

## **INTERNATIONAL LAW AND DISPLACED PERSONS**

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In a world full of turmoil, the displaced persons are a tragic illustration of the convulsions of the planet. They witnessed all the situations of the war, famine and oppression that lay on the exodus roads millions of uprooted. In the past years, the proliferation of conflict and violent situations resulted in new forced movements of populations that have come to bring a large number of displaced people in the world.

All around the world and over the centuries, societies have welcomed frightened and exhausted foreigners - victims of violence and persecution. Today's humanitarian tradition of asylum is often referred to by the TV channels, while the wars, persecution and large-scale economic disasters produce millions of displaced persons. Yet, while people continue to flee the threats to gain their lives and freedom, governments have more and more difficulties, to reconcile their impulses and their humanitarian obligations to their national needs and policies for various reasons. At the beginning of the twentieth century, protecting displaced persons means to show solidarity with the most endangered people in the world while finding answers to the challenges facing the international system that was established for this purpose alone. We mean by displaced persons: refugees, stateless persons, asylum seekers.

Protecting displaced persons is a responsibility of the States. Throughout its years of existence, the United Nations High Commissioner for Refugees UNHCR has worked closely in partnership with governments. In all the regions of the world, governments have generously granted asylum to people who left their country and allowed them to stay in their territory until they can return to their country of origin in safe conditions and dignity. Governments have allowed UNHCR to act on their territory and have provided financial assistance to these people, both through their own programs by funding assistance operations and protection of UNHCR. Some countries invited these people to settle permanently on their territory. Facilitating naturalization, providing land and/or granting access to regular employment, camps, the governments of the countries of asylum and resettlement countries have made lasting solution to the problems of displaced persons who could not benefit the protection of their country of origin or country of first asylum.

The legal framework that supports the international regime for protection of displaced persons was erected by the states. Over the years, states have affirmed their commitment to protect people in need adhering to the 1951 Convention Relating to the Status of Refugees.

But unfortunately, this protection is threatened. If the international community has generally responded swiftly and generously to displaced persons crises over the past half century, disturbing trends began to emerge in the recent years. Countries that yesterday, generously opened their doors to people who have fled their countries of origin were tempted to close them now for fear of assuming endless responsibilities, encourage uncontrolled migration and trafficking in human beings or threatening national security. The misuse of asylum systems, as well as irregular movements, make that some countries show increased distrust of applicants for asylum and concern that resources are not fully available to those who needs it most. People were denied access to the security or were expelled from the country of asylum. Some of those who have reached a potential country of asylum were turned away or sent back without being able to apply for asylum. Furthermore, some governments started detaining asylum seekers, including women and children. Some do it to discourage or dissuade those who have already arrived from applying for a refugee status. Some consider that detention is an effective way of managing illegal entrance, whatever their situation is regarding asylum or their identity, the consequences for national security and the elements of the refugee claim or asylum are checked. They believe that detention facilitates the expulsion of those whose claims are refused.

Some asylum countries around the world are increasingly concerned about the economic and social costs of asylum, and seek to harmonize their refugee status determination systems in part to address the injustices that might result. Some donor governments are beginning to show their reluctance to accommodate the displaced in their territory, while providing support for many of the displaced population.

- **A Refugee:**

For centuries, states gave protection to individuals and groups who are fleeing their countries for persecution. However, the application of the laws that protect refugees is largely the product of the second half of the twentieth century. Such as International Humanitarian Law, Refugee Law which originated after the Second World War and the refugee crises of wars that preceded it. The article 14 (1) of the Universal Declaration of Human Rights which was adopted in 1948, guarantees “the right to seek and enjoy asylum in other countries”. Other conventions on human rights have developed this as the American Convention on Human Rights guaranteeing that “every person has the right to seek and be granted asylum in a foreign territory, in accordance with the legislation of the state and international conventions, in the event he is being pursued for political offenses or related common crimes”. Similarly, the African Charter on Human and People’s Rights noted that “every individual shall have the right, when persecuted, to seek and obtain asylum in other countries in accordance with the law of those countries and international conventions”.

Under Article I of the Convention Relating to the Status of Refugees, “a refugee is a person who seeks asylum in another country because of the fear of being persecuted for reasons of race, religion,

nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country; or who, not having a nationality and being outside the country of his former habitual residence as a result of such events, is unable or, owing to such fear, is unwilling to return to it". The decision of the refugee to leave his country is influenced by several factors.

The 1951 Convention does not define how State parties must determine whether or not a person meets the definition of a refugee. However, the implementation of the asylum procedure and the determination of the refugee status are left to each State Party. This has led to disparities between different states that asylum laws were different from each other and based on their various resources, national security concerns, and stories with forced migration movements. Despite the differences in national and regional levels, the primary objective of modern refugee regime is to provide protection to people forced to flee their homes because their countries are unwilling or unable to protect them.

- **A Stateless:**

According to Article I of the Convention Relating to the Status of Stateless Persons 1954, the term "Stateless Person" means "a person who is not considered as a national by any State under the operation of its law". So the phenomenon of statelessness usually results from the fact that a person who lost his nationality has not acquired another one from another State. Statelessness is characterized by the absence of international protection by a State. A stateless person can also be a refugee if, because of the persecution, he was forced to leave the country where he usually resides. Thus, nationality is a legal bond between a State and a person and statelessness refers to the situation of a person that no state considers him one of its citizens.

Statelessness occurs for various reasons such as discrimination against minority groups in nationality legislation. Statelessness is a massive problem that affects thousands of people around the world. It has also a terrible impact on the lives of people. Possession of nationality is essential for a full participation in society and is a prerequisite for the enjoyment of all human rights. If any individual is generally supposed to enjoy basic human rights, some rights such as the right to vote may be limited to nationals of a country. The most worrying aspect is that in practice many other rights of stateless persons are violated - they are often unable to obtain identity documents; they may be detained because they are stateless and they could be deprived from access to education and health services, or prevented from getting a job. Given the severity of the problem, the United Nations adopted in 1954 the Convention on the Status of Stateless Persons. UNHCR has been mandated to cooperate with governments to prevent the occurrence of statelessness, to resolve cases that occur and to protect the rights of stateless persons. The first step is for states to ratify and implement the 1961 Convention on the Reduction of Statelessness.

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### **An Asylum Seeker:**

We should not confuse between the terms of asylum seeker and refugee. An asylum seeker is a person who claims to be a refugee, but whose application is still being reviewed. It is for the national asylum systems to decide which asylum seekers may actually qualify for international protection. Those who are not considered refugees or they don't need international protection can be returned to their country of origin. The effectiveness of the asylum system is essential. During the mass movements of refugees (usually due to conflicts or violence is opposed to individual persecution), the ability to conduct a personal interview with each refugee who has crossed the border is not enough - and will never. Thus, the reason for fleeing their country is usually obvious. Therefore, these groups are often declared prima facie refugees. However, The Universal Declaration of Human Rights states in Article 13 that "everyone has the right to freedom of movement and residence within the borders of each state". And similarly, "everyone has the right to leave any country, including his own, and to return to his country". Article 14 stipulates that "in case of persecution, everyone has the right to seek and to enjoy in other countries asylum". And similarly, "this right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations".

So those seeking safety in a country other than theirs are seeking asylum and are known as the asylum seekers. What is important here is to know that as long as the quality of refugee under domestic law is not recognized abroad, he is only a claimant who's application is being examined by an organism, and if at the end, the national authorities conclude that the conditions are not met, the applicant may be deported or expelled, as long as it is not to the country where he fears persecution precisely. Similarly, the asylum application may be rejected if the claimant would have access to protection in a part of the territory of the country of origin or would have no reason to fear persecution or is not exposed to a serious threat.

### **International Law:**

The fate of displaced persons has become a growing concern due to the frequency and mass exodus in the recent years. This massive scale of population movements sometimes make the traditional solutions difficult to apply, starting by the voluntary repatriation, and secondly resettlement in the host country or a third country. Another problem that requires a solution is that the fate of those who, without being refugees, are forced to leave their countries, particularly for compelling economic reasons: an individual faced with the alternative of starving or exile is no less worthy of protection than a traditional refugee.

However, international protection is apprehended through its main components which are of international legal instruments of protection and international organizations. Starting with the Universal Declaration of Human Rights, adopted and proclaimed by the United Nations General Assembly resolution 217 A (III) of 10 December 1948. It devotes values to the protection of human rights. The UDHR proclaims the fundamental rights and freedoms that form the core of the rights and freedoms of all people.

Also, the two International Covenants on Human Rights, adopted and opened for signature, ratification and accession by the UN General Assembly resolution 2200A (XXI) of 16 December 1966, the two International Covenants relating respectively to Economic, Social and Cultural Rights for one, and the civil and political rights for the other. States recognize that, in accordance with the Universal Declaration of Human Rights, the ideal of free human beings enjoying freedom from fear can't be achieved unless the conditions allowing him to enjoy his social and cultural rights, as well as his civil and political rights are created.

Similarly, the 1951 Convention and its Protocol, adopted in July 28, 1951 by a conference of plenipotentiaries on the Status of Refugees and Stateless Persons convened by the United Nations pursuant to resolution 429 (V) of the General Assembly on 14 December 1950, the Convention Relating to the Status of Refugees is to set to better be prepared for the protection of refugees and the definition of their status. This gives the apprehension of the refugee concept; it presents the obligations, the rights, the legal status.... The Protocol relating to the Status of Refugees of 1966, meanwhile, was approved on the grounds to overcome the dereliction of the 1951 Convention, that applies to those who became refugees as a result of events occurring before 1 January 1951, whereas new refugee situations have arisen since the Convention was adopted and that, therefore, the refugees concerned may not be eligible for the Convention.

Also a very important agreement which is the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, adopted by the Conference of Heads of State and Government at its 6th Ordinary Session in September 10, 1969, is the regional African instrument refugee protection. This convention gave the same meaning that the 1951 Convention gave for a refugee, and it applies to "any person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a result of such events is unable or, owing to such fear, is unwilling to return to it".

The United Nations High Commissioner for Refugees interested in the problem of displaced persons, recognizes persons as refugees when governments cannot or will not protect their citizens, and they seek the protection of other countries. UNHCR has a responsibility to work with countries to protect these uprooted people and find durable solutions for them. The mandate of UNHCR protection compliance covers, in addition to refugees, persons falling within the institution's competence, such as asylum seekers, stateless persons, displaced persons within their own country and returnees. States are required to respect the commitments they have voluntarily accepted by adhering to the instruments of international refugee law, in particular they must cooperate with the UNHCR and to facilitate its monitoring task. It follows that the protection of the displaced is not just the work of UNHCR. It must first be exercised by the State where these people are. UNHCR plays the role of monitoring the implementation of the Convention and the Protocol and coordination of assistance in their favor. Thus, the protection of refugees appears at first as an obligation of the State in which they are located and their international protection comes from the desire to achieve effective human rights for all human beings.

Then, the International Committee of the Red Cross ICRC that deals primarily for the protection of the individual against the armed force. We see nowadays the excessive non-application of humanitarian law in armed conflict. While countries in conflict must grant the ICRC all facilities to enable the humanitarian tasks assigned by the Conventions and the Protocols aiming to provide protection and assistance to victims of conflict, and the committee may also carry out any other humanitarian activities in favor of the victims, with the consent of the Parties to the conflict.

We can also mention the judicial bodies, as the European Court of Human Rights ECHR, which has produced judgments that impose significant obligations on Member States on asylum, and countries that do not apply the laws of that court, may be condemned. For example, the ECHR condemned France, by accusing her of authorizing the return of asylum seekers to their countries without waiting for the examination of their asylum application by the National Court of Asylum CNDA. This is due to what happened in 2011, when nearly 26% of asylum seekers in France have had their applications reviewed on a priority procedure. The main consequence of this procedure is to allow a prefect to send an asylum seeker to his country before the end of the examination of his asylum application. In case of rejection of the asylum application by the French Office for the Protection of Refugees and Stateless People OFPRA, asylum seekers may enter the National Court of asylum for a review of that decision. However, before a final decision is made about their situation, French law allows the dismissal of the applicants to their country. The ECHR held that France should be aware of the risk of sending a person in places where he could be persecuted without having examined and completed his application. So the French legislation is contrary to international humanitarian law. The ECHR found that the French legislation does not comply with the obligations of France for the protection of refugees.

However, the international protection of refugees lies on international legal instruments and some international organizations involved in the said protection. Protection activities do not come without a problem as the right of asylum to refugees recognized doesn't have any coercive character for the host states. It would have been preferable that asylum should rise to the level of the integral jus cogens rules for its applicability to all States. So everything is at the expense of the state, because it accepts or not humanitarian laws related to displaced persons. Although international law protects displaced persons against persecution, torture, repression or any other degrading or inhuman treatment, some countries do the opposite. Therefore, while the displaced receive international assistance, humanitarian, and legal in European countries, the opposite is happening in some countries of the Middle East. From the above, a comparative study is required to demonstrate how this general legal status applies in Europe or does not apply in some countries of the Middle East.

- **In Europe:**

This region that covers 36 countries has become a major asylum earth. 27 countries are members of the European Union and EU seeks to apply the Common European Asylum System CEAS. Other countries in the region have followed this process closely and harmonized their system with that. However, changes in the regimes abound protection and if it is true that some countries receive only few asylum applications each year, while others record thousands. Also, countries receiving the greatest number are Germany and France, closely followed by Sweden, who took third place, then Italy. The

crisis in Syria has caused a substantial increase in Syrian asylum applications, mostly in Germany and Sweden. The movements of migrants and refugees from Afghanistan, North Africa, Iraq and Somalia to Europe continue to pose challenges to the UNHCR that strives to ensure its control at very sensitive borders with the principles of protection and compliance of asylum systems with international standards. So ensuring access to fair and effective asylum systems is therefore the center of UNHCR's activities in the region. Other priorities are to persuade states to reduce the use of detention, to provide support to unaccompanied or separated children and to mobilize attention to gender issues in protection. UNHCR is working closely with the European states, EU institutions and other stakeholders to support the functioning of national asylum systems and develop other protection responses based on solidarity and shared responsibility. UNHCR also helped to develop the CEAS in 2012, including the reform of legislation and strengthening practical cooperation on asylum, among other policy areas. Economic difficulties have reduced the availability of public services for the integration of refugees. In some areas, the economic difficulties and the rise of negative attitudes towards foreigners have brought stricter policies on asylum.

- **In France:**

France is known as the country of human rights, providing important protection to Displaced Persons. Asylum is the protection afforded by a State to a foreigner who is or is likely to be persecuted in his country, either by the authorities of that country or by non-state agents. There are two forms of protection under asylum: refugee status and subsidiary protection. The French Office for the Protection of Refugees and Stateless Persons OFPRA is the competent office. It is important to note that in some situations, this protection may not apply.

So regarding the displaced persons, France grants protection to:

- The person fearing persecution in his country and that cannot or will not avail himself of the protection of that country. It must be persecution based on race, religion, nationality, membership of a particular social group or political opinion. This is conventional or political asylum.
- Or the person persecuted in his country due to its action in favor of freedom. This could be, for example, political activists and trade unionists, artists and intellectuals threatened for their commitment to democracy in their country. This is constitutional asylum.
- Or the person of concern to UNHCR.

Concerning subsidiary protection, it is another form of protection. It is attributed to the foreigner who does not qualify for a refugee status and who proves he is exposed in his country to:

- The death penalty.
- The torture or inhuman or degrading treatment or punishment.
- And if he is a civilian, a serious threat, direct and individual against his life or person because of violence resulting from a situation of international or internal armed conflict.

It is important to not confuse between subsidiary protection and temporary protection that is a device decided at European level in case of massive flows of displaced persons. It is not for asylum but exceptional protection and non-durable. So far, this process has not yet been implemented. The Albanians displaced from Kosovo have received facilities in France in 1999.

- **In Belgium:**

Practically in Belgium, the effective asylum procedure from October 6, 2007 is based on:

- The Law of 15 September 2006 amending the Act of 15 December 1980 (on access to the territory, residence, establishment and removal of foreigners).
- The Law of 15 September 2006 reforming the Council of State and creating the Aliens Litigation Council.

Asylum applications are automatically considered under the terms of the Convention of Geneva and subsidiary protection in a single procedure, however, giving priority to the protection based on the Geneva Convention.

Four instances can occur during the procedure:

- The Foreign Office OE registers asylum applications and a statement on the identity, origin and route of the applicant. It makes some preliminary examinations. It has jurisdiction throughout the process and beyond of everything concerning the residence and expulsion of asylum seekers.
- The office of the Commissioner General for Refugees and Stateless Persons CGRS examines the contents of the request and takes in the first instance the decision to grant or refuse a protection status.
- The Council of the Aliens Law Litigation CALL is the administrative court with which an appeal may be lodged against a decision of the EO or the CGRS.
- The Council is the cassation jurisdiction for decisions by administrative courts of appeal.

- **In Greece:**

Greece is facing a national crisis on irregular migration. In 2010, almost all arrests of illegal immigrants in the European Union took place in Greece. Most of these migrants are held in detention centers for more than six months pending deportation to their country of origin. The asylum applications system also suffers from severe dysfunction. Citizens from the Islamic Republic of Iran, Iraq or Syria face serious risk of being deported by the Turkish authorities in their country of origin without having made an individual assessment of risks involved in repatriation, which is contrary to Article 3 of the Convention against Torture.

Each day, hundreds of illegal immigrants land illegally in Greece through Turkey. Long time, Greece has yet been a country of immigration. But few years later, the number of immigrants crossed the normal, particularly Afghanistan and Pakistan and Albania. But today, the number of foreigners has

increased too much, and Greece is facing at the same time its economic crisis and also foreigners crisis. So with fiscal and economic crisis, Greece has become the gateway to the old continent of undocumented migrants ... The state is so overwhelmed. Faced with this enormous problem of human flows and illegals crossing the border, Greece seems very disunited. The majority uses low cost flights, or pays their money to go by sea. Some are found dead, others are kidnapped....

In Europe, Greece is not less isolated. Dublin agreement sets the rules of immigration in the European Union, forcing the first country where the migrant arrives to handle his case. In other words, an illegal immigrant, which goes through Athens but is arrested in Paris, will be returned to Greece. Facing economic difficulties in Greece, some countries such as Norway and Finland have limited referrals. In 2011, Greece was condemned by the ECHR regarding its detention centers. The ECHR has described the conditions of these centers as inhuman and degrading.

- **The Middle East and Arab countries:**

After the Second World War, the Arab countries showed some delay regarding the concept of asylum. This delay is due to several factors, the most important is related to the reluctance of some Arab states to accommodate the displaced from neighbor countries. A second factor is related to the Palestinian problem that touches and concerns the majority of Arab countries. This is not only related to the Israeli-Palestinian conflict, but also to its direct consequences, most important the presence of thousands of Palestinian refugees in almost all the Middle East. Finally, it is also about the precarious situation of human rights, design and respect for human rights in most Arab countries, a factor that is of great importance.

- **The North African Arab countries:**

Tunisia and Morocco welcomed many Algerian displaced as a result of the independence war in Algeria, and especially during 1957 and 1962 and they have largely contributed in their return to their country of origin. Regarding Djibouti, the local government asked in 1977 the UNHCR assistance to Ethiopians who have returned to the country and are mostly in camps. UNHCR launched its operation in 1979. It has assisted displaced in their local integration. It is important to mention that in Djibouti, local integration is a possible durable solution because this country has signed the 1951 Convention. In Saudi Arabia, UNHCR has established in 1987 an office in Riyadh in order to aware the public opinion on the issue of displaced persons and obtain funding for its programs of assistance to them. This office became a regional office in 1992 by signing an agreement with the Saudi government to implement protection and assistance operations for thousands of displaced persons. Also, the Saudi government was committed to ensure the entire infrastructure of the camps and welcomed hundreds of displaced people. It is important to mention that the role of the Saudi government has been primordial in the repatriation of Iraqis to their country of origin after the regime change in Iraq. The repatriation was provided by UNHCR in cooperation with the Saudi government that paid considerable amounts of money to Iraqi families returning to their countries.

- **Jordan:**

With the Syrian crisis, Syrian fleeing violence in their country continues to flock daily to Jordan in search of a safe place. They are mostly exhausted and desperately need help. When they reach the borders, most of the displaced Syrians have behind them a long and difficult journey. Upon arrival, they urgently need water, food, shelter and medical care sometimes. These persons are taken into camps; the others are being supported by local communities. As they cross the borders, Syrians arriving in Jordan are received first of all in foster points where their basic needs are being satisfied. The displaced persons are mainly in the north, near the Syrian borders, for example in Irbid, Mafraq, Zarqa Ramtha.

Although the Hashemite Kingdom of Jordan continues its tradition of hospitality towards asylum seekers and refugees, this favorable environment is strained by the socio-economic challenges facing the country, as well as the increasing number of displaced persons. Also with the war in Iraq, the number of Iraqis registered with UNHCR who left to Syria, and now fleeing from Syria to Jordan has increased.

However, Jordan has witnessed a significant increase in the number of Syrian and Iraqi refugees fleeing the conflicts in their country. Jordan has nevertheless left its borders open, allowing Syrians fleeing violence to entering its territory. The host communities have generously supported this new wave of displaced people by providing shelter, food, water, sanitation and other essential services. However, the resources of these communities are limited and will run down over the next few months. Several shelters or transit have been created and a camp was opened in Zaatari, north of Jordan. For these reasons, UNHCR has sought above all to preserve a favorable protection environment. So UNHCR endeavored to ensure rapid access to the registration procedures and determination of refugee status, to speed up asylum applications, to prevent and deal with violence, to advocate for the asylum seekers and refugees, as well as to meet their basic needs. UNHCR ensured sustainable solutions to promote empowerment and self-management for the communities.

Finally, UNHCR in Jordan is responsible for the displaced persons that are not Palestinians allowed to staying in the territory for 6 months, this is by the Protocol of Understanding signed in 1998 between UNHCR and Jordan. UNHCR has worked to implement legal and institutional arrangements for processing asylum applications and for strengthening its cooperation with other organizations for human rights.

- **Egypt:**

In Egypt, in order to address the lack of national legislation on asylum and protection of displaced persons, UNHCR is responsible for conducting the Refugee Status Determination procedures RSD, and to provide essential assistance to them. On the other hand, the organization is helping the Egyptian State in the promotion of a legislative framework regulating the protection of displaced people throughout the territory. UNHCR ensures to grant them social and economic rights despite the fact that they do not automatically have access to public facilities and health education and are not protected by the labor law.

- **Lebanon:**

Three and half years after the beginning of the crisis in Syria in March 2011, people fleeing the violence ravaging the country continue to cross borders in search for safety in the neighboring countries. Lebanon hosts the largest number of Syrian refugees, estimated at 1.3 million, in addition to some 45,000 Palestinians who fled Syrian camps. Most of the refugees live in very precarious conditions, unfinished apartments or empty warehouses, with absence of basic infrastructure and sanitation. This situation is complicated because these refugees spreaded throughout the country and their needs are diverse.

Lebanon didn't sign the Refugee Convention of 1951. But on the contrary, the Universal Declaration of Human Right incorporated in the Lebanese Constitution, that prohibitates the arbitrary detention. The article 9 of the Convention states that no one shall be subjected to arbitrary arrest, detention or exile. The UNHCR also recognizes that freedom from arbitrary arrest and detention is a jurisdiction jus cogens. UNHCR also explained that the key to determine whether detention is arbitrary or not is under Article 9 of the International Covenant on Civil and Political Rights ICCPR is whether the detention is in line with international detention standards rather than just under domestic law, and also said that the illegal entry itself is not sufficient as a ground for detention. This article stipulates that "everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law".

The conclusion of the UNHCR on detention establishes limited grounds on which the detention of refugees can be justified. These are to identify, verify the identity and determine the elements of the application if the applicant destroyed his travel document or a fraudulent use or used a document with the intention to trick the authorities in order to protect himself. The requirement that detention may be subject either to an administrative or judicial review is an essential safeguard against arbitrary detention. Detaining displaced persons for other causes, such as an attempt to deter asylum application is an act contrary to international standards. The UN clearly indicates that the detention as a form of punishment for illegal entry is not justified and cannot be used against those who have not been convicted for a crime. So any other detention is a violation of human rights. Following the basic principles, the detention of refugees can be considered arbitrary if it is not in compliance with the law and is not accompanied by a fair and effective procedure. So all those detainees have the right to be treated in accordance with the international norms and standards. For example, the UN proposes rules for the protection of minors deprived of their freedom. Similarly, the displaced persons have the right to a fair trial and a competent court and a public hearing. Also, the arbitrary detention of the displaced persons occurs when they are detained for insufficient and unfair reasons, without adequate analysis of their particular situation or circumstance that led them to the illegal entry to the Lebanese territory. The displaced persons are also protected by international organizations that aim at enhancing and consolidating human rights. The UNHCR has created a specific body to deal with arbitrary detention; it is the United Nations Working Group on Arbitrary Detention in Geneva, founded in 1997, which pays particular attention to the situation of immigrants and refugees. The Lebanese practice of arbitrary detention for illegal entry is contrary to international law. Thanks to its constitution, Lebanon has itself

created the obligation to respect the prohibition of arbitrary detention. In addition, the Lebanese courts have held that the deportation of a person to a country where he risks torture is prohibited under the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1987. But in practice, it is not always the case...

Despite the existence of a Memorandum of Understanding between the UNHCR and the Lebanese General Security since 2003, the treatment of the displaced persons in Lebanon continues to be governed by the Law Regulating the Entry and Stay of Foreigners in Lebanon and their exit from the Country of 1962. The detention of the displaced persons in Lebanon is largely based on their illegal entry into the country, and the fact that they remain detained is apparently justified by the need to ensure their deportation. A state cannot detain a foreigner to establish his identity before their appearance in court, and after an administrative decision taken by the Director of General Security stating that the presence of this person is a threat for safety and security of the country and giving an order to his removal. More generally, a deportation order is the result of a single conviction for the crime of illegal entry. Since the Lebanese courts have recognized the right of non-refoulement based on the measures of the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1987, it is possible to talk about the validity of keeping someone in detention when expulsion cannot be performed or based on a risk of repression. If the international law clearly states that detention should not be used as a punishment for illegal entry; Furthermore, the European Court of Human Rights when interpreting the International Covenant on Civil and Political Rights ICCPR stated that illegal entry cannot justify the detention and the detention policy that is used in Lebanon violates the international law rules, by ignoring the special protection for displaced persons and asylum seekers against detention for illegal entry.

In accordance with international standards, the Lebanese authorities must establish a decision to hold someone in custody on the basis that it is the only way:

- a) To protect the evidence, prevent alteration of evidence, the intimidation of witnesses or victims, or prevent abuse;
- b) To protect the defendant;
- c) To stop the effects of the crime and to prevent its recurrence;
- d) To prevent the escape;
- e) To prevent a threat to public order and security.

In addition, the Lebanese Code of Criminal Procedure also provides some oversight of the authority and supervision of the General Attorney.

While some decisions of the Lebanese Court suggest an emerging desire to limit the use of unnecessary detention, but it has not been used. The fact that these decisions are not used to prevent the detention of the displaced persons in the prisons shows the weakness of the system: there is little willingness to put in place a coherent system for the judicial regulation. Undoubtedly, the government

has an imperial interest to preserve; it is the control of its borders and ensuring the safety and national security.

The human rights recognized universally human are not lost because a person is displaced. As most of the displaced have not committed crimes, and since the International Law specifically gives some detention standards, the continued practice of detention of refugees raises important issues related to human rights and that concern the fundamental right of freedom.

The aim of this article is to draw attention to the fate of displaced people in the world and the rights and duties of states. Europe has its own displaced persons protection ways. A comparative analysis is necessary to show the difference of applications in the country of human rights, and how those rights are threatened in other countries. Also on the increasing institutionalization of the practice and to put the light on detention practices in different countries, particularly Lebanon since it only has few rules in its national legislation to deal with the problems of displaced persons and did not adhere to the 1951 Convention related to the Status of Refugees. Regarding the relations with the Lebanese government, it is important to note that a Memorandum of Understanding was signed in September 2003 between UNHCR and the Lebanese General Security. Also, UNHCR is facing challenges and limitations in Lebanon and the Lebanese government regulates the issue of non-Palestinian refugees on its territory, through its relationship with the UNHCR and its degree of cooperation. Another important point goes if the Lebanese government manages to balance its national interests of reducing the maximum number of people detained in an illegal way on its territory, its obligation and willingness to respect international Law.