human existence since biblical times. And for as long, there has been a strong moral imperative to help them. In the Old Testament, God commanded the Israelites, "Do not mistreat or oppress a foreigner, for you were foreigners in Egypt."¹ Further, he commanded them, "The foreigner residing among you must be treated as your native-born. *Love them as yourself,*

for you were foreigners in Egypt." (emphasis added)² This is echoed in the New Testament, when Jesus stated the second greatest command to "[l]ove your neighbor as yourself".³ And in response to the question, "And who is my neighbor?", he told the story of the good Samaritan, who ignored all ethnic, cultural, religious and national distinctions and simply saw a person who was gravely in need, had compassion on him, and helped save his life. Jesus ended by telling his questioner to "[g]o and do likewise".⁴

In modern times, World War II created one of the largest, if not the largest, displacement of people in history. By the time it ended, there were more than 40 million refugees in Europe alone.⁵

The scale of that human-made disaster provided the impetus for the creation of international law and international organizations in the aftermath of World War II. These laws and organizations are the foundation of human rights and relief that served as a basis for efforts to respond to the 2015 refugee crises.

Most notably, in October 1945, the United Nations officially formed. Then in 1950, the UN established the Office of the United Nations High Commissioner for Refugees (the "UNHCR").

The framework of international law in the post-World War II era begins with the Universal Declaration of Human Rights which was adopted by the UN General Assembly on December 10, 1948. The purpose of the Universal Declaration is to "[p]roclaim . . . a common standard of achievement for all peoples of all nations, to the end that every individual and every organ of society . . . shall strive by teaching and education to promote respect for these rights and freedoms and by progressive measures, national and international, to secure their universal and effective recognition and observance . . .".

Among these common standards are many which echo our own Declaration of Independence, United States Constitution and Bill of Rights. But specific to my topic today, Article 14, paragraph 1 of the Universal Declaration states: "Everyone has the right to seek and to enjoy in other countries asylum from persecution."⁶

The Geneva Conventions of 1949, a series of four treaties, and their three additional protocols are also a major part of international humanitarian law. The four Geneva Conventions have been adopted by all nations. The Fourth Geneva Convention provides protections to civilians in time of war. Among these protections are:

1. Civilians are to be protected from murder, torture or brutality, and from discrimination on the basis of race, nationality, religion or political opinion.⁷
2. The safety, honor, family rights, religious practices, manners and customs of civilians are to be respected.⁸
3. Civilians are not to be subjected to collective punishment or deportation.⁹
4. Occupying powers are to provide food and medical supplies as necessary to the population and maintain medical and public health facilities.¹⁰

Further, all four Geneva Conventions contain an identical "Article 3" which extends the general coverage of the conventions to "conflicts not of an international character" occurring within the territory of a nation which has adopted the Geneva Conventions, and which binds all parties to the conflict to certain minimum standards. These standards include those concerning the treatment of "persons taking no active part in the hostilities". Such persons are "in all circumstances to be treated humanely, without any adverse distinction founded on race, color, religion or faith, sex, birth or wealth, or any other similar criteria." With respect to such persons, Article 3 prohibits the following acts "at any time and in any place whatsoever":

1. Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
2. Taking of hostages;
3. Outrages upon personal dignity, in particular, humiliating and degrading treatment;
4. The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples.¹¹

Those who commit "grave breaches" of these standards are to be apprehended, tried or extradited, and prosecuted whatever nationality they may hold. Given that most armed conflicts today are not of an international character, Common Article 3 is of utmost importance in protecting civilians.¹²

In addition to these protections for civilians in areas of armed conflict, refugees find specific legal protection in the Convention and Protocol Relating to the Status of Refugees which was adopted by the United Nations General Assembly in 1951. It is the centerpiece of international refugee protection today, and is grounded in Article 14 of the Universal Declaration of Human Rights which, as previously stated, recognizes the right of persons to seek asylum from persecution in other countries.

The 1951 Convention, as a post-World War II instrument, was originally limited in scope to persons fleeing events occurring before January 1, 1951 and within Europe. The convention was amended by the 1967 Protocol to remove this geographic limitation and gave it worldwide application to events occurring at times on and after January 1, 1951.¹³

The 1951 Convention defines a "refugee" as someone who is unable or unwilling to return to his country of origin owing to a well-founded fear of being persecuted for

reasons of race, religion, nationality, membership of a particular social group, or political opinion.¹⁴

The 1951 Convention sets forth the fundamental principle that refugees should be treated by the receiving nation in a non-discriminatory way, the same as accorded to a lawful immigrant or a national (such as with respect to wage-earning employment and access to courts).¹⁵

Important to the topic of this paper, Article 31, paragraph 1 of the 1951 Convention provides that a nation is not to impose penalties on refugees who illegally enter or are illegally present in the nation without authorization, where they have come directly from a territory where their life or freedom was threatened, "provided they present themselves without delay to the authorities and show good cause for their illegal entry or presence."

Refugees lawfully in a nation's territory are also not to be expelled "save on grounds of national security or public order" and only then after a decision reached "in accordance with due process of law".¹⁶ Most importantly, refugees are not to be returned against their will to the territory where they fear threats to life or freedom on account of their race, religion, nationality, membership of a particular social group or political opinion. However, this right is not absolute, and a refugee may be expelled or returned where there are "reasonable grounds" for regarding the person as a danger to the security of the host country or if the refugee has been convicted of "a particularly serious crime" and "constitutes a danger to the community of that country."¹⁷

With this background, I'll turn to the dramatic events of 2015 and those leading up to it.

III. The Syrian Civil War

The refugee crisis that flooded Europe in 2015 is primarily the result of the Syrian civil war which began in 2011. What started as protests not unlike those in other Arab countries devolved into a civil war stalemate.¹⁸

Pro-democracy protests erupted in March 2011 in the southern city of Deraa after the arrest and torture of some teenagers who sprayed revolutionary slogans on a school wall. Security forces for the regime of President Bashar al-Assad, who has been Syria's President since 2000, opened fire on demonstrators, killing several people. This triggered nationwide protests which demanded Assad's resignation. The government responded with force to crush the protests, which only hardened the resolve of the opposition who took to the streets across the country by the hundreds of thousands by July 2011. The opposition began arming themselves, first to defend themselves against government security forces and then to expel them from their local areas. The conflict spiraled downward into civil war as rebel brigades formed to battle government forces for control of cities, towns and the countryside. Fighting reached the capital, Damascus, and the second largest city, Aleppo in 2012¹⁹

The conflict revealed deep divides in Syrian society, and the reasons for the descent into war are many. These reasons include the suppression of the "Damascus Spring" in 2001, the slow pace of democratic reforms, the government's brutal reaction following the March 2011 events, rural poverty intensified by a devastating drought prior to 2011, and corruption and the perception of severe economic inequality. In addition, forces outside the country have played a role, as regional powers have inflamed and perpetuated the fighting.²⁰

In that regard, the conflict has become more than just a war between President Assad's government and his opposition. It has acquired sectarian overtones, pitting the Sunni majority against Assad's minority Shia Alawite sect, and has drawn in regional and world powers. Russia and Iran, and the Shia Islamist Hezbollah movement in Lebanon have come to the support of Assad's regime. While Turkey, Saudi Arabia, Qatar and Jordan, along with the United States, UK and France have provided varying degrees of support to Sunni rebel groups seeking to topple Assad. Most notoriously, the jihadist group, Islamic State has infiltrated and taken over control of significant portions of the country.²¹

A UN Commission of inquiry has evidence that all parties to the conflict have committed war crimes, including murder, torture, rape, and kidnapping. Islamic State has conducted hundreds of public executions and amputations, as well as mass killings of rival armed rebels, government security forces and religious minorities. Its fighters have beheaded hostages, including a number of Westerners.²² As another indicator of the brutality, health care workers, hospitals and clinics are considered legitimate military targets of the combatants.²³

The long civil war has devastated the Syrian economy. It is estimated that more than 83% of Syrians now live below the poverty line. By the end of 2015, 13.5 million people in Syria were in need of some form or another of humanitarian aid. The conflict also threatens to leave an entire generation of children without education. About 2 million school-age children are not attending school in Syria, and another approximately 450,000 are at risk of dropping out.²⁴

Syrian Christians have been targeted by Islamic State and other Islamist groups in Syria, for a variety of reasons, including to gain credibility as implementers of "true" Islam and to seize their property for economic reasons. They also are seen as aligned with President Assad, who has tried to portray himself as a protector of Christians, although Christian leaders have been critical of him and believe they are being used for the dictator's political survival. But they find that, for now, no one else is attempting to protect them. Before the war, Christians made up 10% of Syria's population. But according to the European Parliament, as of October 2015, about 40% of Syria's Christian population, or 700,000 have fled the country.²⁵

As of early 2016, an estimated 2.3 million people, 11.5 percent of the country's population, have been killed or wounded.²⁶ The United Nations estimates that as of August 2015, 250,000 had been killed.²⁷

Given these grim and unbearable circumstances, it is no wonder that millions of Syrians have fled from their homes, having lost hope that there will be peace and a future for themselves or their families if they stay.

IV. The Syrian and Broader Refugee Crisis

In its annual report on the European Union's humanitarian aid activities for the year 2015, the European Commission stated that Syria is the largest "source country" of refugees currently arriving in the EU, and that the Syrian conflict which "has continued unabated into its fifth year [] remains the biggest humanitarian and security crisis in the world."²⁸ The EU allocated more than 370 million euros to "life-saving operations in Syria and neighboring countries." Additional emergency humanitarian aid was provided in so-called "transit countries" such as the Western Balkans, Greece, and Hungary for the

movement of refugees, migrants and asylum seekers through those countries to ultimate resettlement countries within the EU, primarily Germany.²⁹

The European Commission stated that the estimated number of Syrian refugees in neighboring countries and the wider region has reached over 4.5 million and the number of internally displaced people (abbreviated as "IDPs") within Syria is estimated at 6.5 million.³⁰ Thus, approximately half of the population of about 22 million have fled or are displaced from their homes. The EU provided more than 160 million euros in "life-saving operations" inside Syria, including responding to emergencies and maintaining regular humanitarian assistance to already displaced and vulnerable populations. The Commission noted that most refugees find refuge "in countries and among people who already struggle with poverty and hardship, and therefore host communities in the region are often also beneficiaries of the humanitarian aid provided."³¹

Neighboring countries in the Middle East, primarily Turkey, Lebanon and Jordan have received more than 4 million refugees from Syria, and not many of them have the right to work, few of their children are in school and none of them are formally recognized as refugees in those countries.³² Hopes of establishing a normal life in those relatively poor countries under those circumstances is dim, further fueling a desire to move through those countries to reach Europe.

Beyond Syria, on-going violence in Afghanistan and Iraq has also driven people from those countries in search of a better life. Refugees also come from repressive and abusive regimes in Eritrea and Somalia. These five countries: Syria, Afghanistan, Iraq, Eritrea and Somalia, in 2015, originated 84% of those seeking to reach European

shores.³³ Collectively, an upsurge in conflicts in these areas and others has fueled record levels of displacement worldwide.

The sea crossing from Libya to Italy had been the preferred route for all migrants and refugees fleeing to Europe, for the reason that once a person makes landfall in Italy, he is in the EU. On the other hand, while the distance from Turkey to the islands of EU-member Greece in the Aegean Sea is shorter and safer, one still has to walk through mostly non-EU Balkan territory to reach more refugee-friendly EU countries like Germany. After Macedonia lifted harsh measures aimed at preventing refugees from entering the country in June 2015, the route through the Balkans opened up. At the same time, the cost of being smuggled over a much shorter sea route was \$2,000 to \$3,000 compared to the \$5,000 to \$6,000 required to reach Libya and take a boat to Italy.³⁴

In late August 2015, Germany declared that all Syrian asylum-seekers were welcome to remain in Germany, no matter which EU country they had first entered.³⁵ But Germany's statement also encouraged more people to set out. Turkey, then housing more Syrian exiles than any other country, denied it turned a blind eye to this new surge in migration from Turkey, but reporting on the ground at the time suggested that Turkey was not particularly proactive in stopping their departure.³⁶ Syrian refugees no longer feared being arrested in Hungary and forced to claim asylum there. Meanwhile, Greece, Macedonia, Serbia and Croatia set up special transports to shuttle asylum-seekers through their countries to the welcoming arms of the Germans.³⁷

As a result, Germany also received the highest number of new asylum claims in 2015, with more than 476,000. But far more people arrived; Germany counted more than a million people in its immigration system before they made asylum claims. Hungary was

second in asylum applications, with about 177,000. All totaled, EU countries received 1,321,560 asylum claims in 2015.³⁸

V. European Anxiety

People have been seeking sanctuary in Europe, in search of a better life, for years. Data from the United Nations Refugee Agency, UNHCR show that historically, from 2008 until 2013, the sea migration from northern Africa and the Middle East to Europe has averaged about 46,000 people per year, with a high during that period of 70,402 in 2011 and a low of 9,654 in 2010. The number grew significantly in 2014, to 216,054, before reaching its crisis peak of 1,015,078 in 2015.³⁹

The massive influx of refugees and migrants into Europe in 2015 eclipsed any such surge in any previous year since World War II. On each table are two handouts which show maps of the migration routes and the numbers of displaced people (both refugees and IDPs) in the Middle East and Africa.

Most of the refugees sought to reach the "Schengen area" -- the 26 European countries which have abolished most border controls and allowed free movement of people and goods.⁴⁰ The name "Schengen" comes from the town of Schengen in Luxembourg where the original agreement was signed in 1985 and took effect 10 years later in 1995, that enabled passport-free movement. The UK and Ireland, and the Balkans states are not part of it.⁴¹ The map with the heading "Europe's Refugee Crisis" shows in light purple and salmon colors those countries which are part of the Schengen area.

As previously stated, because of the land barrier of the non-Schengen Balkan states, the preferred route of migration has been across the Mediterranean Sea from the

cost of North Africa to Italy. The journey is dangerous, often made in overcrowded or barely sea-worthy vessels, captained by smugglers capitalizing on people's desperation. In 2015, nearly 3,700 are thought to have died or gone missing in the sea crossing.⁴² In one tragedy alone in April 2015, over 600 people drowned in the Mediterranean when their boat capsized shortly after midnight on April 18 in Libyan waters about 110 miles south of Italy's Lampedusa Island.⁴³

It is helpful to understand that the massive migration that took place in 2015 and the years before and after are to a certain extent "mixed migration" flows. Experts studying the Syrian civil war and its effects on mass migration note:

Migration flows within and out of the Arab region include regular and irregular labor migration, forced migration and mixed migration flows. Regular and irregular labor migrants look for better employment opportunities, within the region and beyond. Forced migrants flee conflict, persecution or severe breakdowns in public order. Finally, mixed migration flows of people crossing borders irregularly include forced and voluntary migrants motivated by a mixture of the above and other reasons.⁴⁴

Balkan governments have claimed that increasing numbers of people joining the migration flow are labor migrants. UN data suggests this group still forms less than 10% of the total. But skeptics note the proliferation of fake and stolen identification documents make that number hard to quantify, and that anyone with the money to pay for a boat ride to Greece, and then for a false Syrian passport, could proceed comparatively easily towards northern Europe.⁴⁵

Schengen is often criticized by nationalists and Euroskeptics who say it is an open door to migrants and criminals. The November 13, 2015 Paris suicide bombings, which killed 130 people, prompted governments to urgently reconsider the Schengen

agreement.⁴⁶ Adding to the anxiety was the discovery of a Syrian passport found next to the body of one of the suicide bombers.⁴⁷

Some smaller European countries on the frontlines of the influx of refugees and migrants have literally been overwhelmed by the huge numbers and have responded negatively. For example, Hungary's Prime Minister, Viktor Orban, has been one of the most vocal proponents of keeping refugees out of Europe, believing that they are a threat to Europe's Christian identity, and has called for tougher border controls.⁴⁸ This reaction is influenced by the fact that Hungary has the highest proportion of asylum applicants of any European country, nearly 1,800 per 100,000 Hungarians in 2015.⁴⁹ In September 2015, Hungary completed construction of a fence along its southern border with Serbia and enacted laws allowing it to reject asylum requests from anyone who did not apply for asylum in Serbia. The Hungarian government also declared a state of emergency in two southern provinces of the country in response to the refugee crisis, thereby paving the way to deploy the military to the border.⁵⁰

More broadly, public opinion polls in 2015 suggested that immigration (including refugees and asylum-seekers) had become the prime source of concern for 58% of people in the EU (76% in Germany, Denmark and Czech Republic), ahead of terrorism (25%) and the economy (21%).⁵¹

In response to the reality of too many people in too short of time, EU states one after another re-imposed temporary border controls, which are allowed under the Schengen rules for "public policy or national security" reasons.⁵² For these reasons, Austria, Denmark, France, Germany, Norway and Sweden have effectively suspended the Schengen free-movement system into their countries.⁵³

Negotiations between the EU and Turkey, which had begun in late November 2015, culminated in a joint statement on March 18, 2016, which announced a number of action points to address the migration crisis. These points included the decision that all new "irregular migrants" from Turkey into the Greek islands would be returned to Turkey; that for every Syrian returned to Turkey from the Greek islands, another Syrian who was considered particularly vulnerable would be resettled from Turkey to the EU; that Turkey would take any necessary measures to prevent new sea and land routes for illegal migration from Turkey to the EU; and that the EU would speed up the disbursement of 3 billion euros of aid for refugee projects in Turkey.⁵⁴

The tightening of European borders and these joint actions between the EU and Turkey have led to a significant reduction from 2015 in sea arrivals of refugees and migrants to Europe. According to the UNHCR, in 2016, the number of arrivals dropped to 362,376. As of early February 2017, 1,521 refugees and migrants had crossed the sea to Greece from Turkey, while 5,213 had crossed from northern Africa to Italy.⁵⁵ Since January 1, 2016, the largest percentage of those making the sea crossing continue to be from Syria (at 23%), followed by Afghanistan (at 12%), then Nigeria (at 10%).⁵⁶

VI. The 2015 Refugee Crisis and Brexit

On June 23, 2016, the United Kingdom voted in a national referendum to leave the European Union by a vote of 52% to 48%, with a turnout of nearly 72% of eligible voters.⁵⁷ It came as a shock to most of the political establishment in London and on the continent. Analysts who bored into the voting data conclude that on the face of it, the answer to whether immigration affected the vote appears to be no. Most areas of the country with the largest number of EU migrants (like London) voted to remain in the EU,

while those areas voting most heavily to leave had hardly any EU migrants. But on a closer look, immigration does appear to have played a part. Those areas that have seen a sudden influx of EU migrants over the last 10 years tended to be more "pro-Leave". Analysts say this finding is consistent with the view that it is sudden changes in population that are most likely to fuel concern about immigration.⁵⁸

This concern may have intensified as Britons watched for months the Europe-wide migrant crisis reach up to its doorstep. Across the channel in Calais, France, near the entrance to the 31-mile "Channel Tunnel" which provides a dry link between the UK and the European continent, arose a squalid camp known as the "Jungle" of over 7,000 migrants from the Middle East and northern Africa, looking for an opportunity to come to the UK. France eventually dismantled the camp in October 2016, and the UK is funding a wall in France along the main road to the port at Calais in an attempt to deter would-be stowaways.⁵⁹

Prime Minister Theresa May has said one of the main messages she has taken from the Brexit vote is that the British people want to see a reduction in immigration and that this will be a focus of the negotiations between the UK and the EU.⁶⁰

The Prime Minister stated that she remains committed to reducing net migration -- the difference between the number of people entering and leaving the country -- down to a "sustainable" level. She defines that as being below 100,000 per year. It is currently running at 330,000 per year, of which incoming are 184,000 EU citizens and 188,000 are from outside the EU, with 39,000 UK citizens leaving.⁶¹

VII. Humanitarian Organization Urgings

Amidst this assertion of national self-interest which Brexit represents, humanitarian agencies and the UN continue to urge Europe, the United States, and the rest of the world to do more for the world's refugees and migrants.

Human Rights Watch has called for the European Union to, among other things, provide more safe and legal channels for migration and fix the EU's "broken asylum system". The action items include increasing the numbers of refugees resettled, facilitating family reunification (by expanding the definition of family to include any extended family member legally, financially, emotionally, or materially dependent on the refugee), granting "humanitarian" visas for EU entry that don't have the same "onerous requirements" attached to them as other forms of visas, and expanding avenues for legal labor and educational migration (the previously described "mixed migration"). This last point is supported on economic reasons: that the EU has an aging population that needs migrants for sustainable growth of its economy.⁶²

Others argue that Europe's "historically special relationship" with the region producing the most refugees compels a more generous response. They point out European colonial involvement in the Arab region, particularly after World War I, "contributed in no small measure to the region's current problems."⁶³ They also argue that because of Europe's low birth rates and need for younger workers "early inclusion of refugees in the job market is [] one of the best investments the EU can make" and that "countries with economic foresight will accept more rather than fewer refugees."⁶⁴

At the same time, experts acknowledge that [t]he real migration issue is social rather than economic, and therefore, "well designed integration programs are [] crucial".

They don't discount security concerns about the presence of extremists among those entering Europe but state that the main long-term concern is to avoid the mistakes of the past. Earlier waves of migrants have experienced "social exclusion, a lack of investment, hands-off policies and poor socio-economic integration" which helped create "fertile ground for extremist ideologies and violence."⁶⁵

In regards to the integration issue, the European Parliament in 2013 identified four key areas:

1. Give secure legal status to refugees with the possibility of eventually receiving citizenship.
2. Provide individualized support, pre-departure orientation programs and the involvement of refugee community organizations in resettlement.
3. Improve coordination, for instance between non-governmental organizations and local authorities, in such areas as pre-arrival planning, language training, phasing into mainstream services and assistance with job market entry.
4. Strengthen host communities through advance planning, information meetings, regular (rather than ad hoc) resettlement, and sustained funding.⁶⁶

On this side of the Atlantic, public policy advocates have called for the United States to do more. They acknowledge that the U.S. has provided the lion's share of existing financial support to the international agencies to the refugee camps, and that it has traditionally (before the 2015 crisis) resettled at least half of UNHCR-designated refugees from Syria. But they argue that it is in our national interest to take more refugees to support our major European allies. In summary, they argue: "Keeping doors to refuge open for [] refugees is critical if the West is to prevail against jihadi extremism."⁶⁷

VIII. Recent UN Statement

On September 13, 2016, the UN General Assembly adopted the New York Declaration for Refugees and Migrants, which summarized the scale of circumstances globally:

We are witnessing in today's world an unprecedented level of human mobility. More people than ever before live in a country other than the one in which they were born. Migrants are present in all countries of the world. Most of them move without incident. In 2015, their number surpassed 244 million, growing at a rate faster than the world's population. However, there are roughly 65 million forcibly displaced persons, including over 21 million refugees, 3 million asylum seekers and over 40 million internally displaced persons.⁶⁸

The New York Declaration set forth a series of commitments respecting migrants and refugees. Among these commitments, the Declaration acknowledged that nations "have rights and responsibilities to manage and control their borders" and that the UN "will promote international cooperation on border control and management as an important element of security for [nations], including issues relating to battling transnational organized crime, terrorism and illicit trade."⁶⁹ With respect to refugees, the UN committed to work to address the root causes of the armed conflict, persecution and violence, including terrorism, which are among the factors which give rise to large refugee movements.⁷⁰ The Declaration acknowledged that the world is a better place for the positive contributions made by migrants, especially when their presence is the result of "safe, orderly and regular migration", but conceded "forced displacement and irregular migration in large movements often present complex challenges."

The Declarations' rhetorical resolve is evident in other passages:

We are determined to save lives. Our challenge is above all moral and humanitarian. Equally, we are determined to find long-term and sustainable solutions. We will combat with all means at our disposal the

abuses and exploitation suffered by countless refugees and migrants in vulnerable situations.

We acknowledge a shared responsibility to manage large movements of refugees and migrants in a humane, sensitive, compassionate and people-centered manner. We will do so through international cooperation, while recognizing that there are varying capacities and resources to respond to these movements. International cooperation and, in particular, cooperation among countries of origin or nationality, transit and destination, has never been more important; “win-win” cooperation in this area has profound benefits for humanity. Large movements of refugees and migrants must have comprehensive policy support, assistance and protection, consistent with [nations'] obligations under international law. We also recall our obligations to fully respect their human rights and fundamental freedoms, and we stress their need to live their lives in safety and dignity. We pledge our support to those affected today as well as to those who will be part of future large movements.⁷¹

The Declaration also states plainly that large movements of refugees and migrants "are global phenomena that call for global approaches and global solutions."⁷²

IX. Recent European Developments

Notwithstanding the legitimate humanitarian needs of the vast majority of refugee asylum-seekers, there is a growing defensive, nationalist impulse in countries across Europe. More and more citizens are inclined to think that their country's generosity is coming at their expense. High-profile terrorist acts, like the Paris suicide bombings in November 2015 and the Berlin Christmas market attack by a truck driven by Anis Amri through a crowd of innocent people in December 2016, feed into these suspicions.

The attack in Berlin has increased pressure on the government of Angela Merkel to deal more swiftly with asylum-seekers, even as she faces reelection later this year. The attacker in that case, Anis Amri from Tunisia, was a jihadist and known follower of Islamist hate preacher, Abu Walaa. His asylum request had been rejected in Germany in June 2016, 11 months after he had arrived from Italy, but Tunisia refused to take him

back, initially refusing to accept he was a Tunisian citizen. He used 14 different identities in Germany and was suspected of making multiple fraudulent welfare claims. While fleeing across Europe, he was eventually killed by Italian police in northern Italy.⁷³

Chancellor Merkel is expected to announce plans to significantly increase deportations of persons whose asylum applications have been denied. These plans include setting up a new deportation coordination center in Berlin, increasing payments to those who make decisions quickly to voluntarily return to their home countries, and measures to allow access to asylum seeker's phones and Sim cards to verify identities. Germany also has set up exit centers near airports to house rejected asylum-seekers until they can be deported. Political observers see the need to ramp up the return of rejected asylum seekers to gain acceptance of Germans of those who really need protection from war and persecution. Many of those facing deportation are Afghans, the second largest group of asylum-seekers after Syrians, with 154,000 arriving in 2015, whose claims that their home country is not safe to return to has been rejected and who are viewed as economic migrants. About 207,000 people faced deportation from Germany at the end of 2016.⁷⁴

In France, far-right National Front presidential candidate, Marine Le Pen is currently the most popular candidate in the country and is expected to advance past the first round of a two-stage vote for the presidency to be held in late April of this year. Her party's platform is anti-immigration and anti-EU, promising to curb migration and expel illegal migrants and hold a referendum on EU membership.⁷⁵ While she is not expected to win the election, in fact polls currently show her opponent (regardless of who it may

be) getting 60 to 70 percent of the vote⁷⁶, our own most recent presidential election suggests her support should not be underestimated.

X. Current U.S. Policy

Current U.S. policy is tacking away from global solutions, at least in the short term, as a new administration, elected on a pledge to put America first, takes steps to re-evaluate our involvement as a receiving country for refugees and migrants in light of national security concerns.

On January 27, 2017, at the end of his first week in office, President Donald Trump signed an executive order at the Pentagon which sought to impose a 120-day suspension of the entire U.S. Refugee Admissions Program and a 90-day ban on all entry to the United States from countries with terrorism concerns, which, according to the State Department said applies to Iraq, Syria, Iran, Sudan, Libya, Somalia and Yemen.⁷⁷ In addition, entry by Syrian refugees was to be suspended indefinitely. In the meantime, the government would develop what the President described as "extreme vetting" procedures to screen the people coming to the U.S. from countries with terrorism concerns. The order was intended as a fulfillment of one of President Trump's campaign pledges.

Opposition to the President's executive order was almost immediate. On Saturday, January 28, 2017, a federal district court judge in New York granted an injunction requested on behalf of two Iraqi immigrants detained at Kennedy International Airport by the American Civil Liberties Union to block the deportations of those who had been detained on entry to the United States at airports nationwide.⁷⁸ Department of Homeland Security officials said on Saturday night that 109 people who were already in transit to the United States when the order was signed were denied access and detained

and 173 people were stopped before boarding planes headed for America. Eighty-one of those who were stopped were eventually given waivers to enter the United States, officials said.⁷⁹

On Friday evening, February 3, 2017, a federal district court judge for the Western District of Washington granted a temporary restraining order on the executive order to suspend its enforcement nationwide at least until the government and opponents of the order had a chance to make full arguments, or until the administration won a stay. The State Department and the Department of Homeland Security quickly began to comply, working to rebook refugees for travel to the United States. The government's appeal of the judge's order was denied by the United States Court of Appeal for the Ninth Circuit on February 9, 2017.⁸⁰ For the time being, the President's order on the temporary travel ban continues to be suspended.

However, the court decision does not affect the executive order's limit of 50,000 on the number of refugees to be admitted into the United States in fiscal year 2017. This limit is a reduction from 110,000 that the Obama administration had set for this fiscal year.

XI. Conclusion

These are tumultuous times. The European migration issue is complicated and the solutions are not easy to implement or cheap. Its resolution or lack thereof could cause the dissolution of the European Union, the defection of more countries from the EU, or a significant alteration of the relationship of the EU to its member states. And tragically, truly needy and suffering people are in the middle of it.

So I return to the question, “Who is my neighbor?” Many people of goodwill understand that their neighbors are not only those within their own national borders. But for the time being, national self-interest and security concerns are in the ascendancy. One thing is clear to me. European nations will continue to wrestle with the extent to which fulfilling their international obligations and welcoming migration can help them achieve their own legitimate national interests.

David R. Steiner

Quest Club

Friday, February 17, 2017

End Notes

-
- ¹ Exodus 22:21 (New International Version)
- ² Leviticus 19:34 (New International Version)
- ³ Matthew 22:39 (New International Version)
- ⁴ Luke 10:29-37 (New International Version)
- ⁵ "What happened to history's refugees?" Mona Chalabi, TheGuardian.com, July 25, 2013 (hereinafter, "Chalabi"). <https://www.theguardian.com/news/datablog/interactive/2013/jul/25/what-happened-history-refugees>
- ⁶ Universal Declaration of Human Rights, Resolution 217 A (III) of the United Nations General Assembly dated December 10, 1948
- ⁷ The Fourth Geneva Convention: The Geneva Convention Relative to the Protection of Civilian Persons in Time of War of August 12, 1949 (hereinafter "Fourth Geneva Convention"), Articles 13 and 32.
- ⁸ Fourth Geneva Convention, Article 27.
- ⁹ Fourth Geneva Convention, Articles 33 and 49.
- ¹⁰ Fourth Geneva Convention, Article 55.
- ¹¹ Fourth Geneva Convention, *inter alia*, Article 3.
- ¹² International Committee of the Red Cross ("ICRC"), The Geneva Conventions of 1949 and their Additional Protocols, January 1, 2014. <https://www.icrc.org/en/document/geneva-conventions-1949-additional-protocols>
- ¹³ Introductory Note by the UNHCR to the Convention and Protocol Relating to the Status of Refugees (hereinafter, "1951 Convention"), page 2
- ¹⁴ 1951 Convention, Article 1, paragraph A(2).
- ¹⁵ 1951 Convention, Articles 17 and 16.
- ¹⁶ 1951 Convention, Articles 32.
- ¹⁷ 1951 Convention, Articles 33.
- ¹⁸ Chalabi.
- ¹⁹ "Syria: The story of the conflict", Lucy Rodgers, et al., BBC News, March 11, 2016 (hereinafter, "Rodgers"). <http://www.bbc.com/news/world-middle-east-26116868>
- ²⁰ "Syria at War: Five Years On", Khalid Abu-Ismail, et al., United Nations Economic and Social Commission for West Asia (ESCWA) and the University of St. Andrews, 2016 (hereinafter, "Syria at War").
- ²¹ Rodgers.
- ²² Rodgers.
- ²³ Syria at War.
- ²⁴ Syria at War.
- ²⁵ "Christians face total purge from Syria", Flavius Mihaies, Newsweek, January 10, 2016. <http://www.newsweek.com/christians-face-purge-syria-413463>
- ²⁶ Syria at War.
- ²⁷ Rodgers.
- ²⁸ "Annual report of the European Union's humanitarian aid and civil protection policies and their implementation in 2015", Report from the European Commission to the European Parliament and the Council, December 1, 2016 (hereinafter, "Annual report") page 4.
- ²⁹ Annual report, page 4.
- ³⁰ Annual report, page 7.
- ³¹ Annual report, page 7.
- ³² "What caused the refugee crisis? You asked Google -- here's the answer", Patrick Kingsley, The Guardian, December 9, 2015 (hereinafter, "Kingsley"). <https://www.theguardian.com/commentisfree/2015/dec/09/what-caused-the-refugee-crisis-google>
- ³³ "Europe's Refugee Crisis: An Agenda for Action", Human Rights Watch, November 16, 2015. <https://www.hrw.org/report/2015/11/16/europes-refugee-crisis/agenda-action#page>
- ³⁴ "8 reasons Europe's refugee crisis is happening now", Liz Sly, The Washington Post, September 18, 2015.

-
- ³⁵ "Germany opens its gates: Berlin says all Syrian asylum-seekers are welcome to remain, as Britain is urged to make a 'similar statement', Allan Hall and John Lichfield, *The Independent*, August 24, 2015. <http://www.independent.co.uk/news/world/europe/germany-opens-its-gates-berlin-says-all-syrian-asylum-seekers-are-welcome-to-remain-as-britain-is-10470062.html>
- ³⁶ Kingsley.
- ³⁷ Kingsley.
- ³⁸ "Migrant crisis: Migration to Europe explained in seven charts," *BBC News*, March 4, 2016 (hereinafter, "Migrant crisis"). <http://www.bbc.com/news/world-europe-34131911>
- ³⁹ Refugees/Migrants Response - Mediterranean map, UNHCR printed February 5, 2017. <http://data.unhcr.org/mediterranean/regional.php>
- ⁴⁰ "This map shows the routes of Europe's refugee nightmare-- and how it's getting worse", Barbara Tasch and Mike Nudelman, *Business Insider*, September 15, 2015 (hereinafter, "Tasch and Nudelman"). <http://www.businessinsider.com/map-of-europe-refugee-crisis-2015-9>
- ⁴¹ "Schengen: Controversial EU free movement deal explained", Laurence Peter, *BBC News*, April 24, 2016 (hereinafter, "Schengen"). <http://www.bbc.com/news/world-europe-13194723>
- ⁴² "Top 10 of 2015 - Issue #1: Migration Crisis Tests European Consensus and Governance", Demetrios G. Papademetriou, *Migration Policy Institute*, December 18, 2015. <http://www.migrationpolicy.org/print/15520>
- ⁴³ "2015: The year of Europe's refugee crisis", William Spindler, *UNHCR*, December 8, 2015. <http://www.unhcr.org/news/stories/2015/12/56/ec1ebde.html>
- ⁴⁴ Syria at War.
- ⁴⁵ Kingsley.
- ⁴⁶ Schengen.
- ⁴⁷ "The United States and the Syrian Refugee Crisis", Michael Ignatieff, *Shorenstein Center on Media, Politics and Public Policy White Paper*, Harvard University Kennedy School of Government, January 2016 (hereinafter, "Ignatieff").
- ⁴⁸ Tasch and Nudelman.
- ⁴⁹ Migrant crisis.
- ⁵⁰ Tasch and Nudelman.
- ⁵¹ Kingsley.
- ⁵² Schengen.
- ⁵³ Syria at War.
- ⁵⁴ "EU-Turkey statement, 18 March 2016", Press office - General Secretariat of the European Council.
- ⁵⁵ Refugees/Migrants Response - Mediterranean map, UNHCR printed February 5, 2017. <http://data.unhcr.org/mediterranean/regional.php>
- ⁵⁶ Ibid.
- ⁵⁷ "Brexit: All you need to know about the UK leaving the EU", Alex Hunt & Brian Wheeler, *BBC News*, January 24, 2017 (hereinafter, "Hunt & Wheeler"). <http://www.bbc.com/news/uk-politics-32810887>
- ⁵⁸ "What really caused Brexit?", Matthew J. Goodwin, *Newsweek*, July 22, 2016. <http://www.newsweek.com/brexit-causes-result-who-voted-leave-eu-analysis-matthew-goodwin>
- ⁵⁹ "Calais migrants: France begins to clear 'Jungle' camp", Simon Jones, *BBC News*, October 24, 2016 <http://www.bbc.com/news/world-europe-37745386>
- ⁶⁰ Hunt & Wheeler.
- ⁶¹ Hunt & Wheeler.
- ⁶² "Europe's Refugee Crisis: An Agenda for Action", *Human Rights Watch*, November 16, 2015. <https://www.hrw.org/report/2015/11/16/europes-refugee-crisis/agenda-action#page>
- ⁶³ Syria at War.
- ⁶⁴ Syria at War.
- ⁶⁵ Syria at War.
- ⁶⁶ Syria at War.
- ⁶⁷ Ignatieff.
- ⁶⁸ New York Declaration for Refugees and Migrants, Resolution A/71/L.1, United Nations General Assembly, September 13, 2016 (hereinafter, "New York Declaration", Article I, paragraph 3.
- ⁶⁹ New York Declaration, Article II, paragraph 24.
- ⁷⁰ New York Declaration, Article II, paragraph 64.

⁷¹ New York Declaration, Article I, paragraphs 10 and 11

⁷² New York Declaration, Article I, paragraph 4.

⁷³ "Berlin truck attack: Can the EU stop another Amri?", Laurence Peter, BBC News, January 6, 2017
<http://www.bbc.com/news/world-europe-38517768>

⁷⁴ "Merkel seeks to ramp up failed asylum seeker deportations", BBC News, February 9, 2017.
<http://www.bbc.com/news/world-europe-38919038>

⁷⁵ "Marine Le Pen promises liberation from the EU with France-first policies", Jon Henley, The Guardian, February 5, 2017. <https://www.theguardian.com/world/2017/feb/05/marine-le-pen-promises-liberation-from-the-eu-with-france-first-policies>

⁷⁶ "Marine Le Pen continues to lead French election polls", Hannah Al-othman, The Daily Mail, February 8, 2017. <http://www.dailymail.co.uk/news/article-4203254/Poll-shows-Le-Pen-losing-French-presidential-runoff.html>

⁷⁷ "Trump orders suspension of refugee entry", News-Sentinel, January 28, 2017, Page 7A.

⁷⁸ "Judge Blocks Trump Order on Refugees ", Michael D. Shear, Nicholas Kulish and Alan Feuer, The New York Times, January 29, 2017, Page A1,

⁷⁹ Ibid.

⁸⁰ "Borders Reopen to Visa Holders Barred from U.S.", Alexander Burns, et al., The New York Times, February 5, 2017, Page A1.